



**CITY COUNCIL REGULAR MEETING
CELINA ISD ADMIN BLDG., BOARD ROOM
205 S. COLORADO STREET
TUESDAY, SEPTEMBER 10, 2019
5:00 PM**

AGENDA

I. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT:

II. PLEDGE OF ALLEGIANCE/INVOCATION:

III. PROCLAMATIONS/PRESENTATIONS/OATHS OF OFFICE:

- A. Arbor Day Proclamation
- B. Constitution Week Proclamation
- C. Presentation of Capital Credit Check from CoServ. (DeBuff)

IV. WORKSESSION/COMMITTEE REPORTS/STAFF REPORTS:

- A. Discussion regarding water rates, seasonal usage and conservation. (DeBuff)
- B. Discussion regarding zoning ordinance amendment. (Wilson)
- C. Discussion regarding Parks Master Plan update. (Norris Design)
- D. Discussion regarding any and/or all agenda items.
- E. Staff Reports

V. 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 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.

VI. EXECUTIVE SESSION:

The Celina City Council will convene into Executive Session pursuant to Texas Government Code 551.087, Deliberation Regarding Economic Development Negotiation.

- A. Discussion regarding an Economic Development loan to North Preston Lakes HOA for internet infrastructure.
- B. Discussion regarding potential brewery downtown.

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.
- C. Discussion regarding a third amendment to the agreement by and between the City of Celina and Old Celina, Ltd for Old Celina TIRZ #5.
- D. Discussion regarding potential development agreement for 100 acres north of FM 455 and west of FM 2478.
- E. Discussion regarding potential development agreements for property located west of Preston Road and north of Frontier Parkway.
- F. Discussion regarding The Cottages development agreement amendment.
- G. Discussion regarding a resolution authorizing use of eminent domain to condemn public water and wastewater line easements and temporary construction easements in real properties as portions of tracts of land generally described as being located in the John Cahill Survey, Lindsey Lewis Survey, Jonathan Westover Survey, Preston Hills Addition, and the Collin County School Land #14 Survey generally located on the east side of Preston Road (SH 289) beginning approximately 450 feet north of Ownsby

Parkway and extending south to Frontier Parkway (FM 1461) and then east along the north side of Frontier Parkway (FM 1461) to approximately Preston Hills Circle (Brawner)
- H. Discussion regarding Interlocal Agreements with Celina Independent School District.

Reconvene Into Open Session
- I. 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 - Aug 13, 2019 5:00 PM
 - 2. City Council - Public Hearing - Aug 20, 2019 5:00 PM
 - 3. City Council - Public Hearing and Special Meeting - Aug 27, 2019 5:00 PM
- B. Consider and act upon approval of appointments, re-appointments and removals from city boards and commissions, Economic Development Corporation and Community Development Corporation. (City Secretary)

- C. Consider and act upon interlocal agreements by and between the City of Celina and Collin County for Animal Control Services and Animal Shelter Use/Facility Construction. (Toutounchian)
- D. Consider and act upon an ordinance amending the City's Code of Ordinances, Chapter 1, to add and adopt the Tree Care Ordinance. (Tree Care Ordinance) (McAfee)
- E. Consider and act upon an ordinance amending the City's Code of Ordinances, Appendix A: Fee Schedule to update the Master Fee Chart. (Master Fee Chart Revision) (McAfee)
- F. Consider and act upon a request for a Development Agreement for Wellspring Estates; generally located north of Frontier Parkway and west of future Custer Road. (Wellspring Estates Development Agreement) (McAfee)
- G. Consider and act upon a request for a Development Agreement for the Monschke Tract; generally located 2,000 feet south of FM 428 and east of future Legacy Drive. (The Monschke Tract Development Agreement) (McAfee)
- H. Consider and act to authorize the Mayor to execute an agreement by and between the City of Celina and the Celina Economic Development Corporation for sharing administrative services and office space. (DeBuff)
- I. Consider and act upon a resolution of the City Council of the City of Celina to approve an incentive agreement between the City of Celina and Celina Economic Development Corporation for projects within Tax Increment Investment Zone No. Eleven (Downtown). (EDC TIRZ/sales tax agreement) (DeBuff)
- J. Consider and act upon a resolution of the City Council of the City of Celina to approve an incentive agreement between the City of Celina and Celina Community Development Corporation for projects within Tax Increment Investment Zone No. Eleven (Downtown). (CDC TIRZ/sales tax agreement) (DeBuff)
- K. Consider and act upon an ordinance of the City Council of the City of Celina, Texas, amending the City's Code of Ordinances; Chapter 1 General Provisions; Article 1.12 Special Events; providing for incorporation of premises; providing for findings; providing for amendment to the code of ordinances. (Special Events Waiver) (DeBuff)
- L. Consider and act upon an ordinance of the City Council of the City of Celina, Texas, approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2019 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel. (Atmos Rate Settlement) (DeBuff)

- M. Consider and act upon an ordinance approving and authorizing the issuance and sale of the City of Celina, Texas, Special Assessment Revenue Bonds, Series 2019 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-3 Project); approving and authorizing related agreements, and providing for an effective date. (Sutton Fields II Bond Ordinance) (DeBuff)
- N. Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and Toasted Walnut Table & Market for economic incentive funding under Chapter 380 of the Texas Local Government Code. (DeBuff)
- O. Consider and act upon an Interlocal Cooperation Agreement by and between the City of Celina, Texas, and the Celina Community Development Corporation for the development of Old Celina Park Phase II. (Brawner)
- P. Consider and act upon a resolution of the City of Celina, Texas ratifying and approving the Fiscal Year 2019-2020 budget for the Celina Economic Development Corporation. (Jackson)
- Q. Consider and act upon a resolution of the City of Celina, Texas, ratifying and approving the Fiscal Year 2019-2020 budget for the Celina Community Development Corporation. (Toutouchian)
- R. Consider and act upon Interlocal Jail Services agreement with Collin County. (Griggs)

VIII. PUBLIC HEARING/ACTION:

- A. The Celina City Council will conduct a public hearing to consider testimony and receive public input regarding the proposed FY 2019-2020 budget. (Toutouchian)
- B. The Celina City Council will conduct a public hearing and act upon an ordinance amending the Subdivision Regulation Ordinance to cause said ordinance to be in compliance with House Bill 3167, which bill took effect on September 1, 2019. (McAfee)
- C. The Celina City Council will conduct a public hearing and act upon an ordinance amending the Zoning Ordinance and Building Codes to cause said ordinance to be in compliance with House Bill 2439 and House Bill 2497, which bills took effect on September 1, 2019. (McAfee)
- D. The Celina City Council will conduct a Public Hearing to consider testimony and act upon an ordinance amending the City's Code of Ordinances, Chapter 10: Subdivision Regulations, Article 10.03, Subdivision Ordinance. (Subdivision Ordinance Amendments) (McAfee)
- E. The Celina City Council will conduct a public hearing 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 rezoning an approximately 40 acre tract of land from Retail District (C-1), to Planned Development (PD) with Mixed-Use Regional District (MU-2) base zoning; generally located 2,000 feet south of FM 428 and east of future Legacy Drive. (Monschke Tract PD Zoning) (McAfee)

IX. ACTION ITEM:

- A. Consider and act upon an ordinance of the City of Celina, Texas, adopting and approving the budget for the Fiscal Year 2019-2020 beginning October 1, 2019, and ending September 30, 2020, and making appropriations for each department, project and account; providing for expenditures of funds; providing for filing of documents. (Roll Call) (Toutouchian)
- B. Consider and act upon an ordinance of the City of Celina, Texas, fixing and levying municipal Ad Valorem taxes for the fiscal year beginning October 1, 2019, and ending September 30, 2020, and for each fiscal year thereafter until otherwise provided, at a rate of \$.645 per one hundred dollars (\$100.00) assessed valuation on all taxable property within the corporate limits of the city; this tax rate will raise more taxes for maintenance and operations than last year's tax rate; the tax rate will effectively be raised by 19.75% and will raise taxes for maintenance and operations on a \$100,000.00 home by \$68.26. (Roll Call Vote) (Toutouchian)
- C. Consider and act upon a contract by and between the City of Celina and TRC for Professional Services related to the Design of Punk Carter Parkway between Evergreen Trail and Coit Road (CR 86) in an amount not to exceed \$87,500. (Brawner)
- D. Consider and act upon a contract by and between the City of Celina and Halff & Associates for Professional Services related to the Design of Choate Parkway between the Collin County Outer Loop and Kinship Parkway in an amount not to exceed \$315,000. (Brawner)

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



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: September 10, 2019
Re: CoServ Capital Credit Check

Action Requested:

Presentation of Capital Credit Check from CoServ. (DeBuff)

Background Information:

CoServ tracks how much electricity cities use and pay for throughout the year. Each payment a city makes is your contribution to the day-to-day operation costs of your electric cooperative.

Like all companies, at the end of each year CoServ calculate its annual margin (profit). But because they are a cooperative, they divide this margin proportionally by the amount of electricity each member (customer) uses throughout the year and report to each City what its share is. This is called a Capital Credit allocation.

This process is called retirement. Each year, CoServ's Board of Directors reviews company finances, and when our financial condition permits, the Board decides to retire (pay) Capital Credits to our members (customers) based on their allocated share (see No. 2).

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

N/A

Supporting Documents:

N/A

Staff Recommendation:

N/A



**CITY COUNCIL REGULAR MEETING
CELINA ISD ADMIN BLDG., BOARD ROOM
205 S. COLORADO STREET
TUESDAY, AUGUST 13, 2019
5:00 PM**

MINUTES

I. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT:

Attendee Name	Organization	Title	Status	Arrived
Justin Steiner	City of Celina	Place 1	Present	
Wayne Nabors	City of Celina	Place 2	Present	5:05 PM
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	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. Chris Carter with Movement Church gave the invocation.

III. PROCLAMATIONS/PRESENTATIONS/OATHS OF OFFICE:

A. City Council Place 6 - Chad Anderson

Councilman Chad Anderson took the oath of office for Place 6 following his win during the run-off election.

IV. WORKSESSION/COMMITTEE REPORTS/STAFF REPORTS:

A. Introduction of new employees. (Brawner)

Director of Engineering Kim Brawner introduced Alan Anderson as the new Construction Manager.

B. Discussion regarding a Memorandum of Understanding with Old Celina, Ltd. (Brawner)

Director of Engineering Kim Brawner and applicant Rex Glendenning with Old Celina Ltd., presented options for the construction of Celina Parkway.

C. Discussion and recap of the Texas 86th Legislative Session. (Howard)

Director of Government Affairs Corbett Howard summarized the 86th Legislative Session.

D. Discussion regarding the vision statement of the "Celina 2040 Comprehensive Plan". (Nusser)

Minutes Acceptance: Minutes of Aug 13, 2019 5:00 PM (Minutes Approval)

Abra Nusser with Ideation planning gave a brief update on the Comprehensive Plan work progress.

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

No other items were discussed.

F. Staff Reports attached

V. OPEN FORUM:

Joyce Sue Maxson of 518 S. Arizona spoke to the City Council about wanting help investigating a burglary that took place in her home.

VI. EXECUTIVE SESSION:

The Celina City Council convened into Executive Session at 6:26 p.m. with City Attorneys Lance Vanzant and Julie Fort (Item D) and City Manager Jason Laumer. Councilwoman Koehne recused herself from Item B.

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 property acquisition for water and sewer line from Ownsby Parkway to Frontier Parkway.
- B. Discussion regarding potential development agreement on a tract generally located at FM 455 and the future Fred J Smith Parkway.
- C. Discussion regarding Suddenlink project for North Preston Lakes.
- D. Discussion regarding Texas House Bills 2439, 2497, 3167, and new laws from 2019 legislative session, requiring changes to the City's building standards, Subdivision Ordinance processes and Zoning Ordinance matters.

The Celina City Council will convene into Executive Session pursuant to Texas Government Code 551.074, Personnel Matters, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

E. City Manager.

Reconvene Into Open Session

The City Council reconvened into Open Session at 7:33 p.m.

F. Consider and act upon any items discussed in executive session.

Councilman Hopkins moved to approve the City Manager's contract (Item E) as discussed in Executive Session. Mayor Pro Tem Anderson seconded. Motion carried. 6-yes;0-no.

VII. CONSENT AGENDA:

Councilman Hopkins moved to approve the Consent Agenda minus items J and K.

Minutes Acceptance: Minutes of Aug 13, 2019 5:00 PM (Minutes Approval)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Hopkins, Place 3
SECONDER:	Carmen Roberts, Place 4
AYES:	Steiner, Nabors, Hopkins, Roberts, Koehne, Anderson

A. Minutes Approval:

1. City Council - Regular Meeting - Jul 9, 2019 5:00 PM

B. Consider and act to authorize the City Manager to terminate the agreement by and between the City of Celina and Hangartner Commercial, Inc. for CMAR Services for Fire Station 3 and 4. (Berry / Brawner)

C. Consider and act upon approval of branding guidelines and tagline for the City of Celina. (Matehuala)

D. Consider and act upon a resolution of the City Council of the City of Celina, Texas approving and authorizing the reduction, waiver, and refund of permit fees charged to Prosper ISD for elementary school #12 construction. (DeBuff)

(2019-41R)

E. Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and City Smart Consulting, LLC for the transition of technology-based initiatives to designated city personnel. (DeBuff)

F. Consider and act upon a resolution adopting the City's Procurement Policy; Incorporating Recitals and providing an effective date. (Berry)

(2019-42R)

G. Consider and act to authorize the use of contingency funds (365,657.70 10%) for the Celina Road and Downtown Pump Station Improvements, Phase 2. (Berry)

H. Consider and act upon a resolution authorizing a Neighborhood Vitality Program and setting forth incentives. (Wilson)

(2019-43R)

I. Consider and act upon a resolution replacing and repealing Neighborhood Empowerment Zone #1 and setting forth incentives. (Wilson)

(2019-44R)

J. Item J was moved to Items Moved from Executive Session

K. Item K was moved to Items Moved from Executive Session

L. Consider and act upon an ordinance amending the City's Code of Ordinances, Chapter 1: General Provisions, Article 1.04, Boards, Commissions, and Committees. (Boards, Commissions, and Committees Amendment) (McAfee)

(2019-25)

Minutes Acceptance: Minutes of Aug 13, 2019 5:00 PM (Minutes Approval)

- M. Consider and act upon a contract by and between the City of Celina and Peloton for Professional Services related to the Design of a Bridge on Legacy Drive for the Doe Branch Crossing in an amount not to exceed \$456,711.00. (Brawner)
- N. Consider and act to authorize the City Manager to terminate the agreement by and between the City of Celina and Brown, Renyolds and Watford (BRW) Architects, Inc. for Design Services for Fire Station 3. (Berry / Brawner)

VIII. ITEMS MOVED FROM EXECUTIVE SESSION:

1. Motion to remove items J and K from the Consent Agenda

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Wayne Nabors, Place 2
SECONDER:	Chad Anderson, Place 6
AYES:	Steiner, Nabors, Hopkins, Roberts, Koehne, Anderson

2. Consider and act upon a request for a development agreement for the Monschke Tract; generally located 2000 feet south of FM 428 and east of future Legacy Drive. (The Monschke Tract Development Agreement) (McAfee)

RESULT:	NO ACTION
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3. Consider and act upon a request for a development agreement for the Old Celina tract; generally located south of FM 428 and east of future Legacy Drive. (Old Celina) (McAfee)

RESULT:	NO ACTION
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IX. PUBLIC HEARING/ACTION:

- A. The Celina City Council will conduct the second of two public hearings and act upon an ordinance adopting the annexation of certain territory contiguous to and adjoining the City of Celina to wit: being an approximately 75 acre tract of land, Collin County, Texas, and being more particularly described by metes and bounds in exhibit "A" and graphically depicted in exhibit "B" attached hereto and incorporated herein, such tract is generally located south of Choate Parkway and approximately 2,500 feet east of Preston Road. (Collin College Annexation) (McAfee)

(2019-26) Mayor Terry opened the hearing at 7:43 p.m. No public comment was received. The hearing was closed at 7:44 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Andy Hopkins, Carmen Roberts
AYES:	Steiner, Nabors, Hopkins, Roberts, Koehne, Anderson

- B. The Celina City Council will conduct a public hearing 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 designating the zoning of an approximately 75 acre tract of land to Planned Development (PD) with Community Facilities District (CF) base zoning, generally located south of Choate Parkway and approximately 2,500 feet east of Preston Road. (Collin College Zoning) (McAfee)

(2019-27) Mayor Terry opened the hearing at 7:44 p.m. David Dumas and Marilee Moss with Beck Architecture gave a brief presentation on the layout and elevation of the buildings. The hearing was closed at 7:54 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Carmen Roberts, Place 4
SECONDER:	Justin Steiner, Place 1
AYES:	Steiner, Nabors, Hopkins, Roberts, Koehne, Anderson

- C. The Celina City Council will conduct a public hearing and act upon an ordinance amending the City's Code of Ordinances, Chapter 10: Subdivision Regulations, Article 10.03, Subdivision Ordinance. (Subdivision Ordinance Amendments) (Wilson)

Mayor Terry opened the hearing at 7:55 p.m. No public comment was received. Councilman Hopkins moved to continue the hearing to the September 10th meeting. Councilwoman Roberts seconded. Motion carried. 6-yes;0-no.

RESULT:	NO ACTION
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- D. The Celina City Council will conduct a public hearing and act upon a request for a Pre-Annexation Development Agreement on an approximately 5.5 acre tract of land; generally located 2,400 feet east of future Coit Road and north of Choate Parkway, within the Extraterritorial Jurisdiction (ETJ). (ETS Celina Development Agreement) (McAfee)

Mayor Terry opened the hearing at 7:56 p.m. No public comment was received. The hearing was closed at 8:00 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Justin Steiner, Chad Anderson
AYES:	Steiner, Nabors, Hopkins, Roberts, Koehne, Anderson

- E. The Celina City Council will conduct a public hearing and act upon a resolution of the City of Celina, Texas authorizing and creating the Mustang Lakes (Annex) Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code. (DeBuff)

(2019-45R) Mayor Terry opened the hearing at 8:00 p.m. Roxanne Sheehan, with Shupe, Ventura Law Firm, Biscayne Blvd., Dallas, Texas, representing the applicant requested approval. The hearing was closed at 8:01 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Carmen Roberts, Place 4
SECONDER:	Chad Anderson, Place 6
AYES:	Steiner, Nabors, Hopkins, Roberts, Koehne, Anderson

- F. The Celina City Council will conduct a public hearing 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 rezoning an approximately 40 acre tract of land from Retail District (C-1), to Planned Development (PD) with Mixed-Use Regional District (MU-2) base zoning; generally located 2,000 feet south of FM 428 and east of future Legacy Drive. (Monschke Tract PD Zoning) (McAfee)

Mayor Terry opened the hearing at 8:02 p.m. No public comment was received. Councilwoman Koehne moved to continue the hearing to the September 10th meeting.

Minutes Acceptance: Minutes of Aug 13, 2019 5:00 PM (Minutes Approval)

RESULT: NO ACTION**Next: 9/10/2019 5:00 PM****X. ACTION ITEM:**

- A. Consider and act upon a request for variance from the City's Code of Ordinances regarding the sale of alcohol and consumption of same on the downtown square during the Greater Celina Chamber of Commerce Oktoberfest Event on Saturday, October 12, 2019 from 11:00am-10:00pm. (Chamber of Commerce)

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Andy Hopkins, Place 3
SECONDER: Justin Steiner, Place 1
AYES: Steiner, Nabors, Hopkins, Roberts, Koehne, Anderson

- B. Consider and act upon an ordinance authorizing the issuance of "City of Celina, Texas, Tax and Waterworks and Sewer System (limited pledge) Revenue Certificates of Obligation, Series 2019"; specifying the terms and features of said certificates; providing for the payment of said certificates of obligation by the levy of an ad valorem tax upon all taxable property within the City and a limited pledge of the net revenues derived from the operation of the City's combined waterworks and sewer system; providing the terms and conditions of such certificates of obligation and resolving other matters incident and relating to the issuance, payment, security, sale and delivery of said certificates of obligation, including the approval and execution of a Paying Agent/Registrar Agreement and the approval and distribution of a Preliminary Official Statement and an Official Statement pertaining thereto. (Toutounchian)

(2019-28) Jason Hughes with Hilltop Securities presented the terms of the bond sale to the City Council.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Chad Anderson, Place 6
SECONDER: Carmen Roberts, Place 4
AYES: Steiner, Nabors, Hopkins, Roberts, Koehne, Anderson

XI. ADJOURNMENT:

There being no further comment Mayor Terry adjourned the meeting at 8:08 p.m.

 Sean Terry, Mayor

 Secretary

 Date Minutes Approved

Minutes Acceptance: Minutes of Aug 13, 2019 5:00 PM (Minutes Approval)



**CITY COUNCIL PUBLIC HEARING
CELINA ISD ADMIN BLDG., BOARD ROOM
205 S. COLORADO STREET
TUESDAY, AUGUST 20, 2019
5:00 PM**

MINUTES

I. CALL TO ORDER:

Attendee Name	Organization	Title	Status	Arrived
Justin Steiner	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	Absent	
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. PUBLIC HEARINGS::

1. The Celina City Council will conduct a public hearing to consider testimony regarding the proposed 2019 Ad Valorem tax rate. (Toutouchian)

Mayor Terry opened the hearing at 5:01 p.m. No public comment was received. The hearing was closed at 5:02 p.m.

III. ADJOURNMENT:

There being no further comment Mayor Terry adjourned the meeting at 5:03 p.m.

Sean Terry, Mayor

Secretary

Date Minutes Approved

Minutes Acceptance: Minutes of Aug 20, 2019 5:00 PM (Minutes Approval)



**CITY COUNCIL PUBLIC HEARING AND SPECIAL MEETING
CELINA ISD ADMIN BLDG., BOARD ROOM
205 S. COLORADO STREET
TUESDAY, AUGUST 27, 2019
5:00 PM**

MINUTES

I. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT:

Attendee Name	Organization	Title	Status	Arrived
Justin Steiner	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	Absent	
Mindy Koehne	City of Celina	Place 5	Present	
Chad Anderson	City of Celina	Place 6	Present	
Sean Terry	City of Celina	Mayor	Absent	

Mayor Pro Tem Anderson called the meeting to order at 5:00 p.m.

II. PUBLIC HEARING:

- A. The Celina City Council will conduct a public hearing to consider testimony regarding the proposed 2019 Ad Valorem tax rate. (Toutounchian)

Mayor Pro Tem Anderson opened the hearing at 5:01 p.m. No public comment was received. The hearing was closed at 5:02 p.m.

III. CONSENT AGENDA:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Wayne Nabors, Place 2
SECONDER:	Andy Hopkins, Place 3
AYES:	Steiner, Nabors, Hopkins, Koehne, Anderson
ABSENT:	Roberts

- A. Consider and act upon a resolution of the City of Celina, Texas approving the form and authorizing the distribution of a Preliminary Limited Offering Memorandum for the City of Celina, Texas, Special Assessment Revenue Bonds, Series 2019 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-3 Project); and resolving other matters incident and related thereto. (Sutton Fields II PLOM approval) (DeBuff)

Minutes Acceptance: Minutes of Aug 27, 2019 5:00 PM (Minutes Approval)

- B. Consider and act upon approval of the 2019-20 annual service plan update for the Sutton Fields II Public Improvement District. (Toutouchian)
- C. Consider and act upon approval of the 2019-20 annual service plan update for the Lakes at Mustang Ranch Public Improvement District. (Toutouchian)
- D. Consider and act upon approval of the 2019-20 annual service plan update for The Parks at Wilson Creek Public Improvement District. (Toutouchian)
- E. Consider and act upon approval of the 2019-20 annual service plan update for the Chalk Hill II Public Improvement District. (Toutouchian)
- F. Consider and act upon approval of the 2019-20 annual service plan update for the Cambridge Crossing Public Improvement District. (Toutouchian)
- G. Consider and act upon approval of the 2019-20 annual service plan update for The Columns Public Improvement District. (Toutouchian)
- H. Consider and act upon approval of the 2019-20 annual service plan update for the Glen Crossing Public Improvement District. (Toutouchian)
- I. Consider and act upon approval of the 2019-20 annual service plan update for the Wells North Public Improvement District. (Toutouchian)
- J. Consider and act upon approval of the 2019-20 annual service plan update for the Wells South Public Improvement District. (Toutouchian)
- K. Consider and act upon approval of the 2019-20 annual service plan update for the Ownsby Farms Public Improvement District. (Toutouchian)
- L. Consider and act upon approval of the 2019-20 annual service plan update for the Creeks of Legacy Public Improvement District. (Toutouchian)

IV. ADJOURNMENT:

There being no further comment Mayor Pro Tem Anderson adjourned the meeting at 5:03 p.m.

Sean Terry, Mayor

Secretary

Date Minutes Approved

Minutes Acceptance: Minutes of Aug 27, 2019 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: September 10, 2019
Re: Boards and Commissions Nominations

Action Requested:

Consider and act upon approval of appointments, re-appointments and removals from city boards and commissions, Economic Development Corporation and Community Development Corporation. (City Secretary)

Background Information:

This action approves nominations for new appointments, re-appointments and/or removals from city boards, commissions and development corporations.

Board Review/Citizen Input:

Mayor Pro Tem Anderson chaired a nominations committee that met, reviewed applications and made recommendations on August 7, 2019.

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

N/A

Supporting Documents:

Nominations list

Staff Recommendation:

Opening	Board & Commission Nominations 2018	Term	Expires	Column1
	<u>Planning and Zoning (3 year term)</u>			
re-appoint	Shelby Barley	full	2022	
re-appoint	Mitch Freeman	full	2022	
	<u>Board of Adjustments (2 year term)</u>			
re-appoint	Jay Williams	full	2021	
re-appoint	Lee Waddell	full	2021	
appoint	Daniel Chavez	full	2021	
	<u>Building & Standards (2 year term)</u>			
	<u>Library (2 year term)</u>			
re-appoint	Cyndi Graves	full	2021	
re-appoint	Daniel Stockton	full	2021	
re-appoint	Chianna Rodgers	full	2021	
	<u>Parks and Recreation (3 year term)</u>			
	<u>Mainstreet (2 year term)</u>			
re-appoint	Buddy Minett	full	2021	
re-appoint	Michelle Baggett	full	2021	
re-appoint	Betsy Bousreaux	full	2021	
appoint	Audrea Waimer	full	2021	
	<u>Historic Preservation (2 year term)</u>			
re-appoint	Bryan Poche	full	2021	
re-appoint	Tom Parsons	full	2021	
appoint	Susan Davies	unexpired	2020	
	<u>Economic Development (2 year term)</u>			
re-appoint	Jay Pierce	full	2021	
re-appoint	Kyle Rose	full	2021	
appoint	clint Bissett	full	2021	
	<u>Community Development (2 year term)</u>			
re-appoint	Amy Fortenberry	full	2021	
re-appoint	Mark Palmer	full	2021	
re-appoint	Kelly Osborn	full	2021	
appoint	Tawnia King	full	2021	



Finance Department
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: September 10, 2019
Re: Collin County Animal Services

Action Requested:

Consider and act upon interlocal agreements by and between the City of Celina and Collin County for Animal Control Services and Animal Shelter Use/Facility Construction. (Toutouchian)

Background Information:

This action extends the Animal Control Services and Animal Shelter Use/Facility Construction Agreements with Collin County for one year.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

N/A

Supporting Documents:

Agreements

Staff Recommendation:



Contract Amendment THIRTEEN (13)

Office of the Purchasing Agent
Collin County Administration Building
2300 Bloomdale Rd, Ste 3
McKinney, TX 75071
972-548-41

Vendor: City of Celina
142 N. Ohio St.
Celina, TX 75009

Effective Date 10/01/2019
Contract No. 01357-09
Contract Interlocal Agreement for Animal Control Services

Awarded by Court Order No.:			2006-879-09-26
Contract Amendment No.:	<u>1</u>	Court Order No.	<u>2007-902-10-09</u>
Contract Amendment No.:	<u>2</u>	Court Order No.	<u>2009-056-01-27</u>
Contract Amendment No.:	<u>3</u>	Court Order No.	<u>2009-553-07-27</u>
Contract Amendment No.:	<u>4</u>	Court Order No.	<u>2010-917-11-08</u>
Contract Amendment No.:	<u>5</u>	Court Order No.	<u>2011-561-08-15</u>
Contract Amendment No.:	<u>6</u>	Court Order No.	<u>2012-901-12-10</u>
Contract Amendment No.:	<u>7</u>	Court Order No.	<u>2013-938-11-11</u>
Contract Amendment No.:	<u>8</u>	Court Order No.	<u>2014-989-12-15</u>
Contract Amendment No.:	<u>9</u>	Court Order No.	<u>2016-017-01-04</u>
Contract Amendment No.:	<u>10</u>	Court Order No.	<u>2017-031-01-23</u>
Contract Amendment No.:	<u>11</u>	Court Order No.	<u>2012-821-10-09</u>
Contract Amendment No.:	<u>12</u>	Court Order No.	<u>2018-995-11-19</u>
Contract Amendment No.:	<u>13</u>	Court Order No.	

YOU ARE DIRECTED TO MAKE THE FOLLOWING AMENDMENT TO THIS CONTRACT

Extension of agreement for a one (1) year period as provided for in section 5.0 of the contract documents.
Agreement shall be in effect from October 1, 2019, continuing through and including September 30, 2020.

Total amount for fiscal year 2020: \$ 27,515.00

Except as provided herein, all terms and conditions of the contract remain in full force and effect and may only be modified in writing signed by both parties.

ACCEPTED BY:

CITY OF CELINA

142 N. Ohio St.
Celina, TX 75009

SIGNATURE

TITLE:

DATE:

ACCEPTED AND AUTHORIZED BY
AUTHORITY OF COLLIN COUNTY
COMMISSIONERS' COURT

Collin County Administration Building
2300 Bloomdale Rd, Ste 3160
McKinney, Texas 75071

Michalyn Rains, CPPO, CPPB
Purchasing Agent

DATE:

Attachment: Animal Control Services (Animal Services)

Contract Amendment THIRTEEN (13)

Office of the Purchasing Agent
 Collin County Administration Building
 2300 Bloomdale Rd, Ste 316
 McKinney, TX 750
 972-548-416

Vendor: City of Celina
 142 N Ohio St.
 Celina, TX 75009

Effective Date 10/01/2019
 Contract No. 06668-09
 Contract Interlocal Agreement for the Facility
 Construction and Use of an Animal Shelter
 in Collin County

Awarded by Court Order No.:		2006-891-09-26
Contract Amendment No.: <u>1</u>	Court Order No.	<u>2007-903-10-09</u>
Contract Amendment No.: <u>2</u>	Court Order No.	<u>2009-012-01-12</u>
Contract Amendment No.: <u>3</u>	Court Order No.	<u>2009-556-07-27</u>
Contract Amendment No.: <u>4</u>	Court Order No.	<u>2010-918-11-08</u>
Contract Amendment No.: <u>5</u>	Court Order No.	<u>2011-562-08-15</u>
Contract Amendment No.: <u>6</u>	Court Order No.	<u>2012-902-12-10</u>
Contract Amendment No.: <u>7</u>	Court Order No.	<u>2013-942-11-11</u>
Contract Amendment No.: <u>8</u>	Court Order No.	<u>2014-990-12-15</u>
Contract Amendment No.: <u>9</u>	Court Order No.	<u>2016-016-01-04</u>
Contract Amendment No.: <u>10</u>	Court Order No.	<u>2017-032-01-23</u>
Contract Amendment No.: <u>11</u>	Court Order No.	<u>2017-826-10-09</u>
Contract Amendment No.: <u>12</u>	Court Order No.	<u>2018-998-11-19</u>
Contract Amendment No.: <u>13</u>	Court Order No.	

YOU ARE DIRECTED TO MAKE THE FOLLOWING AMENDMENT TO THIS CONTRACT

Agreement shall be in effect from October 1, 2019, continuing through and including September 30, 2020 at the below rate:

Total amount for fiscal year 2020: \$ 15,266.00

Except as provided herein, all terms and conditions of the contract remain in full force and effect and may only be modified in writing signed by both parties.

ACCEPTED BY:

CITY OF CELINA

142 N. Ohio St.
 Celina, TX 75009

SIGNATURE

TITLE:

DATE:

ACCEPTED AND AUTHORIZED BY
 AUTHORITY OF COLLIN COUNTY
 COMMISSIONERS' COURT

Collin County Administration Building
 2300 Bloomdale Rd, Ste 3160
 McKinney, Texas 75071

Michalyn Rains, CPPO, CPPB

Purchasing Agent

DATE:

Attachment: Animal Shelter Use and Facility Construction (Animal Services)

AMENDMENT TO FIRST AMENDED INTERLOCAL AGREEMENT FOR THE FACILITY CONSTRUCTION AND USE OF AN ANIMAL SHELTER IN COLLIN COUNTY

This Amendment to the First Amended Interlocal Agreement for the Facility Construction and Use of an Animal Shelter in Collin County ("Amendment") is entered into by and among the parties, Collin County, the City of Anna, the City of Celina, the Town of Fairview, the City of Farmersville, the City of Frisco, the City of Lowry Crossing, the City of McKinney, the City of Melissa, the City of Princeton, and the Town of Prosper (sometimes hereinafter collectively referred to as "Parties" or individually referred to as "Party") through their duly authorized officers or employees.

R E C I T A L S

WHEREAS, the Parties entered into an Interlocal Agreement for the Facility Construction and Use of an Animal Shelter in Collin County in 2006; and

WHEREAS, the Parties entered into that certain First Amended Interlocal Agreement for the Facility Construction and Use of an Animal Shelter in Collin County dated to be effective as of September 26, 2006 ("Agreement"), which Agreement specifically superseded and replaced all prior agreements between the parties regarding the construction and use of the Shelter in Collin County; and

WHEREAS, the Parties now desire to amend the Agreement as set forth in this Amendment and to agree as set forth herein.

NOW, THEREFORE, in consideration of the above recitals, the mutual promises that follow and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. **Incorporation of Recitals.** The recitals that appear above are found by the Parties to be true and correct in all respects and are incorporated into this Amendment by reference.
2. **Defined Terms.** Any term not defined herein shall be deemed to have the same meaning ascribed to it under the Agreement.
3. **Amendment to Section 4, "Initial Term/Renewal Term"**. Section 4, entitled "Initial Term/Renewal Term," of the Agreement is hereby amended by deleting Sections 4.01 and 4.02 replacing said sections in their entirety with new Sections 4.01 and 4.02 to read as follows:

"4.01 **Initial Term.** This Agreement shall commence on November 14, 2006 and shall continue for an initial term of seventeen (17) years, unless terminated earlier as provided in this Agreement or by law.

4.02. **Automatic Renewal Term(s).** Unless terminated in accordance with this Agreement or by law or modified because of additional construction,

this Agreement will automatically renew for a "Renewal Term" following the Initial Term, unless a Party expressly declines automatic renewal. The duration of the Renewal Term shall be for a period of five (5) years, upon the same terms and conditions contained in this Agreement or as modified by subsequent agreements between the Parties, and shall automatically renew and continue for additional Renewal Terms until such time as the Parties explicitly determine not to renew this Agreement. A Party may decline to automatically renew this Agreement at any time during or after the Initial Term, provided that such Party notifies all other Parties in writing of its intent to decline automatic renewal three hundred sixty-five (365) days prior to the automatic renewal date."

4. **Amendments to Section 9, "Operation of Facilities"**. Section 9, entitled "Operation of Facilities," of the Agreement is hereby amended by and through the amendment of the following Sections:

- (a) **Section 9.01, "Operating Committee Authority," is hereby deleted in its entirety and replaced with a new Section 9.01 that is also entitled "Operating Committee Authority" to read as follows:**

"9.01 Operating Committee Authority. The Operating Committee shall be entitled to make nonbinding recommendations regarding: (a) ongoing operational issues, including scheduling, replacement of furniture and equipment, problems associated with breakage of personal property and fixtures, and related issues; and (b) the annual apportionment of Shelter Operating Expenses among the Parties and for making any adjustments that will result in a true apportionment of costs based on the actual benefit to and use by each Party of the Shelter."

- (b) **Sections 9.10.2, entitled "Maintenance and Operation Payments," and 9.10.2.1, entitled "Adjusted Maintenance and Operation Payments," are hereby deleted in their entirety and replaced with a new Section 9.10.2 that is also entitled "Maintenance and Operation Payments" and a new Section 9.10.2.1 entitled "Adjusted Maintenance and Operation Payments," which Sections shall read as follows:**

"9.10.2 Maintenance and Operation Payments. A portion of each Party's Quarterly Payment shall be designated as Maintenance and Operation Payments for the Shelter, such payments being derived from the Shelter Operating Expenses incurred as a result of the operation of the Shelter. For the period beginning on the Effective Date of this Agreement and ending upon the termination of this Agreement, the Maintenance and Operation Payments due by each Party will be shared on a pro-rata basis on the basis of the Parties' respective populations as set forth in the North Central Texas Council of Government population estimates. The Maintenance and Operation Payments due from any Party not included in

the North Central Texas Council of Government population estimates will be based on a flat fee at rates set by the County.

9.10.2.1 Adjusted Maintenance and Operation Payments. The estimated Maintenance and Operation Payments that are anticipated to be due by each Party for the first year of Shelter operations are fully set forth in the Shelter Operations Budget, attached as "Exhibit B". Following the expiration of the first year of Shelter operations, the amount of each Party's subsequent Maintenance and Operation Payments will be adjusted on an annual basis in accordance with the greater of (.1) changes in the North Central Texas Council of Government population estimates or (.2) the Animal Intake Rates by each Party, as applicable, and calculated on the actual Shelter Operating Expenses incurred in connection with the operation of the Shelter."

- (c) **A new Section 9.10.4 entitled "Shelter Capital Improvements Fund Payments," including Sections 9.10.4.1, 9.10.4.2, and Sections 9.10.4.2.1 through 9.10.4.2.3 are hereby adopted to read as follows:**

"9.10.4 Shelter Capital Improvements Fund Payments. On at least an annual basis the Operating Committee, with the assistance of the Parties, shall evaluate the physical condition of the Shelter to identify any permanent structural changes that need to be made to the Shelter or physical aspects of the Shelter that need restoration which will either enhance the Shelter's use as an animal shelter or increase its useful life as an animal shelter (collectively, "Capital Improvements"). If the Operating Committee determines that Capital Improvements are necessary, the Operating Committee shall prepare a written plan and estimated budget for the proposed Capital Improvements and forward such plan and estimated budget to the Commissioners Court for its consideration. The Commissioners Court will have the final authority on whether or not to move forward with the Capital Improvements recommended by the Operating Committee, but in making such decisions may solicit input from the other Parties' governing boards as to their willingness to budget and appropriate funding so as to share proportionately in the costs of the proposed Capital Improvements.

If approved by the Commissioners Court and the governing boards of the other Parties, each Party hereto agrees to pay on an annual basis a new Shelter Capital Improvements Fund Payment for the purpose of funding (either up front or over time) the costs of necessary Capital Improvements that are identified and approved by both the Operating Committee and the Commissioners Court.

For those Capital Improvements that are initially approved by the Operating Committee and the Commissioners Court, the total annual amount of Capital Improvements Fund Payments due and payable by the respective Parties shall be subject to approval by the governing boards of the Parties. Capital Improvements Fund Payments shall be allocated on a proportionate basis to the Parties in accordance with the terms and conditions described herein. No portion of a Party's Shelter Capital Improvements Fund Payment shall be used to pay depreciation, interest or principal payments on mortgages or other debt costs, if any. In addition, no portion of a Party's Shelter Capital Improvements Fund Payment shall be used to pay for any expenditure save and except the specific Capital Improvements recommended by the Operating Committee and approved by the governing boards of the Parties.

Each Party warrants that, as of the Effective Date of the Amendment establishing this Section, it has appropriated and has committed funds in the amount of its approved Shelter Capital Improvements Fund Payment requirements to the extent such payments will become due during the Party's current fiscal year. Each Party further warrants that it will make every reasonable effort in the future to appropriate and commit funds in the amount of its anticipated Shelter Capital Improvements Fund Payment that will become due during any subsequent fiscal year subject to the Party's right to terminate this Agreement pursuant to Section 10.12.

Each Party hereby covenants and agrees to pay promptly when due all approved Shelter Capital Improvements Fund Payments, all adjustments to such payments, and any other charges payable to the County under the provisions of this Agreement. Each Party agrees that any approved Shelter Capital Improvements Fund Payment due to the County which is not paid on or before the due date shall bear interest at the rate of interest prescribed by the Texas Prompt Payment Act (Tex. Gov't Code § 2251.025) from the date due until paid.

All Party payments received shall be expended by County solely for reimbursement of costs for Capital Improvements that have been initially approved by both the Operating Committee and the Commissioners Court, and thereafter approved by the Parties respective governing boards. County shall track receipts and expenditures through its existing project code system (or any similar tracking system) to enable the Parties to verify that all Party payments received are expended by the County solely for reimbursement of the Capital Improvements. County shall maintain a separate Shelter Capital Improvements Fund Payments account for the Shelter.

9.10.4.1 Calculation of Shelter Capital Improvements Fund Payments for approved Capital Improvements. Beginning on the Effective Date of the Amendment establishing this Section, the Shelter Capital Improvements Fund Payments due from each Party will be shared on a pro-rata basis, calculated on the basis of the Parties' respective populations as set forth in the North Central Texas Council of Government population estimates. The Shelter Capital Improvements Fund Payments due from any Party not included in the North Central Texas Council of Government population estimates will be based on a flat fee at rates set by the County.

9.10.4.2 Adjusted Shelter Capital Improvements Fund Payments. The estimated Shelter Capital Improvements Fund Payments that are anticipated to be due by each Party for the year following the Effective Date of the Amendment establishing this Section are set forth in "Exhibit G," attached hereto. On the first anniversary of the Effective Date of the Amendment establishing this Section and for each subsequent year thereafter, the amount of each Party's Shelter Capital Improvements Fund Payments will be adjusted on an annual basis in accordance with changes in the North Central Texas Council of Government population estimates, and calculated based on the actual Capital Improvements costs incurred.

9.10.4.2.1 Review. Each year the County shall review and compare the total budgeted amount of the Shelter Capital Improvements expenses to the actual Shelter Capital Improvements expenses that were incurred by the County during the preceding fiscal year. Such review shall be conducted and all calculations computed by January 31st. The County will rely on the County Auditor's closing financial statements to determine the actual Shelter Capital Improvements expenses that were incurred by the County during the preceding fiscal year.

9.10.4.2.2 Surplus. If the aggregate Shelter Capital Improvements Fund Payments as budgeted and collected for the preceding fiscal year are greater than the Shelter Capital Improvements expenses for that fiscal year, the County shall promptly notify each Party of the overage and of such Party's proportionate share of the overage. The overage amounts shall be credited to the Parties in accordance with such Party's proportionate share of the payments it made to the County as compared to the preceding year's overage, with such credits beginning on May 1st of the subsequent fiscal year. In no event shall a Party be entitled to a

proportionate share of the Overage if the Party did not pay money to the County that contributed to the Overage.

9.10.4.2.3 Deficit. If the Shelter's aggregate Shelter Capital Improvements Fund Payments as budgeted and collected for the preceding fiscal year are less than the Shelter Capital Improvements expenses for that fiscal year, the County shall promptly notify each Party of the deficit and of such Party's proportionate share of the total amount of such deficit. Each Party shall thereafter pay to the Shelter Capital Improvements fund account such Party's proportionate share of the preceding year's deficit as an additional payment due hereunder within thirty (30) days of the date of an invoice from the County reflecting the amount due by such Party subject to the availability of funds for such purpose."

5. **Amendment to Section 10, "Termination"**. Section 10, "Termination," of the Agreement is hereby amended by deleting Section 10.12, "By a City," and replacing said section with a new Section 10.12 also entitled "By a City" to read as follows:

"10.12 By a City. Any City that is a Party to this Agreement may voluntarily terminate its rights and obligations under this Agreement, if at any time such City determines that adhering to the Agreement is no longer in its best interest. To invoke its right to terminate this Agreement, a City must give at least one hundred eighty (180) days' notice of its intent to terminate its rights and obligations under the Agreement to all other Parties."

"10.12.1 No Refund of Shelter Operating Expense. No prior payments shall be refunded to any City that voluntarily terminates its rights and obligations under this Agreement to the extent that such prior payments have been committed to and used exclusively in accordance with the terms of this Agreement for Shelter Operating Expenses incurred as a result of the operation of the Shelter. If, however, a surplus of money exists in the Shelter Operations Budget at the end of the then applicable fiscal year, a proportionate share of such overage based on the contributions of the then participating Parties shall be refunded to any City that voluntarily terminates its rights and obligations under this Agreement for the then-current fiscal year under Section 9.10.2."

"10.12.2 Refund of Shelter Capital Improvements Fund Payment. Any City that is a Party to this Agreement and voluntarily terminates its rights and obligations under this Agreement shall have refunded to it on or before the date of termination any and all

payments made by such City to the Shelter Capital Improvements Fund Payment account to the extent that such money has (a) NOT been previously refunded to said City as an overage under Section 9.10.4.2.2 herein-above, (b) NOT actually been expended for one or more specific Capital Improvements recommended for approval by the Operating Committee and approved by the governing boards of the Parties, or (3) NOT been committed for expenditure by a fully executed written contract entered into before the City's notice of termination and which fully executed written contract is for one or more specific Capital Improvements recommended for approval by the Operating Committee and approved by the governing boards of the Parties.

Notwithstanding the foregoing and anything contained herein to the contrary, any City that is a Party to this Agreement and voluntarily terminates its rights and obligations under this Agreement shall have no further responsibility or liability for any additional payments to the Shelter Capital Improvements Fund Payment following the effective date of such City's termination of this Agreement."

6. **Ratification.** The Parties hereby ratify and confirm that all of the terms, provisions, covenants and conditions of the Agreement remain in full force and effect, except as amended in this Amendment.
7. **Controlling Agreement.** To the extent that any provision contained in this Amendment conflicts with the Agreement, the provision contained in this Amendment shall supersede and control over the conflicting provision contained in the Agreement.
8. **Entire Agreement/ Amendment.** This Amendment and the Agreement contain the entire agreement of the Parties with respect to the matters contained herein. This Amendment may not be modified or terminated except by the written agreement of the Parties.
9. **Authority to Execute.** The individuals executing this Amendment on behalf of the respective Parties below represent that all appropriate and necessary action has been taken to authorize the individual who is executing this Amendment to do so for and on behalf of the Party for which his or her signature appears, that there are no other parties or entities required to execute this Amendment in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Amendment and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
10. **Counterparts.** This Amendment may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one Amendment. An electronic mail or facsimile signature will

also be deemed to constitute an original if properly executed and delivered to the other Parties.

[Signature pages follow.]

Attachment: Animal Shelter Use and Facility Construction (Animal Services)

IN WITNESS WHEREOF, the Parties have executed this Amendment and caused this Amendment to be effective when all the Parties have signed it. The date this Amendment is signed by the last Party to sign it (as indicated by the date associated with that Party's signature below) will be deemed the effective date of this Amendment ("Effective Date").

COLLIN COUNTY, TEXAS

CITY OF ANNA, TEXAS

By: _____

By: _____

BY: _____
NAME: _____

BY: _____
NAME: _____

Name: _____
Title: _____

Name: _____
Title: _____

TITLE: City Manager
Date: _____

TITLE: City Manager
Date: _____

Attest: _____
Title: _____

Attest: _____
Title: _____

CITY OF CELINA, TEXAS

CITY OF FARMERSVILLE, TEXAS

By: _____

By: _____

BY: _____
NAME: _____

BY: _____
NAME: _____

Name: _____

Name: _____

Attachment: Animal Shelter Use and Facility Construction (Animal Services)

Title: _____

TITLE: City Manager
Date: _____

Attest: _____
Title: _____

CITY OF FRISCO, TEXAS

By: _____

BY: _____
NAME: _____

Name: _____
Title: _____

TITLE: City Manager
Date: _____

Attest: _____
Title: _____

Title: _____

TITLE: City Manager
Date: _____

Attest: _____
Title: _____

CITY OF LOWRY CROSSING, TEXAS

By: _____

BY: _____
NAME: _____

Name: _____
Title: _____

TITLE: City Manager
Date: _____

Attest: _____
Title: _____

Attachment: Animal Shelter Use and Facility Construction (Animal Services)

TOWN OF FAIRVIEW, TEXAS

By: _____

BY: _____

NAME: _____

Name: _____

Title: _____

TITLE: City Manager

Date: _____

Attest: _____

Title: _____

CITY OF MELISSA, TEXAS

By: _____

BY: _____

NAME: _____

Name: _____

Title: _____

TITLE: City Manager

Date: _____

CITY OF MCKINNEY, TEXAS

By: _____

BY: _____

NAME: _____

Name: _____

Title: _____

TITLE: City Manager

Date: _____

Attest: _____

Title: _____

CITY OF PRINCETON, TEXAS

By: _____

BY: _____

NAME: _____

Name: _____

Title: _____

TITLE: City Manager

Date: _____

Attest: _____
Title: _____

Attest: _____
Title: _____

CITY OF PROSPER, TEXAS

By: _____

BY: _____
NAME: _____

Name: _____
Title: _____

TITLE: City Manager
Date: _____

Attest: _____
Title: _____

Attachment: Animal Shelter Use and Facility Construction (Animal Services)

Exhibit G

FY 2020 Animal Shelter Billing Worksheet

Larger Entities / Original Entities							
% of Charges	FY20 Budgeted M&O and Per.	FY20 Capital Contribution**	FY20 Total Cost before Adjust.	Less FY18 Fees Collected	Less Adjustments for FY18 Budget vs. Actual	FY20 Total Billed	
Anna	2.47% \$	28,475 \$	1,481 \$	29,956 \$	1,413 \$	4,509 \$	24,034 \$
Celina	1.56% \$	17,948 \$	933 \$	18,882 \$	891 \$	2,842 \$	15,149 \$
Fairview	2.72% \$	31,409 \$	1,634 \$	33,043 \$	1,559 \$	4,973 \$	26,510 \$
Farmersville	1.00% \$	11,563 \$	601 \$	12,164 \$	574 \$	1,831 \$	9,759 \$
Frisco	32.03% \$	369,489 \$	19,216 \$	388,705 \$	18,338 \$	58,507 \$	311,861 \$
McKinney	37.97% \$	438,002 \$	22,779 \$	460,782 \$	21,738 \$	69,355 \$	369,688 \$
Melissa	1.38% \$	15,877 \$	826 \$	16,703 \$	788 \$	2,514 \$	13,401 \$
Princeton	1.91% \$	22,090 \$	1,149 \$	23,239 \$	1,096 \$	3,498 \$	18,645 \$
Prosper	2.80% \$	32,272 \$	1,678 \$	33,950 \$	1,602 \$	5,110 \$	27,239 \$
Collin County	16.17% \$	186,557 \$	9,702 \$	196,259 \$	9,259 \$	29,540 \$	157,460 \$
TOTAL	100.00% \$	1,153,682 \$	60,000 \$	1,213,682 \$	57,258 \$	182,679 \$	973,745 \$

FY20 Billing Breakout	
Total Billed:	\$ 1,183,352
Smaller Entities:	\$ 29,670
TOTAL for Original:	\$ 1,153,682

Adjust for FY18 Budget vs. Actual	
FY18 Billed:	\$ 878,047
FY18 Actual:	\$ 695,368
Total +/- back	\$ 182,679

Smaller Entities / Added Later						
% of Charges	FY20 Budgeted M&O and Per.	FY20 Capital Contribution**	FY20 Total Cost before Adjust.	Less FY18 Fees Collected	Less Adjustments for FY18 Budget vs. Actual	FY20 Total Billed
Lavon			\$ 3,100			\$ 3,100
Lucas			\$ 14,970			\$ 14,970
Nevada			\$ 1,550			\$ 1,550
New Hope			\$ 2,050			\$ 2,050
Blue Ridge			\$ 5,500			\$ 5,500
Weston			\$ 2,500			\$ 2,500
TOTAL			\$ 29,670			\$ 29,670

Grand Total: \$ 1,003,415

Grand Total is the total billed amount for the larger and smaller entities combined



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Dusty McAfee AICP, Director of Development Services
 CC: Jason Laumer, City Manager
 Date: September 10, 2019
 Re: Tree Care Ordinance

Action Requested:

Consider and act upon an ordinance amending the City's Code of Ordinances, Chapter 1, to add and adopt the Tree Care Ordinance. (Tree Care Ordinance) (McAfee)

Background Information:

The Tree City USA program, sponsored by the Arbor Day Foundation, provides direction, technical assistance, public attention, and national recognition for urban and community forestry programs throughout the nation. In order to be recognized as a Tree City USA, adoption of a Tree Care program for trees on public property is required. The City of Celina already assumes responsibility for trees on public property, such as trees located in medians, parks, and on campuses owned by the City. However, the Tree City USA program requires responsibility for trees on public property such as trees located in medians, parks, and on campuses owned by the City to be formally codified within the Code of Ordinances.

Legal Review:

The City's land use attorney has reviewed the document and deemed it acceptable.

Supporting Documents:

- Proposed Ordinance

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES; CHAPTER 1 GENERAL PROVISIONS; ARTICLE 1.02 ADMINISTRATION BY ADDING A NEW SECTION 1.02.002 TREE CARE; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR AMENDMENT TO THE CODE OF ORDINANCES; PROVIDING FOR A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Celina 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, the Texas Constitution and operating pursuant to the enabling legislation of the state of Texas; and

WHEREAS, all legal notices, requirements and conditions were fulfilled prior to passing of this Ordinance; and

WHEREAS, the City Council has determined that the protection of trees on public property within Celina is not only aesthetically desirable, but also essential to the present and future health, safety, and welfare of all citizens; thus, creating a Tree Care Program; and

WHEREAS, the City Council has further determined that it will be beneficial to designate the Director of Development Services with administrative responsibility for the Tree Care Program including the care, planning, pruning, and maintenance of trees on City property and City parks; and

WHEREAS, after due deliberations and consideration, the City Council has determined that the amendments set forth herein should be adopted, and that such amendments are in the best interest of the public health, safety, and welfare of the citizens of the City.

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

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 Ordinances is in the best interests of the City of Celina, Texas, and of the public health, safety and welfare.

SECTION 3 AMENDMENTS

- 3.01 That the City of Celina Code of Ordinances, Chapter 1: General Provisions; Article 1.02 Administration is being amended to add a new Section 1.02.002 Tree Care which shall read as follows:

“Sec. 1.02.002 Tree Care

- (a) There is hereby created and established a tree care program to provide full power and authority over the care of all trees, plants, and shrubs located within public rights-of-ways, parks, and public places; and to aid in the proper growth of a landscape program to enhance the beauty of the community.

(b) **Definitions**

Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Park Trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

(c) **Tree Board**

- (1) There is hereby created and established a Tree Board for the City of Celina. Members appointed to the Planning & Zoning Commission of the City shall jointly serve on the Tree Board, whose terms of office, internal rules and procedures, quorum declarations, including officer appointment and minutes, and compensation shall match that of the Planning & Zoning Commission.

- (2) It shall be the responsibility of the Tree Board, when charged by the City Council, to study, investigate, and develop recommendations for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. The Tree Board shall consider, investigate, make finding, report, and recommend upon any special matter of question coming within the scope of its work.

(d) **Tree List**

The official Plant List of the City shall be the same list as found in Appendix E of Chapter 14 (Zoning) of the Celina Code of Ordinances. Spacing for trees, in addition to separations from pavement, shall also abide by Chapter 14 (Zoning) and other applicable rules of the Celina Code of Ordinances. Small Ornamental Trees, per the Plant List, should be used for when overhead or underground utilities conflict.

(e) **Maintenance Responsibility**

- (1) The City shall have the right, but no obligation, to plant, prune, maintain, and remove trees, plants, and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares, parks, and public grounds, as may be necessary to ensure public safety, maintain unfettered mobility, or to preserve or enhance the symmetry and beauty of such public grounds.

This shall include the removal of trees which may present a fall hazard (or other unsafe condition, such as diseased or dead trees and limbs) or trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest and disease.

- (2) Every owner of any tree or shrub overhanging any street or right-of-way within the City shall, in accordance to industry pruning guidelines, prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection; will not obstruct the passage of pedestrians on sidewalks; will not obstruct vision of traffic signs; and will not obstruct the view of any street or alley intersection. If the property owner fails to do so, the City shall have the right to remove or prune any tree or shrub on private property which threatens the safety of those who may use a City street or City park.

(f) Best Practices

- (1) All stumps on public land should be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
- (2) Topping of trees on public property is prohibited, except through City-authorized maintenance and activity. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted at the determination of the City.
- (3) Public Trees and other vegetation should not have unnatural attachments installed, such as any cable, wire, rope, sign, or any other object, unless part of a City-authorized activity, such as lighting for a special event, or other City-approved endeavor.
- (4) Property owners shall not allow a tree, tree limb, or tree branch to be lower than 14 feet above the surface of any street, avenue, or alley within the jurisdiction of the city; or allow a tree, tree limb, or tree branch to be lower than eight feet above the surface of any sidewalk within the jurisdiction of the city.

(g) Prohibition

No person shall remove, destroy, or cause the removal or destruction of a tree on city property or in any city park without first having obtained a valid permit from the City.”

- 3.02 All other articles, chapters, sections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed.

SECTION 4 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 the 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 5 **SEVERABILITY**

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6 **PENALTY**

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 Five Hundred Dollars (\$500) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.

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 **ENGROSSMENT AND ENROLLMENT**

The City Secretary of the City of Celina is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the City Council of the City of Celina and by filing this Ordinance in the Ordinance records of the City.

SECTION 8 **EFFECTIVE DATE**

This Ordinance shall be in full force and effect 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 _____ day of September, 2019.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

[SEAL]

APPROVED AS TO FORM:

Lance Vanzant, City Attorney
City of Celina, Texas

Attachment: Tree Care Ordinance (Tree Care Ordinance)



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dusty McAfee AICP, Director of Development Services
CC: Jason Laumer, City Manager
Date: September 10, 2019
Re: Master Fee Chart Revision

Action Requested:

Consider and act upon an ordinance amending the City's Code of Ordinances, Appendix A: Fee Schedule to update the Master Fee Chart. (Master Fee Chart Revision) (McAfee)

Background:

The Master Fee Chart is being revised primarily to change certain Development Services fees.

Supporting Documents:

- Proposed Fee Chart
- Revised Ordinance

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA MASTER FEE CHART

UPDATED SEPTEMBER, 2019

Attachment: Proposed Fee Chart (Master Fee Chart Revision)





MASTER FEE CHART

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MASTER FEE CHART

Miscellaneous Fees	
Copies of fire and police reports and other special documents	Charges to recover costs associated with public information requests related to fire and police shall be assessed in accordance with Texas Administrative Code, title 1, part 3, chapter 70, rule 70.3 Charges for Providing Copies of Public Information.
	Copies of special documents for police reports shall be assessed in accordance with the Texas Transportation Code (550.065) Release of Certain Information Relating to Accidents.
Copies of public information	Charges to recover costs associated with public information requests shall be assessed in accordance with Texas Administrative Code, title 1, part 3, chapter 70, rule 70.3 Charges for Providing Copies of Public Information.
Fingerprinting Fee	All requests to have your fingerprints taken require a \$25.00 dollar fee.
Garage sale permit	\$10 per event held
Animal control related fee	Animal control related fees shall be in accordance with the Collin County Animal Services and City of Celina Interlocal Agreement, as amended.
Financial statements or year-end audits	\$10
Code of Ordinances	\$100
Comprehensive plan with maps	\$200
Senior Center	
Deposit	\$100
Rental Fee	\$50 per day
Special Events	
Special event permits	\$50
Special events, tents	\$150 per event

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Library Fees

Library material that is 60 days or more overdue is considered lost, and the replacement cost of the item is added to the borrower's record.

Overdue books, audio books, music CDs and magazines	\$0.25 per day
Overdue DVDs	\$1.00 per day
Maximum Fine	Replacement cost of the item documented in the library database record
Replacement library card	\$1.00
Damaged audio/visual cases	\$3.00
Lost or damaged material	Replacement cost of the item documented in the library database record.
Copies and printing	\$0.10 per page
Fax (sending and receiving)	\$1.00 for first page and \$0.50 for each additional page



MASTER FEE CHART

Parks & Recreation Fees

Practice/Tournament

	Practice (2 hours)		Tournament*	Camp/Clinic/Etc
	Resident	Nonresident		
Baseball/softball (per field)	\$40.00	\$50.00	\$350.00 (per day)	\$5.00 per participant, as applicable
Soccer/football (per field)	\$20.00	\$30.00	\$200.00 (per day)	
Tennis court (per court)	\$10.00	\$20.00	\$40.00 (per day)	

* Tournament fee includes 1 field setup, typically for the start of the event

Additional Facility Costs

Lighting (per field)	\$40 per hour
Game preparation (baseball/softball)	\$30 per field, per setup
Game preparation (multiuse fields):	Costs contingent upon dimensions and markings required.
Parks and recreation staff (per employee)	\$40 (hourly)

- After 11:00 p.m., it is mandatory to have one parks representative on site.
- At the discretion of the director, more than one parks representative may be required.
- Repair of damaged facilities to be paid for at actual cost of labor and materials.
- Parks department reserves exclusive right to sale of concession items and use of concession stand unless agreed upon otherwise in rental agreement contract.

Pavilion (per four (4) hours)

Less than 50 attendees	\$50
51-100 attendees	\$75
More than 100 attendees	\$125

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Development Services Fees	
New 1 & 2 Family Dwellings	
Application	\$50
Plan Review	\$300
Revised plan review	\$175
Building Permit Fee	\$0.92 per square foot under roof
Certificate of Occupancy	\$65 (Temp CO is \$100 each 10 days)
Building Fee	\$75 per (plumbing, electrical, mechanical)
T-Pole	\$50
Irrigation	\$185
Fence	\$75
Expired Permits	50% refund on permit fee prior to work beginning
Re-inspection Fee	\$75 per failed inspection after 2 nd failed inspection
Re-instated Permit Fee	25% (same plan) or 50% (revised) of original fee
Parkland Dedication Fee	1 acre each 50 lots (or \$2 per sf of land of that acreage)
Park Improvement Fee	\$1,500 per lot
Building Activity Fee	\$500 if / when applicable
Technology Fee	\$500 if / when applicable
Outdoor Warning Device	if / when applicable
Capital Recovery Fees	if / when applicable
Impact Fees (water, sewer, roadway)	See impact fee chart: varies per subdivision
Residential Remodel / Addition & Accessory Structures	
Application	\$50
Plan Review	\$100
Revised Plan Review	\$100
Building Permit Fee	\$0.92 per square foot under roof (\$75.00 minimum)
Building Fee	\$75 per (plumbing, electrical, mechanical)
Re-inspection Fee	\$75 per failed inspection after 2 nd failed inspection
Work Without Permit	Double Permit Fee

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Residential Building Permits - Mechanical, Electrical, Plumbing	
Building Permit Mechanical	\$75
Building Permit Electrical	\$75
Building Permit Plumbing	\$75
Work Without Permit	Double Permit Fee

Residential Miscellaneous Permit	
After hours inspection	\$80 per hour / 4 hour minimum
Demolition	\$50 application + \$100 permit
Curb cut / driveway / flatwork	\$50 application + \$100 permit
Fence	\$50 application + \$ 75 permit
Foundation Repair	\$50 application + \$100 permit
House Moving	\$50 application + \$400 permit
Irrigation	\$50 application + \$185 permit
Irrigation Repair	\$75
Manufactured Home	\$50 application + \$100 permit + trades (\$75. ea)
Patio Cover / Deck / Outdoor Kitchen Garage / Shade Structure	\$50 application + \$75 review + \$200 permit
Pool / Spa	\$50 application + \$75 review + \$200 permit
Refund policy	80% permit fee when no work has been done
Re-inspection Fee	\$75
Retaining Wall	\$50 application + \$100 permit
Roof / Roof repair	\$50 application + \$100 permit
Simple Grading - single lot	\$50 application + \$ 75 permit
T-Pole	\$50
Unauthorized Cover-up Fee	\$100
Water well drilling	\$50 application + \$100 permit
Work Without Permit Fee	Double permit fee

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

New Commercial & Multi-Family Dwellings	
Application	\$150
Plan Review	50% of building permit fee for projects valued at two million dollars or less, 25% of permit fee for projects valued greater than two million dollars, or amount as required by 3rd party review.
Fourth (or more) Plan Review Fee	\$1000 each new review
Revised Plan Check Fee	50% of original plan review fee
Minor Plan Revision	\$500
Commercial Building Permit Fee	Current ICC square foot construction costs table fee for appropriate construction type - (gross area X square foot construction cost X permit fee multiplier (.0075) = permit fee
Multi-Family Building Permit Fee	\$0.85 per square foot under roof
Re-inspection Fee	\$75 per failed inspection after 2 nd failed inspection
Building Fee - Mechanical / Electrical / Plumbing	Square footage of bldg. floor area: separate fee in addition to: a. 1 - 3,000 square feet: \$75 b. 3,001 - 10,000 square feet: \$125. c. 10,000 - 100,000 square feet: \$150. d. over 100,000 square feet: \$175
Building Activity Fee	\$500 (per wastewater connection)
Parkland Dedication Fee	\$500 per unit (when applicable)
Park Improvement Fee	\$1,000 per unit (when applicable)
Certificate of Occupancy	\$100
Temporary CO	\$100 + \$100 per additional 10 business days
Impact Fees (water, sewer, roadway)	See impact fee chart

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Finish-out & Miscellaneous Commercial / Multi-Family Permit Fees	
Application	\$150
Plan Review	50% of building permit fee for projects valued at two million dollars or less, 25% of permit fee for projects valued greater than two million dollars, or amount as required by 3rd party review
Revised Plan Check Fee	50% of original plan review fee
Revised plan review	\$175
Commercial Building Permit Fee	\$6.50 per \$1,000 in value. Minimum \$100.
Multi-Family Building Permit Fee	\$0.37 per square foot
Minor Plan Revisions	\$500
Building Fee – (M, E, P)	\$5.00 per \$1,000 in value. \$75 minimum
Clean & show / meter release	\$75
Demolition	\$150 application + \$100 permit
Commercial Pool	\$150 application + \$500 permit
Curb cut / driveway / flatwork	\$150 application + \$100 permit
Retaining wall / Screen wall / Fence	\$150 application + \$5.00 per \$1,000 valuation (\$100 minimum)
T-Pole	\$50
Unauthorized Cover-up	\$100
Refund policy	80% permit fee when no work has been done
Re-inspection Fee	\$75 per inspection
Work without permit Fee	Double permit fee
After hours inspection	\$80 per hour / 4 hour minimum
Certificate of Occupancy	\$100
Temporary CO	\$100 + \$100 per additional 30 days
Temporary Trailer	\$150 application + \$200 permit + Trades

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Annual Contractor Registration	
Electrical Contractor	no charge - State law
General Contractor	\$100
Irrigator Contractor	\$100
Mechanical Contractor	\$100
Plumbing Contractor	no charge - State law
Sign Contractor	\$100
Utility Franchise Contractor	no charge
Work without Permit Fee	Double Permit Fee
Signs / Promotional Event Permits	
Wall Sign	\$150 application + \$50 permit + (\$75 electrical)
Monument Sign	\$150 application + \$50 permit + (\$75 electrical)
Banners	\$50 permit (2 week period) - allowed 3 times per year
Human Sign	\$100 per day per person
Promotional Event	\$50 permit + \$50 food if applicable

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Site Development Fees (Civil Permit) – Alternative Process	
Application	\$150
Plan Review - Private	50% of building permit fee for projects valued at two million dollars or less, 25% of permit fee for projects valued greater than two million dollars, or amount as required by 3rd party review
Plan Review – Public and Other Subdivisions	0 - 100 lots: \$85 per lot 101 - 200 lots: \$75 per lot 201 - 300 lots: \$65 per lot Greater than 300 lots: \$55 per lot
Fourth (& more) Plan Review	\$1,000 each
Landscape / Hardscape Plan Review	\$300
Revised Plan Check Fee	50% of original plan review fee
Civil Permit Fee - Private	\$6.50 per \$1,000 in value. \$100 minimum.
Civil Permit Fee - Public	3% of paving / site utility valuation
Engineering Permit Fees – Alternative Process	
Franchise / Utility companies	No Fee
Non-Franchise	\$150 application + \$75 permit
After-Hour Inspection	\$80 per hour (4 hour minimum)
Floodplain Permit	\$150 application + 3 rd party review fee (if applicable) + 0 – 3 acres: \$300 3.01 – 20 acres: \$500 20+ acres: \$1,000 + \$10 per acre
Earthwork / Grading Permit	\$150 application + 0 – 5 acres: \$100 5.1 – 10 acres: \$200 10+ acres: \$500 + \$10 per acre

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Site Development Fees (Civil Permit) – Chapter 212 Process	
Application	\$300
Plan Review - Private	100% of building permit fee for projects valued at two million dollars or less, 50% of permit fee for projects valued greater than two million dollars, or amount as required by 3rd party review
Plan Review – Public and Other Subdivisions	0 - 100 lots: \$170 per lot 101 - 200 lots: \$150 per lot 201 - 300 lots: \$130 per lot Greater than 300 lots: \$110 per lot
Fourth (& more) Plan Review	\$2,000 each
Landscape / Hardscape Plan Review	\$600
Revised Plan Check Fee	100% of original plan review fee
Civil Permit Fee - Private	\$13.00 per \$1,000 in value. \$200 minimum.
Civil Permit Fee - Public	6% of paving / site utility valuation
Engineering Permit Fees – Chapter 212 Process	
Franchise / Utility companies	No Fee
Non-Franchise	\$300 application + \$150 permit
After-Hour Inspection	\$160 per hour (4 hour minimum)
Floodplain Permit	\$300 application + 3 rd party review fee (if applicable) + 0 – 3 acres: \$600 3.01 – 20 acres: \$1,000 20+ acres: \$2,000 + \$20 per acre
Earthwork / Grading Permit	\$300 application + 0 – 5 acres: \$200 5.1 – 10 acres: \$400 10+ acres: \$1,000 + \$20 per acre

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Planning & Zoning Fees	
Site Plan Review	\$500
Minor/ Amending/ Conveyance Plats	\$400
Preliminary / Replat / Final Plats	\$500 + \$10 per lot
Chapter 212 Plat Process	\$1,000 + \$20 per lot
Plat Filing Fee	\$150
Development Agreement	\$2,500
Development Agreement (Minor)	\$1,000
Development Agreement with PID	\$5,000
Annexations	\$750
PD Application	\$750
Special Use Permit	\$500
Zoning Verification Letter	\$100
Variance (BOA)	\$250
Zoning Signage	\$300
Alley Abandonment	\$300
Prints of Long-Range Plans	\$30
Tree Removal	
Tree Removal Permit	\$150 (+ mitigation – see Tree Valuation Schedule)
6" – 10" (DBH)	\$600 x (multiplier)
11" – 20" (DBH)	\$1,600 x (multiplier)
21" – 30" (DBH)	\$4,000 x (multiplier)
31" + (DBH)	\$5,000 x (multiplier)

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Health Department Annual Permits	
Food Service Establishment	\$350
Food Service - Limited Purpose / Private School	\$100
Food Service - Non-profit / Public school	No Charge
Food Truck (hot or cold)	\$250
Grocery Store - major	\$600
Grocery Store - minor	\$250
Late Annual Renewal	\$100
Re-inspection Fee	\$100
Seasonal Food	\$150
Temp. Food / Event vendor	\$50
Other Annual Permits	
Alcohol	Half of the state fee (TABC Regulated)
Pool (Public or semi-private)	\$200
Solicitor / Vendor	\$100 per year
Rental Permit (multi-family)	\$150 + \$20 per unit

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Fire Department Permit / Inspection Fees

Fire Alarm	1 to 150 devices: \$150 Over 150 devices: \$300 Additional floors (over one): \$50 each Red tag fee for each inspection: \$250
Fire Sprinkler - commercial	1 to 150 devices: \$150 Over 150 devices: \$300 Additional floors (over one): \$50 each Foam system: + \$50 Red tag fee for each inspection: \$250
Fire Sprinkler - single family	\$150 Foam system: + \$50
Fire Pump	\$300
Stand Pipe System	\$150
Underground Fire Main	\$150
Remote FDC	\$150 (each)
Access Control System	\$150 per unit
Gate Access Control	\$150 per gate
Hood System	\$150 per hood
FM 200 System	\$150
Spray Booth	\$150
Fire Lane Modification / Alteration	\$150
LPG or Compressed Gases	\$150
Flammable / Combustible Storage Tanks	\$150 per tank
Fire Lane Traffic Control Device	\$150
Temp. Tent or Canopy structure	\$150
Battery Systems	\$150
Burn Permit	\$100 per area
Work without Permit Fee	Double Permit Fee

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Fire Department Permit / Inspection Fees (cont.)

Fireworks	\$250
After Hours Inspection	\$80 per Hour – Minimum of four (4) hours
Any Failed Inspection – Red Tag Fee	\$250
Fire Watch Personnel	\$50 per Hour – Minimum of four (4) hours per each fire watch

Alarm Fees

Annual, Nonrefundable – New Alarm Permit or Renewal (Residential)	\$35
Annual, Nonrefundable – New Alarm Permit or Renewal (Commercial)	\$100
- A permit is valid for a period of twelve (12) months from the date of issuance. Permits must be renewed within ten (10) days of the expiration of the previously issued permit. An updated application and registration renewal fee must be submitted for renewal. - Governmental and public educational sites are exempt from all permit fees, false alarm charges, service fees and fines that are assessed under this article as long as the entity has a valid alarm permit, but shall comply with all other requirements of this article.	
To register an alarm and/or read the City Ordinances on Alarm Systems visit https://www.crywolfservices.com/celinatx/	



MASTER FEE CHART

Business Related Fees	
Video games and other amusement devices; arcades	<u>Investigation and processing fee:</u> (1) Nonrefundable investigation fee: \$35.00. (2) Each applicant for one, two or three licenses for video games or pool tables not to be in an arcade shall pay a nonrefundable investigation fee of \$35.00.
	<u>Renewal:</u> An investigation fee of \$35.00 shall be charged in connection with a renewal and shall be due on or before January 1st of each year.
Peddlers and solicitors	Each itinerant vendor, merchant or peddler taking orders for sale or offering any item or service within the corporate limits of the city will pay a fee of \$100.00 per year to the city.
Farmer's Market potentially hazardous food vendor fee	\$ 50 minimum for the year
Liquid propane portable container permit (retail)	Display: \$150.00 per display.
	A plan submittal by the owner is required prior to inspection. Fees include plan review, one final inspection and a permit. If a red tag is issued to the contractor during an inspection, there will be a reinspection fee of up to \$250.00 for each reinspection.
Auto related business regulation fees	Yearly inspection fee for all automotive-related businesses: \$200.00 annually
	Bulk storage fee: \$50.00 annually.
Liquid waste transporter permit fee	Liquid waste transporter permit fee: \$50.00 per vehicle, annually.
	A failed inspection will be subject to a reinspection fee of \$50.00 for subsequent inspections.

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Utility Rates & Charges

Water Deposits

Residential	\$200 per each living unit
Business – fewer than 5 employees	\$150
Business – 5 employees or more	\$200
Cleaners/Laundromats	\$250
Grocery Store - minor	\$250
All two-inch meters	\$250, plus \$100 for each inch over 2"

Water Rates

Residential

Inside City (W1 Residential) – Monthly Minimum Charge

	Effective Feb-19	Effective Jan-20	Effective Jan-21
3/4"	\$23.84	\$24.56	\$25.30
1"	\$40.10	\$41.30	\$42.54
1-1/2"	\$80.21	\$82.61	\$85.09
2"	\$128.33	\$132.18	\$136.14

Inside City (W1 Residential) – Volume Rate/1,000 Gal

	Effective Feb-19	Effective Jan-20	Effective Jan-21
2,001–10,000	\$5.21	\$5.37	\$5.53
10,001–20,000	\$7.89	\$8.13	\$8.37
20,001–30,000	\$9.29	\$9.57	\$9.86
30,001 above	\$13.41	\$13.81	\$14.23

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Outside City (W2 Residential Outside) – Monthly Minimum Charge			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
3/4"	\$35.77	\$36.84	\$37.95
1"	\$60.15	\$61.95	\$63.81
1-1/2"	\$120.31	\$123.92	\$127.64
2"	\$192.50	\$198.27	\$204.21
Outside City (W2 Residential Outside) – Volume Rate/1,000 Gal			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
2,001–10,000	\$7.82	\$8.05	\$8.29
10,001–20,000	\$11.84	\$12.19	\$12.56
20,001–30,000	\$13.94	\$14.35	\$14.78
30,001 above	\$20.12	\$20.72	\$21.34
Commercial			
Inside City (W3 Commercial) – Monthly Minimum Charge			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
3/4"	\$28.64	\$29.50	\$30.39
1"	\$50.13	\$51.63	\$53.18
1-1/2"	\$100.26	\$103.27	\$106.37
2"	\$160.41	\$165.22	\$170.18
3"	\$240.61	\$247.83	\$255.26
4"	\$401.02	\$413.05	\$425.44

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Inside City (W3 Commercial) – Volume Rate/1,000 Gal			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
2,001–10,000	\$5.21	\$5.37	\$5.53
10,001–20,000	\$7.89	\$8.13	\$8.37
20,001–30,000	\$9.29	\$9.57	\$9.86
30,001 above	\$13.41	\$13.81	\$14.23
Outside City (W4 Commercial Outside) – Monthly Minimum Payment			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
3/4"	\$42.97	\$44.26	\$45.58
1"	\$75.20	\$77.45	\$79.77
1-1/2"	\$150.39	\$154.90	\$159.55
2"	\$240.62	\$247.84	\$255.27
3"	\$360.91	\$371.74	\$382.89
4"	\$601.53	\$619.58	\$638.16
Outside City (W4 Commercial Outside) – Volume Rate/1,000 Gal			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
2,001–10,000	\$7.82	\$8.05	\$8.29
10,001–20,000	\$11.84	\$12.19	\$12.56
20,001–30,000	\$13.94	\$14.35	\$14.78
30,001 above	\$20.12	\$20.72	\$21.34

- Temporary water service: Temporary water service may be established at a residential structure for cleaning at the rate of \$15.00 per day.
- Bulk water sales: Bulk water sales via a fire hydrant connection will be billed at the most current commercial rate. A hydrant meter deposit will be collected in the amount of \$1,000.00, returnable upon settlement of the account. Anyone caught obtaining water without permission will be charged with a criminal offense.



MASTER FEE CHART

Wastewater Monthly Rates and Charges			
<i>Residential</i>			
Inside City – Monthly Minimum Charge			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
3/4"	\$23.44	\$25.54	\$27.84
1"	\$42.11	\$45.90	\$50.03
1-1/2"	\$78.59	\$85.66	\$93.37
2"	\$134.72	\$146.85	\$160.07
Inside City – Volume Rate/1,000 Gal			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
2,001–5,000	\$5.84	\$6.37	\$6.94
5,001–Maximum	\$7.23	\$7.88	\$8.59
<i>Maximum Gallons</i>	<i>13,000</i>	<i>12,000</i>	<i>11,000</i>
Outside City – Monthly Minimum Charge			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
3/4"	\$35.15	\$38.32	\$41.76
1"	\$63.16	\$68.84	\$75.04
1-1/2"	\$117.88	\$128.49	\$140.06
2"	\$202.09	\$220.27	\$240.10
Outside City – Volume Rate/1,000 Gal			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
2,001–5,000	\$8.76	\$9.55	\$10.41
5,001–Maximum	\$10.85	\$11.82	\$12.89
<i>Maximum Gallons</i>	<i>13,000</i>	<i>12,000</i>	<i>11,000</i>

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Commercial			
Inside City – Monthly Minimum Charge			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
3/4"	\$28.07	\$30.59	\$33.35
1"	\$52.64	\$57.37	\$62.54
1-1/2"	\$98.24	\$107.08	\$116.72
2"	\$168.41	\$183.56	\$200.08
4"	\$421.01	\$458.90	\$500.20
Inside City – Volume Rate/1,000 Gal			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
2,001– Above	\$6.37	\$6.94	\$7.56
Outside City – Monthly Minimum Payment			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
3/4"	\$42.10	\$45.89	\$50.02
1"	\$78.95	\$86.06	\$93.81
1-1/2"	\$147.36	\$160.63	\$175.08
2"	\$252.61	\$275.34	\$300.12
4"	\$631.52	\$688.36	\$750.31
Outside City – Volume Rate/1,000 Gal			
	Effective Feb-19	Effective Jan-20	Effective Jan-21
2,001 and Above	\$9.55	\$10.41	\$11.34

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Garbage Collection	
Trash	\$10.59
Recycling	\$3.07
Extra cart	\$5.57
Water & Sewer Service Charges	
Disconnect/Reconnect Fee	\$50 (\$75 if incurred outside of the City's normal business hours.)
Transfer Fee	\$25
Trip Fee	\$15 (\$30 if incurred outside of the City's normal business hours.)
Reread	\$20
Profile History	\$25 plus \$0.10 per page
Temporary disconnect/reconnect	\$25
Meter Test	\$40
Tamper Fee	\$500
Returned Check Fee	\$25
Meter Fees	
3/4"	\$330
1"	\$440
1 1/2"	\$770
2"	\$1080
Fire Hydrant Meter Deposit	\$2050
Meter Change Out (Customer Request)	A meter change-out fee will be indexed according to the age of the meter, with a 10% reduction in the actual cost of replacement, including labor and materials, for each year that the existing meter has been installed.
Reinspection Fees	
First	\$50
Second	\$75
Third	\$100

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

Water/Wastewater Connection Fees	
Water	
¾" Tap	\$950
1" Tap	\$1060
1 ½" Tap	\$1260
2" Tap	\$1450
- All taps greater than two inches will be priced at time of installation and shall require a meter vault and shall meet the most current engineering design standards. - Standard fees reference herein do not include extraordinary costs incurred by the city, including but not limited to the cost of labor and materials related to boring and repairs to streets and easements. The city will provide an itemized list detailing the actual costs of such labor and materials.	
Sewer	
4" Tap	\$810
- All taps greater than four inches will be priced at time of installation. - Standard fees reference herein do not include extraordinary costs incurred by the city, including but not limited to the cost of labor and materials related to boring, manholes and repairs to streets and easements. The city will provide an itemized list detailing the actual costs of such labor and materials.	
Pro-rata charges	
The rate of recovery will be calculated at the time of installation, however, will not exceed the actual amount of the line installed. The time period for recovery is five years past the date of the end of the maintenance bond.	
Impact fees	
Impact fees for water and sewer service units shall be charged in accordance with the current impact fee ordinance.	
Repair fees	
Repair to a city-owned infrastructure will be charged to the party responsible for disruption of service. The fees associated with the repair charge will be actual cost of materials, equipment, labor and repair to streets and easements.	
Review fees for permits	
Individual wastewater discharge permit. A review fee and administration fee will be due at time of application in the amount of seven thousand five hundred dollars (\$7,500.00). No permit will be issued until this fee is paid by the applicant.	



MASTER FEE CHART

Municipal Drainage Utility System Fees

The drainage utility fee set forth in this section shall be collected through the city's bill for public utilities pursuant to the act

Impervious Area; Fee Assessed

- Drainage utility fees shall be charged based on a property's contribution to the public drainage utility system. The contribution shall be based on the impervious area for the property.
- The drainage utility fee, payable monthly, shall be established with respect to all property within the according to the following schedule:

Single Family Residential

Tier 1 (smallest 20%, 0 – 3,750 sqft IA)	\$4.90
Tier 2 (middle 60%, 3,750–6,400 sq ft IA)	\$7.90
Tier 3 (largest 20%, > 6,400 sq ft IA)	\$13.25

Non Single Family Residential

Monthly Rate per ERU	\$7.75
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*ERU (Equivalent Residential Unit) = 5,000 square feet impervious area.

A minimum charge of one (1) ERU shall be applied to each nonexempt nonsingle-family residential developed property, regardless of classification.

Impervious Exemptions

- Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the city in which the property is located for maintenance;
- A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the city;
- Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;
- State property;
- School district property;
- City property;
- Tax-exempt religious institution property; and
- County property;
- Public or private institutions of higher education property.



MASTER FEE CHART

Right-of-Way Management Fees

Streets, sidewalks and other public places, right-of-way management:

Permit Application Fee	\$100				
Expedited Application Fee	\$250				
Saturday Inspection Fee; each Saturday	\$200				
Permit expiration fee; each permit for incomplete work on expiration date if not extended	\$30				
Electronic maps submittal fee; per hour of labor necessitated by hard copy submittal in lieu of electronic format (minimum fee of 2 hours)	\$80				
Registration per right-of-way user per year	\$50				
Inspection fee	\$1.00/LF or \$150/day of anticipated construction time, whichever is greater				
Small Cell Application Fee (this penalty shall not exceed and is capped by statutory limits)	\$500.00 (1–5 network notes)				
	\$500.00 (1–5 network notes)				
	\$1,000.00 per pole.				
Small cell user fees (this penalty shall not exceed and is capped by statutory limits)	\$250.00 annually for each network node				
	\$20.00 per year for city pole attachment.				
Public Inconvenience Penalty					
<i>Public inconvenience penalties are assessed and calculated from the date of expiration of the permit until date of completion of work or repair or of final backfill if turned over to the department for repair. This penalty shall not exceed and is capped by statutory limits.</i>					
Type of Facility	Unit of Cost	Penalty (per day)			
		31-75 days	79-90 days	90-10 days	>100 days
Sidewalk	Per sq. foot	\$0.0026	\$0.0052	\$0.0078	\$0.0104
Driveway	Per each	\$39.00	\$78.00	\$117.00	\$156.00

Attachment: Proposed Fee Chart (Master Fee Chart Revision)



MASTER FEE CHART

EMS Billing Fees	
BLS Nonemergency	\$1,150
BLS Emergency	\$1,150
ALS Nonemergency	\$1,350
ALS Emergency	\$1,350
ALS Level 2	\$1,450
Specialty Care Transport	\$1,350
Oxygen	\$125
ALS Disposables	\$400
BLS Disposables	\$300
Medications	\$100
Additional Crew Member	\$40
Refusal/No Transport Fee	N/A
Definitive Care Fee <i>(treatment by IV or IM meds with no transport)</i>	\$200

Attachment: Proposed Fee Chart (Master Fee Chart Revision)

CITY OF CELINA, TEXAS

ORDINANCE 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES, APPENDIX A: FEE SCHEDULE; ARTICLE A1.000 MISCELLANEOUS FEES; ARTICLE A3.000 BUILDING RELATED FEES; ARTICLE A6.000 SUBDIVISIONS, ZONING AND LAND USAGE FEES; ARTICLE A7.000 EMS BILLING FEES; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENT TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY, 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 County 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, the City Council is legally empowered to recover its costs for permitting and in house review of permitting services; and

WHEREAS, it is in the best interest of the public health, safety, and welfare that the fee schedule be revised.

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 **AMENDMENTS**

3.1 That the City of Celina Code of Ordinances, Appendix A: Fee Schedule: Article A1.000 Miscellaneous Fees: Section A1.011 Alley Abandonment Fee is hereby created and shall read:

“Alley Abandonment Fee: \$300.”

3.2 That the City of Celina Code of Ordinances, Appendix A: Fee Schedule: Article A3.000 Building Related Fees: Section A3.010 Chapter 212 Process Fees is hereby created and shall read:

“

Site Development Fees (Civil Permit) – Chapter 212 Process	
Application	\$300
Plan Review - Private	100% of building permit fee for projects valued at two million dollars or less, 50% of permit fee for projects valued greater than two million dollars, or amount as required by 3rd party review
Plan Review – Public and Other Subdivisions	0 - 100 lots: \$170 per lot 101 - 200 lots: \$150 per lot 201 - 300 lots: \$130 per lot Greater than 300 lots: \$110 per lot
Fourth (& more) Plan Review	\$2,000 each
Landscape / Hardscape Plan Review	\$600
Revised Plan Check Fee	100% of original plan review fee
Civil Permit Fee - Private	\$13.00 per \$1,000 in value. \$200 minimum.
Civil Permit Fee - Public	6% of paving / site utility valuation
Engineering Permit Fees – Chapter 212 Process	
Franchise / Utility companies	No Fee
Non-Franchise	\$300 application + \$150 permit
After-Hour Inspection	\$160 per hour (4 hour minimum)
Floodplain Permit	\$300 application + 3 rd party review fee (if applicable) + 0 – 3 acres: \$600 3.01 – 20 acres: \$1,000 20+ acres: \$2,000 + \$20 per acre
Earthwork / Grading Permit	\$300 application + 0 – 5 acres: \$200 5.1 – 10 acres: \$400 10+ acres: \$1,000 + \$20 per acre

“

3.3 That the City of Celina Code of Ordinances, Appendix A: Fee Schedule: Article A6.000 Subdivision, Zoning and Land Usage Fees: Section A6.004 Park Fee in Lieu of Donation is hereby amended to read:

“(a) Parkland Dedication Fee for New 1&2 Family Dwellings: 1 acre per 50 lots or \$2 per square foot of land.

(b) Park Improvement Fee for New 1 & 2 Family Dwellings: \$1500 per lot.

(c) Parkland Dedication Fee for New Multifamily Dwellings: \$500 per unit.

(d) Park Improvement Fee for New Multifamily Dwellings: \$1000 per unit.”

3.4 That the City of Celina Code of Ordinances, Appendix A: Fee Schedule: Article A6.000 Subdivision, Zoning and Land Usage Fees: Section A6.014 Development agreement fees for special taxing districts, assessment districts, tax increment reinvestment zones (TIRZ), or tax reimbursements and economic development incentives is hereby amended to read:

“(a) A \$2,500.00 (\$5,000.00 if it includes PID or TIRZ) fee, plus the cost of fees for professional review, including but not limited to legal, engineering, land planning, and financial analysis shall be paid at the time of request for each development agreement application and amendments.

(b) \$5,000.00 development agreement deposit with escrow agreement.

(c) A \$1,000.00 fee shall be paid at the time of a request for a minor developer agreement, and at the time of request for an amendment to the same.”

3.5 That the City of Celina Code of Ordinances, Appendix A: Fee Schedule: Article A6.000 Subdivision, Zoning and Land Usage Fees: Section A6.024 Tree Mitigation Permit Fee is hereby amended to read:

“(a) Tree Removal Permit: \$150 (+ mitigation – see Tree Valuation Schedule).

(b) Tree Valuation Schedule:

- i. 6” – 10” (DBH) \$600 x (multiplier)
- ii. 11” – 20” (DBH) \$1,600 x (multiplier)
- iii. 21” – 30” (DBH) \$4,000 x (multiplier)

iv. 31” + (DBH) \$5,000 x (multiplier)”

3.6 That the City of Celina Code of Ordinances, Appendix A: Fee Schedule: Article A7.000 EMS Billing Fees is hereby amended to read:

A0428 - BLS Nonemergency	\$1,150
A0429 - BLS Emergency	\$1,150
A0426 - ALS Nonemergency	\$1,350
A0427 - ALS Emergency	\$1,350
A0433 - ALS Level 2	\$1,450
A0425 - Specialty Care Transport	\$1,350
Oxygen	\$125
ALS Disposables	\$400
BLS Disposables	\$300
Medications	\$100
Additional Crew Member	\$40
Refusal/No Transport Fee	N/A
Definitive Care Fee (<i>treatment by IV or IM meds with no transport</i>)	\$200

3.7 All other articles, chapters, sections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed.

SECTION 4 **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 5 **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 fees 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 6 **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 7 **PENALTY**

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.

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 Five Hundred Dollars (\$500) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.

SECTION 8 **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 Clause of this Ordinance as required by Section 52.013 of the Local Government Code.

SECTION 9 **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 10 **EFFECTIVE DATE**

This Ordinance shall become effective from and after its date of passage in accordance with law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas this _____ day of September, 2019.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

[SEAL]

APPROVED AS TO FORM:

Lance Vanzant, City Attorney
City of Celina, Texas

Attachment: Revised Ordinance (Master Fee Chart Revision)



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dusty McAfee AICP, Director of Development Services
CC: Jason Laumer, City Manager
Date: September 10, 2019
Re: Wellspring Estates Development Agreement

Action Requested:

Consider and act upon a request for a Development Agreement for Wellspring Estates; generally located north of Frontier Parkway and west of future Custer Road. (Wellspring Estates Development Agreement) (McAfee)

Applicant:

Sunshine Development Group, Ltd
2104 Old Country Dr.
Allen, Texas 75013

Background Information:

The purpose of this Development Agreement is primarily to waive impact fees for Wellspring Estates.

Supporting Documents:

- Proposed Development Agreement

Staff Recommendation:

Staff recommends approval.

WELLSPRING ESTATES DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into by and between **Sunshine Development Group, Ltd.** (the “Developer”) and the **City of Celina** (the “City”), to be effective on the 10th day of September, 2019 (“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, Developer is the owner of approximately 112 acres (the “**Property**”) as more particularly described on **Exhibit A** and depicted in **Exhibit B** attached hereto and incorporated by reference; and

WHEREAS, the Property was previously in the City's extraterritorial jurisdiction (“**ETJ**”) and was annexed into and zoned by the City on March 17, 2015; and

WHEREAS, both the City and Developer desire the Property to be developed into a residential planned community to be called Wellspring Estates (the “**Project**”) as allowed by the zoning on the Property; and

WHEREAS, the Parties have determined that they have the authority to enter into this Agreement pursuant to Section 212.904 of the Local Government Code, and Developer’s powers as a Texas limited liability corporation and the City’s powers as a home-rule municipality; and

WHEREAS, it is the intent of this Agreement to establish certain legally binding obligations, restrictions and commitments as requested by the Developer to be imposed upon the Property, and the City and the Developer are proceeding in reliance on the enforceability of this Agreement; 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, building codes and fire codes as agreed herein (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, complying with the Development Standards and to provide economic incentives for the development of the Property, the City intends to (a) set roadway capital recovery fees of \$3,000.00 per single-family residential lot, (b) set water capital recovery fees of \$2,500.00 per single-family residential lot, (c) set wastewater capital recovery of \$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.

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, including but not limited to those regulating/requiring particular building materials, as such presently exist or may be amended.

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

Developer means **Sunshine Development Group, Ltd**, 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 and the City's uniform engineering design standards. 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.

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.

(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.

(c) Inspections. 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) Dedication to City. 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) Internet and Gas Lines. Simultaneously with the construction of water Public Infrastructure, the Developer shall install high-speed internet infrastructure (either fiber or a future

technology approved by the City) and gas lines to the perimeter of each lot. The high-speed internet infrastructure/fiber and gas lines shall be adequately sized to serve the intended use of the lot, with the high-speed internet infrastructure/fiber being capable of transmitting high-speed internet of at least 1 gig per second.

(f) 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.

3.3 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 D**, 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.

(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. Such amendment shall be as required by the City Regulations.

4.2 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.

4.3 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.

4.4 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. 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, zoning 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 of \$3,000.00 per single-family residential lot, (b) water capital recovery fees of \$2,500.00 per single-family residential lot, (c) wastewater capital recovery fees of \$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 Building Codes, Fire Codes and Building Materials. *As consideration for the capital recovery fees being frozen and Impact Fees being waived for the Property, Developer has requested that **Exhibit D**, the City-adopted building codes and local amendments, the City-adopted fire codes and local amendments, and the City’s building material regulations in the zoning ordinance and other city ordinances to apply to the Property for forty-five (45) years, and voluntarily agrees to burden the property with their applicability, despite Texas Government Code Chapter 3000, effective September 1, 2019, as it presently exists or may be subsequently amended.*

5.6 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 5.6 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.

5.7 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 5.7 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, except that **Exhibit D** and the provisions of this Agreement related to **Exhibit D** shall have a term of forty-five (45) years. The Parties may extend the term of this Agreement if they execute an agreement in writing.

ARTICLE VII **EVENTS OF DEFAULT; REMEDIES**

7.1 **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.

7.2 **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 VIII **ASSIGNMENT AND ENCUMBRANCE**

8.1 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 fifteen (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.

8.2 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.

8.3 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 9.1 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.

8.4 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.

8.5 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 IX

RECORDATION AND ESTOPPEL CERTIFICATES

9.1 **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, Notwithstanding, **Exhibit D** and the provisions of this Agreement related to **Exhibit D** shall apply to End-Buyers.

9.2 **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 X

ADDITIONAL PROVISIONS

10.1 **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.

10.2 **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@hbwvlaw.com

To the Developer:

Hong Wang
 Sunshine Development Group, Ltd
 2104 Old Country Dr,
 Allen, Texas 75013
 Email: _____

With a copy to:

Cecilia Hampton
 Hampton International Realty Group
 1002 Raintree Cir, Ste 100,
 Allen, Texas 75013
 Email: CHampton@kwcommercial.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.

10.3 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.

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

10.5 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.

10.6 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.

10.7 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.

10.8 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.

10.9 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.

10.10 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.

10.11 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.

10.12 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/map of Property

Exhibit C Concept Plan
 Exhibit D Development Standards, Applicable Building Codes and Fire Code

10.13 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.

10.14 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.

10.15 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.

10.16 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]

Attachment: Proposed Development Agreement (Wellspring Estates Development Agreement)

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 _____, 2019 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: Proposed Development Agreement (Wellspring Estates Development Agreement)

DEVELOPER:

Sunshine Development Group, Ltd
a Texas Limited Partnership

By: Sunshine Development, LLC, a Texas limited liability company, its
General Partner

By: _____
Name: Hong Wang
Title: Registered Agent

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the __ day of _____, 2019 by Hong Wang, the
Manager of **Sunshine Development LLC**, the General Partner of **Sunshine Development Group,
Ltd** on behalf of said entity.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires: _____

Attachment: Proposed Development Agreement (Wellspring Estates Development Agreement)

EXHIBIT A Legal Description

BEING, a tract of land situated in the Coleman Watson Survey, Abstract No. 945, in Collin County, Texas, being part of a 81.104 acre tract, as described in Clerks File No. 95-0092267, a 19.93 acre tract, as described in Volume 3790, Page 267 and a 11.252 acre tract, as described in Volume 4973, Page 3420 in the Deed Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING, at a 1/2 inch iron rod found at the southeast corner of said 81.104 acre tract, being in the north line of F.M. 1461 (90' R.O.W.);

THENCE, North 88°48'02" West, along the north line of said F.M. 1461, for a distance of 29.56 feet, to a concrete highway monument;

THENCE, North 89°20'52" West, continuing along the north line of said F.M. 1461, for a distance of 1836.44 feet, to a 3/4" iron rod found at the southwest corner of said 19.93 acre tract;

THENCE, North 02°53'59" East, departing the north line of said F.M. 1461 and along the west line of said 19.93 acre tract, for a distance of 139.92 feet, to a 1/2 inch iron rod set at the most southerly corner of said 11.252 acre tract;

THENCE, North 32°25'31" West, departing the west line of said 19.93 feet and along the west line of said 11.252 acre tract, for a distance of 288.37 feet, to a 1/2 inch iron rod set;

THENCE, North 18°13'18" West, continuing along said west line, for a distance of 436.57 feet, to a 1/2 inch iron rod found;

THENCE, North 13°42'22" East, continuing along said west line, for a distance of 449.55 feet, to a 1/2 inch iron rod found;

THENCE, North 01°52'22" East, continuing along said west line, for a distance of 320.00 feet, to a 1/2 inch iron rod found;

THENCE, North 13°31'48" West, continuing along said west line, for a distance of 241.26 feet, to a 1/2 inch iron rod found;

THENCE, North 01°52'22" East, continuing along said west line, for a distance of 420.00 feet, to a capped iron rod found at the northwest corner of said 11.252 acre tract;

THENCE, South 89°35'46" East, along the north line of said 11.252 acre tract, at 282.09 feet, passing a 1/2 inch iron rod found at the northeast corner of said 11.252 acre tract same being the northwest corner of said 81.104 acre tract, and continuing for a total distance of 1441.86 feet, to a capped iron rod found;

THENCE, North 01°50'44" East, for a distance of 421.07 feet, to a capped iron rod found;

THENCE, South 89°22'12" East, for a distance of 700.01 feet, to a 1" iron rod found at the northwest corner of Rolling Meadows Estates, an addition to Collin County, Texas, as described in Cab. N. Pg. 302, in the Plat Records of Collin County, Texas;

THENCE South 01°49'48" West, along the west line of said Rolling Meadows Estates, for a distance of 879.43 feet, to a ¾ inch iron rod found;

THENCE, South 01°41'04" West, at 360.09 feet, passing the southwest corner of said Rolling Meadows Estates and continuing for a total distance of 1755.06 feet, to the POINT OF BEGINNING and containing 112.281 acres of land.

EXHIBIT B
Survey/map of Property



Attachment: Proposed Development Agreement (Wellspring Estates Development Agreement)

EXHIBIT C Concept Plan



EXHIBIT D

Development Standards, Building Materials, Building Codes and Fire Code

1.0 PROJECT OVERVIEW

The purpose of these development regulations is to create a well-designed, safely constructed, 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 BUILDING MATEREIALS

The building material regulations adopted by the City by ordinance, including but not limited to the zoning ordinance, masonry and exterior material requirements, local amendments to building and fire codes, interior material requirements, shall apply to the Property, whether currently existing or as they may be subsequently amended. Developer has requested the City-adopted building material regulations adopted by the City by ordinance, including the zoning ordinance, to apply, and voluntarily agrees to burden the property with their applicability, despite Texas Government Code Chapter 3000, effective September 1, 2019, as it presently exists or may be subsequently amended.

3.0 BUILDING CODES AND FIRE CODES

The building codes and fire codes adopted by the City by ordinance, including all local amendments to such codes shall apply to the Property, whether currently existing or as they may be subsequently amended. Developer has requested the City-adopted building codes and fire codes, including all local amendments to such codes to apply, and voluntarily agrees to burden the property with their applicability, despite Texas Government Code Chapter 3000, effective September 1, 2019, as it presently exists or may be subsequently amended.

4.0 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 or as subsequently amended (the "Zoning Ordinance").

5.0 LAND USES

Land uses shall comply with all zoning ordinances of the City applicable to the Property.



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dusty McAfee AICP, Director of Development Services
CC: Jason Laumer, City Manager
Date: September 10, 2019
Re: The Monschke Tract Development Agreement

Action Requested:

Consider and act upon a request for a Development Agreement for the Monschke Tract; generally located 2,000 feet south of FM 428 and east of future Legacy Drive. (The Monschke Tract Development Agreement) (McAfee)

Background Information:

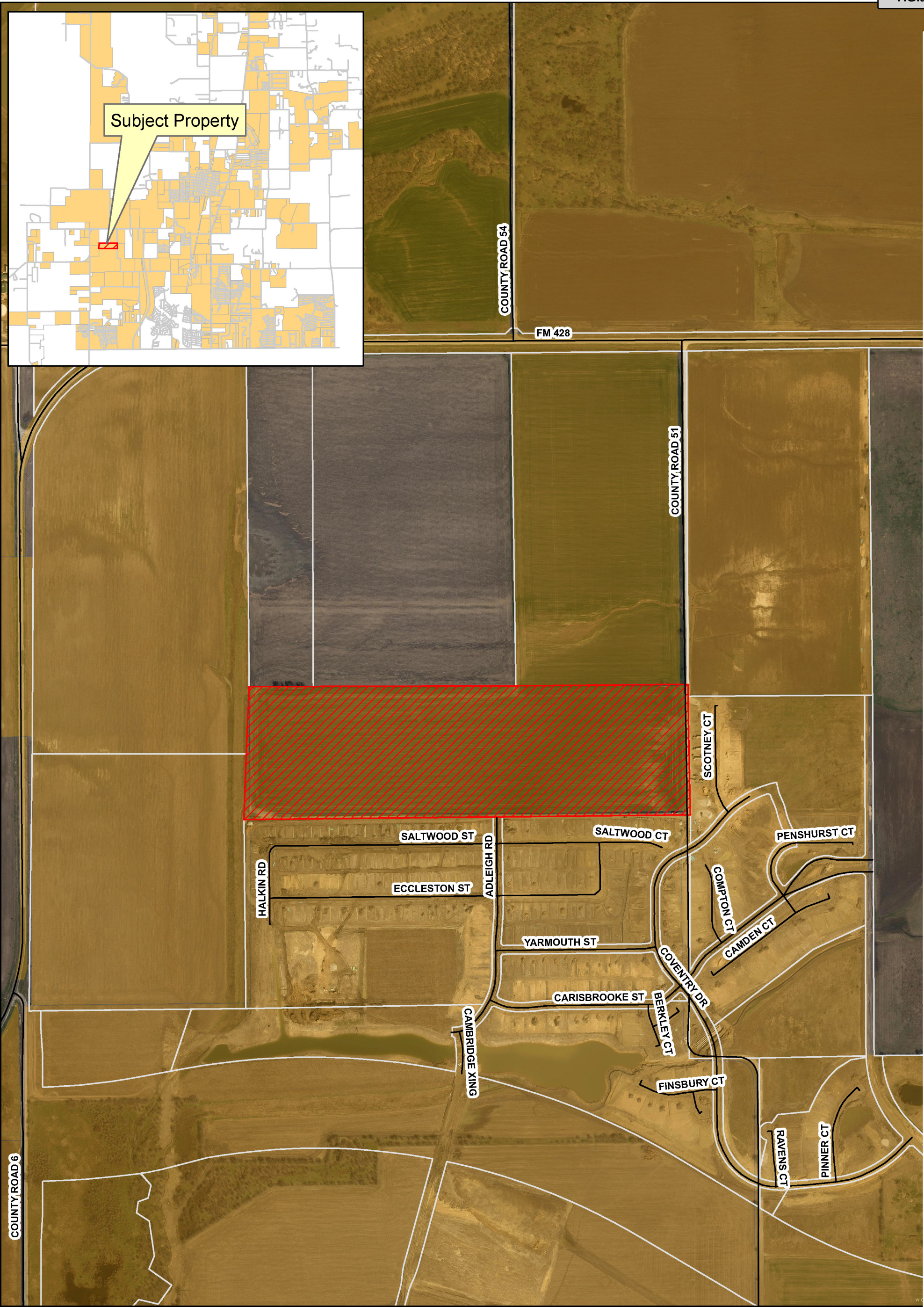
The associated Development Agreement for this tract is primarily for the dedication of the right-of-way for the new alignment of the future Legacy Drive as well as to include architectural standards (in addition to the overall development standards).

Supporting Documents:

- Location Map
- Draft Development Agreement

Staff Recommendation:

Staff Recommends Approval.



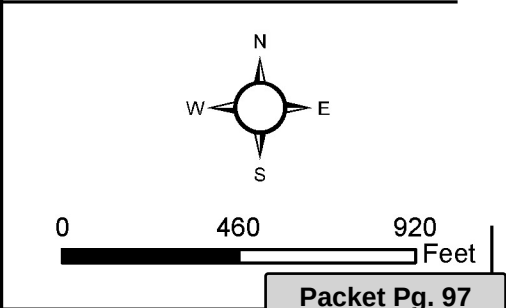
Attachment: Location Map (The Monschke Tract Development Agreement)



Monschke Tract Location Map

Date: 6/20/2019

- Legend**
- Roads
 -  Monschke
 -  Parcels
 -  City Limits



MONSCHKE DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into by and between **Estate of Mattie Ruth Preston Monschke**, (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 Owner 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, the Estate of Mattie Ruth Preston Monschke owns an approximate 39.953 acre tract of land wholly located with Collin County, Texas, as more particularly described by metes and bounds in **Exhibit A** and depicted on **Exhibit B** attached hereto (the "Property"); and

WHEREAS, the Property is located wholly within the corporate limits of the City; and

WHEREAS, the Owner intends to develop the Property as a master planned mixed use development, which may consist of multi-family and commercial uses; and

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

WHEREAS, the Parties intend that the Property will be developed in general accordance with the agreed land use plan (the "Land Use 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 Owner and the City acknowledge that this Agreement is binding upon the City and the Owner and their respective successors and assigns for the Term (defined below) of this Agreement; and

WHEREAS, this Development Agreement is to be recorded in the Real Property Records of the county in which the Property is located; and

WHEREAS, the Owner agrees to develop the Property as envisioned by the Parties, including dedication of easements, generally located as depicted in **Exhibit C** and dedication of right-of-way, generally located as depicted in **Exhibit E**; 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.

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.

Land Use Plan means the land use plan as shown in **Exhibit C**.

Development Standards means the development standards as shown in **Exhibit D**.

Owner means the **Estate of Mattie Ruth Preston Monschke**.

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

ARTICLE III

DEVELOPMENT REGULATIONS

3.1 Full Compliance with City Standards.

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

(b) Building permits and certificates of occupancy shall be required for improvements on the Property using the procedures and standards contained in the City Regulations..

(c) The Parties agree the Land Use Plan was created by the Owner for illustrating the boundary, lot mix, and general layout of the project. Any material amendment to the Land Use Plan shall be considered an amendment to this Agreement and shall replace the attached Land Use Plan and become a part of this Agreement. City staff shall have the authority to administratively approve amendments to the Land Use Plan so long as any increase in multiple-family units does not exceed 10% of those contemplated herein.

(d) *In exchange for the consideration received from the City, Owner has requested that **Exhibit D**, the City-adopted building codes and local amendments, the City-adopted fire codes and local amendments, and the City's building material regulations in the zoning ordinance and other City ordinances to apply to the Property for forty-five (45) years, and voluntarily agrees to burden the property with their applicability, despite Texas Government Code Chapter 3000, effective September 1, 2019, as it presently exists or may be subsequently amended.*

3.2 Replat. The Owner may submit a replat for all or any portion of the Property. Any replat shall be in general conformance with the Land Use Plan, including any amendments.

3.3 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 Owner does not, by entering into this Agreement, waive any rights or obligations arising under Chapter 245 of the Texas Local Government Code.

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

ARTICLE IV

DEVELOPMENT PROCESS AND CHARGES

4.1 Development, Review and Inspection Fees. 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.

4.2 Development Agreement Fees. The Parties agree the Owner 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.

4.3 ROW Dedication. The Owner shall, either by plat or by deed as requested by the City, dedicate the right-of-way area, within ninety (90) days of the City requesting the ROW, for roads, generally located as in **Exhibit E**, and as reflected on the master thoroughfare plan generally being approximately one-half of the total right-of-way.

4.4 INDEMNIFICATION AND HOLD HARMLESS. **THE OWNER 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 OWNER; (II) THE NEGLIGENT DESIGN, ENGINEERING AND/OR CONSTRUCTION BY THE OWNER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE OWNER OF ANY OF THE PUBLIC IMPROVEMENTS ACQUIRED FROM THE OWNER HEREUNDER; (III) THE**

OWNER'S NONPAYMENT UNDER CONTRACTS BETWEEN THE OWNER 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 OWNER OR ITS AGENTS TO CONSTRUCT THE PUBLIC INFRASTRUCTURE; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO OWNER'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 INFRA-STRUCTURE (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. OWNER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, AND CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST OWNER IN PROVIDING SUCH DEFENSE.

IN ITS REASONABLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY OWNER 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 OWNER'S OBLIGATION TO DEFEND INDEMNIFIED PARTIES OR AS A WAIVER OF OWNER'S OBLIGATION TO INDEMNIFY INDEMNIFIED PARTIES PURSUANT TO THIS AGREEMENT. OWNER SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN TEN (10) BUSINESS DAYS OF WRITTEN NOTICE FROM AN INDEMNIFIED PARTY THAT IT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF OWNER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, INDEMNIFIED PARTIES SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON THEIR OWN BEHALF, AND OWNER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 4.4 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR TWO (2) YEARS AND ONE (1) DAY.

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 OWNER.

ARTICLE V

TERM

The term of this Agreement shall be for a period of fifteen (15) years after the Effective Date, except that Section 3.1(d) above, **Exhibit D** and the provisions of this Agreement related to **Exhibit D** shall have a term of forty-five (45) years. The Parties may extend the term of this Agreement if they execute an agreement in writing.

ARTICLE VI

EVENTS OF DEFAULT; REMEDIES

6.1 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.

6.2 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 VII

ASSIGNMENT AND ENCUMBRANCE

7.1 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 Owner, or any lien holder on the Property, without the prior written consent of the City. An assignee shall be considered a "Party" for the purposes of this Agreement. Each assignment shall be in writing executed by Owner 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 Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment unless the City approves the release in writing. Owner shall maintain written records of all assignments made by Owner 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.

7.2 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 Owner's prior written consent, which consent shall not be unreasonably withheld.

7.3 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 8.1 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 "Owner" and have all of the obligations of the Owner as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

7.4 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.

7.5 Notice of Assignment. In addition to the other requirements in this Agreement, the following requirements shall apply in the event that the Owner 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 Owner 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 Owner.

ARTICLE VIII

RECORDATION AND ESTOPPEL CERTIFICATES

8.1 Binding Obligations. This Agreement and all amendments hereto (including amendments to the Land Use 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.

8.2 Estoppel Certificates. From time to time upon written request of the Owner, 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 Owner under this Agreement that are in default. The Owner shall pay the City a fee of One Thousand Dollars (\$1,000) for each request in excess of one (1) request in any twelve (12) month period.

ARTICLE IX ADDITIONAL PROVISIONS

9.1 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.

9.2 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, Fort & McDonald 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
Email: lvanzant@hbwvllaw.com

To the Owner: The Estate of Mattie Ruth Preston Monschke

With a copy to: Attn: Rob Daake, P.E.
Coats Rose
14755 Preston Road, Ste 600
Dallas, Texas 75254

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.

9.3 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.

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

9.5 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 Owner represents and warrants that this Agreement has been approved by appropriate action of the Owner, and that the individual executing this Agreement on behalf of the Owner 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.

9.6 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.

9.7 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.

9.8 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.

9.9 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.

9.10 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.

9.11 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.

9.12 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	Land Use Plan
Exhibit D	Development Standards
Exhibit E	Legal of ROW Dedication

9.13 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.

9.14 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 ten (10) 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.

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

9.16 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 Owner on the respective dates stated below.

Date: _____

CITY OF CELINA

By: _____
Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

STATE OF TEXAS

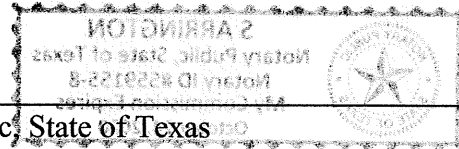
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§
§

COUNTY OF COLLIN

This instrument was acknowledged before me on the ____ day of _____, 2019 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: _____

OWNER:**The Estate of Mattie Ruth Preston Monschke**

a _____

By: Harold MonschkeName: HAROLD monsckhe
Title: Trustee

STATE OF TEXAS

§

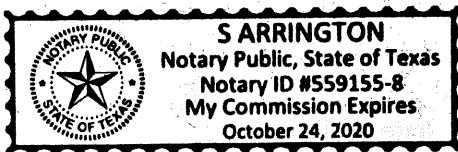
COUNTY OF Denton

§

§

This instrument was acknowledged before me on the 4th day of Sept., 2019 by Harold Monschke, a Trustee of **The Estate of Mattie Ruth Preston Monschke**, a _____
_____ on behalf of said _____.

(SEAL)



S. Arrington
Notary Public, State of Texas

S. Arrington
Name printed or typed

Commission Expires: 10/24/2020

Attachment: Development Agreement (The Monschke Tract Development Agreement)

EXHIBIT A Legal Description

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE F. D. GARY SURVEY, ABSTRACT NUMBER 360, COLLIN COUNTY, TEXAS AND BEING THAT TRACT OF LAND DESCRIBED IN DEED TO THE ESTATE OF MATTIE RUTH PRESTON MONSCHKE, RECORDED IN INSTRUMENT NUMBER 94-0034942 OF THE COUNTY RECORDS, COLLIN COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID MONSCHKE TRACT, SAID CORNER BEING IN THE CENTERLINE OF COUNTY ROAD 51 (A PAVED TRAVELED ROADWAY OF UNDETERMINED WIDTH);

THENCE SOUTH, 704.88 FEET WITH SAID CENTERLINE TO THE SOUTHEAST CORNER OF SAID MONSCHKE TRACT;

THENCE N 89°42'26" W, 2,469.06 FEET, DEPARTING SAID CENTERLINE TO THE SOUTHWEST CORNER OF SAID MONSCHKE TRACT;

THENCE NORTH, 704.88 FEET TO THE NORTHWEST CORNER OF SAID MONSCHKE TRACT;

THENCE S 89°42'26" E, 2,469.06 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,740,368 SQUARE FEET OR 39.953 ACRES OF LAND MORE OR LESS.

"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."

14



LEGAL DESCRIPTION

[illegible]

LEGEND
PARCEL LINE
PROPERTY
ZONING BO
APPROX. LO
100-YEAR F
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EXHIBIT "C"
LAND USE PLAN
MONSIEUR TRACT
CITY OF CELINA CASE NUMBER

APPLICANT / ENGINEER
PELTON LAND SOLUTIONS, INC.
ERIK S. HINKLIN, P.E.
10875 JOHN W. ELLIOTT DR
SUITE 400
FRISCO, TX 76034
PHONE: 480-213-1800

OWNER/APPLICANT
HAROLD MONSCHKE
506 PARK LN.
KIRLIN, TX 76249

[illegible]

EXHIBIT D

Development Standards

Development within this Planned Development (PD) District must follow the regulations and standards outlined below and meet the intent of the Zoning Exhibit. The subject property shall be zoned PD with a base zoning of MU-2, Mixed Use Regional District, and shall abide by the uses listed in the City's approved use chart within the zoning ordinance, and as amended herein. The following standards will further allow, restrict, or prohibit additional land uses on the subject property and the proportion of the subject property on which each land use may be constructed.

PART 1 – USES

All Commercial and Retail Development within the subject property shall meet the standards of the Mixed Use Regional (MU-2) zoning district as established in the City of Celina Zoning Ordinance as they exist, except as modified below.

- A. Additional Permitted Uses by Right:
 - 1. Gas station with masonry standards
 - 2. Veterinarian Clinic (with indoor kennels)
- B. Permitted with a Conditional Use Permit:
 - 1. Auto Repair, Minor
 - 2. Car Wash
 - 3. Nursery (with retail outdoor sales)
- C. Prohibited Uses:
 - 1. Auto Sales
 - 2. Motorcycle Sales and Repair
 - 3. Recycling Center or Kiosk
 - 4. Sexually Oriented Businesses (SOBs)
 - 5. Outdoor storage/display (exempting home improvement centers)
 - 6. Alternative financial services (including Check Cashing Services)
 - 7. Body art facility
 - 8. Vice paraphernalia
 - 9. Gaming or slot machines (excluding arcades)
 - 10. Lewd merchandise sales
 - 11. Liquor store
 - 12. Pawn shop

Part 2 – MULTIPLE FAMILY REGULATIONS

Development standards for MU-2 uses are outlined within this text and shall be developed in accordance to the following criteria:

A. Definitions:

- i. **Urban Edge Apartments** - Multi-family dwellings that do not exceed three (3) stories in height. Urban Edge apartments are typically designed where surface parking is interior to the site and screened from the public streets by using landscaping or hardscape.
- ii. **Urban Style Apartments** - Multi-family dwellings that may be greater than three (3) stories in height. Urban Style apartments are typically designed to either have structured parking or designed to where surface parking is interior to the site and screened from public streets using landscaping or hardscape. Parallel parking may be allowed on access drives but the intent of this type of development is to prevent large visible parking areas.

B. Density:

- i. **Urban Edge:** Maximum of twenty-four (24) dwelling units per net acre.
- ii. **Urban Style:** Maximum of thirty-five (35) dwelling units per net acre.
- iii. **No Maximum floor area ratio (FAR)** shall exist for the Property.

C. Lot Coverage: In no case shall more than sixty-five (65) percent of the total lot area be covered by the combined area of the main buildings and accessory buildings. Swimming pools, spas, decks, patios, driveways, sidewalks and other paved areas shall not be included in determining the maximum lot coverage.

D. Land Use Mix Limits: Section 14.03.006(c)(3), Land use mix limits, shall not be applicable to the subject property. The Parties agree and acknowledge that, subject to the provisions contained herein, the subject property may develop entirely as multiple-family uses.

E. Building Height: Buildings shall be a maximum of three (3) stories for Urban Edge apartments, not to exceed forty-five (45) feet in height. Urban Style apartments shall be a maximum of 5 stories and not to exceed a height of sixty-five (65) feet. Chimneys, antennae, and other architectural projections not used for occupancy may extend above this height limit. Accessory buildings shall be a maximum of twenty-five (25) feet, including a detached garage.

F. Required Parking:

SECTION 1 Unit Type	Dwelling	SECTION 2 Parking Requirements (Per Unit)
SECTION 3 Efficiency Unit		SECTION 4 1.5

SECTION 5 One- bedroom/Studio	SECTION 6 1.5
SECTION 7 Two- Bedroom	SECTION 8 2
SECTION 9 Three- Bedroom	SECTION 10 2.5
SECTION 11 Total required spaces	SECTION 12 No less than 1.8 spaces per dwelling unit overall

G. Optional Enclosed Parking and Density Bonus for Urban Edge Apartments:

- i. An increase in density up to twenty-six (26) units per gross acre of land permitted when at least 50% of the required parking spaces are constructed as enclosed spaces.
- ii. An increase of up to twenty-nine (29) units per gross acre of land is permitted when 100% of the required parking spaces are constructed as enclosed spaces.

H. Open Space:

Regardless of the type of development, a minimum of twenty (20) percent of the gross acreage of the tract shall be reserved as usable open space. Open Space may consist of any pervious areas including landscape reserves, landscape islands, publicly accessible detention/drainage facilities, natural open space areas including floodplain and public or private parks and plazas. All detention areas must be per engineering standards and shall not be steeper than 6:1, for areas of pedestrian access. All areas of pond improvements proposed for open space use, must be approved by the City for pedestrian access and appropriate amenity improvements. , improved with eight (8) foot sidewalks and benches on a minimum of two sides, and will be landscaped with trees, spaced at not greater than thirty-five (35) foot centers. A minimum of fifty (50) percent of the required Open Space shall be provided outside the floodplain or detention areas. Open Space must be maintained through a Property Owner's Association (POA). All other trees shall be provided as required per City regulations.

I. Amenities:

Open space areas within the multi-family development greater than 280 units shall provide various usable amenities which could include a combination of playground equipment, sport courts (tennis, basketball, volleyball, or comparable), dog park, pools/spas, indoor fitness center, etc. and installations that promote gathering areas (barbeque and fire pits, benches, tables, etc.) to serve the residents. These amenities may be collocated with the stormwater detention facility as appropriate. For multi-family developments less than 280 units, only the pool/spa and fitness center shall be required. For the purposes of this regulation, the amenity and gathering area requirement applies to the entire tract, regardless of if the property is developed in phases or subdivided.

Part 3 – GENERAL CONDITIONS FOR PD:

A. Development Standards:

Development Standards shall conform to the provisions set forth in the Zoning ordinance, as they exist except set forth herein, unless modified by a CUP or zoning amendment.

B. Architectural Standards:

All building elevations shall conform to the provisions set forth in the City's approved Architectural Standards, as they exist.

C. Landscaping and Building Setback Requirements:

Landscaping shall conform to the provisions set forth in the Zoning Ordinance, as it exists, except that a forty (40) foot landscape buffer shall be provided adjacent to any single family residential development. In addition, a forty (40) foot building setback is required for two (2) stories; a sixty (60) foot building setback is required for three (3) stories; and an eighty (80) foot building setback is required for four (4) stories or taller. (Landscape and Building setbacks are coincidental and not additive) A forty (40) buffer is also required adjacent to Legacy Drive. A ten (10) foot landscape buffer shall be provided adjacent to any commercial, office, and multi-family residential development. Within that buffer, one large canopy tree (evergreen) shall be provided every thirty five (35) linear feet.

D. Screening:

A minimum effective eight (8) foot tall solid masonry screening wall shall be provided along any property line adjacent to single-family residential uses. A pedestrian access-way from multi-family development to the commercial tract is required.

EXHIBIT E**Legal Description and Depiction of the ROW Dedication****RIGHT-OF-WAY DEDICATION**

BEING A TRACT OF LAND SITUATED IN THE F.D. GARY SURVEY, ABSTRACT NUMBER 360, COLLIN COUNTY, TEXAS, BEING A PORTION OF THAT TRACT OF LAND DESCRIBED BY DEED TO THE ESTATE OF MATTIE RUTH PRESTON MONSCHKE RECORDED IN INSTRUMENT NUMBER 94-0034942, COUNTY RECORDS, COLLIN COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD WITH CAP STAMPED "RLG INC" FOUND FOR THE NORTHWEST CORNER OF SAID MONSCHKE TRACT, THE SOUTHWEST CORNER OF JOY H REICHMAN FAMILY LP. RECORDED IN INSTRUMENT NUMBER 2004-0073844 AND BEING IN THE EAST LINE OF A TRACT OF LAND DESCRIBED BY DEED TO CURTIS D HODGSON & TERRAC HABENDAE PROPERTIES LTD ETAL RECORDED IN INSTRUMENT NUMBER 20100203000112680 OF SAID COUNTY RECORDS;

THENCE N 89°43'04" E, 777.16 FEET ALONG THE NORTH LINE OF SAID MONSCHKE TRACT TO A 5/8 INCH IRON ROD STAMPED "PELTON" SET AT THE BEGINNING OF A CURVE TO THE RIGHT;

THENCE DEPARTING SAID NORTH LINE OVER AND ACROSS SAID MONSCHKE TRACT THE FOLLOWING BEARINGS AND DISTANCES:

WITH SAID CURVE TO THE RIGHT, HAVING AN ARC DISTANCE OF 374.72 FEET, THROUGH A CENTRAL ANGLE OF 18°30'31", HAVING A RADIUS OF 1160.00 FEET, THE LONG CHORD WHICH BEARS S 80°27'48" W, 373.10 FEET TO A 5/8 INCH IRON ROD STAMPED "PELTON" SET;

S 89°43'04" W, 408.59 FEET TO A 5/8 INCH IRON ROD STAMPED "PELTON" SET IN THE WEST LINE OF SAID MONSCHKE TRACT AND IN THE EAST LINE OF SAID CURTIS D. HODGSON TRACT;

THENCE N 00°36'03" W, 60.00 FEET, TO THE POINT OF BEGINNING AND CONTAINING 39,333 SQUARE FEET OR 0.903 ACRES OF LAND MORE OR LESS.

"Integral parts of this document"

1. Description 1 Page
2. Exhibit- 1 Page

Peloton Job No. SSB19001

Prisco

J:\JOB\SSB19001_MONSCHKE 40 AC_CELINA\MASTER DEV SURVEY\EASEMENTS\LEGAL\SSB19001_EA3.DOCX

Tracking No. n/a

August 16, 2019

Page 1 of 2

Attachment: Development Agreement (The Monschke Tract Development Agreement)

TOP-5 Firm Rec No. 10184458

Basis of Bearing is the Texas Coordinate System, North Central Zone 4202, NAD 83

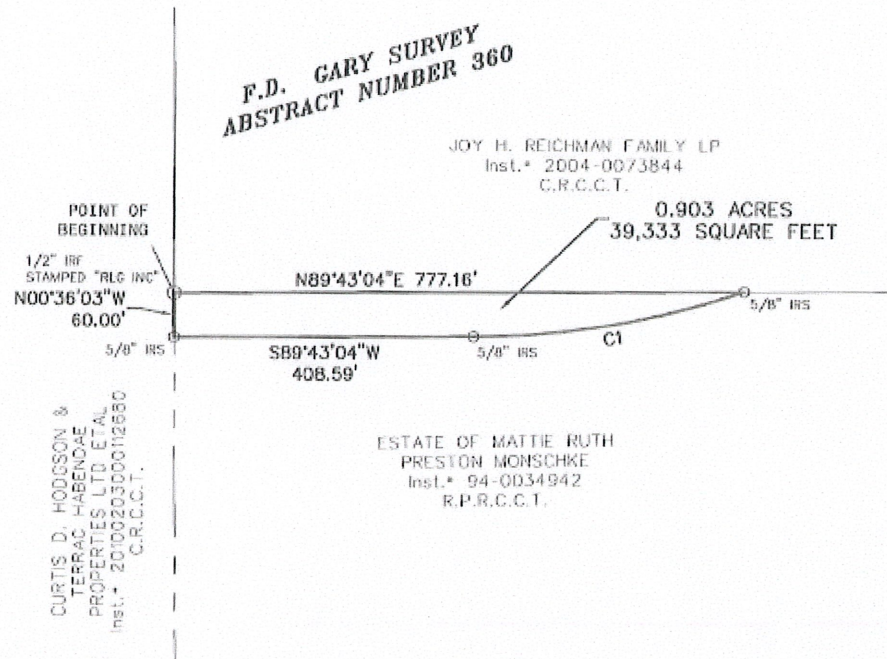
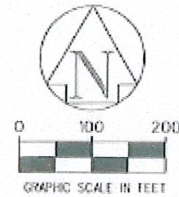
"Integral parts of this document"

1. Description - 1 Page
2. Exhibit - 1 Page

LEGEND:

IRF-IRON ROD FOUND

IRS-IRON ROD SET STAMPED "PELTON"



CURVE TABLE

NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	18°30'31"	1160.00'	374.72'	S80°27'48"W	373.10'



RIGHT-OF-WAY DEDICATION
F.D. GARY SURVEY, ABSTRACT NO. 360
CITY OF CELINA
COLLIN COUNTY, TEXAS



10075 John H. Egan Dr. Suite 400 Frisco, TX 75035 469-214-1600

DWG NAME: J:\JOHN\SMITH\MONSCHKE 40 AC_CELINA\MASTER DEVS_SURVEY\ASSEMBLY\SSB18001.E3.DWG

JOB #: SSB18001 DRAWN BY: MYOST CHECKED BY: SRAMSEY DATE: 08/14/2019 PAGE #: 2 OF 2

Attachment: Development Agreement (The Monschke Tract Development Agreement)



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: September 10, 2019
Re: Admin Services & Office Sharing agreement with EDC

Action Requested:

Consider and act to authorize the Mayor to execute an agreement by and between the City of Celina and the Celina Economic Development Corporation for sharing administrative services and office space. (DeBuff)

Background Information:

This is a standard agreement that a large portion of Cities and EDC enter into. It formalizes the working relationship and creates a necessary legal framework to protect both parties interests.

Board Review/Citizen Input:

This item has been approved by the Celina Economic Development Corporation during their regular meeting on September 9th, 2019.

Alternatives:

N/A

Financial Considerations:

This item requires the EDC to pay the City \$30,000 per year for the cost of services, including IT, GIS, and administrative services to be paid in equal monthly payments on the first of each month. Additionally, the EDC will pay 25% of total salaries of two staff, for a total of \$56,812.91 for the coming fiscal year. The commitment for the next fiscal year totals \$86,812.91.

Legal Review:

This agreement has been reviewed by the City Attorney.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

ADMINISTRATIVE SERVICES AND OFFICE SPACE AGREEMENT BETWEEN THE CITY OF CELINA AND THE CELINA ECONOMIC DEVELOPMENT CORPORATION

This Administrative Services and Office Space Agreement (“Agreement”) is entered into on the _____ day of _____, 2019 (“Effective Date”), by and between the CITY OF CELINA, a Texas municipal corporation, (hereinafter referred to as the “City”), and the CELINA ECONOMIC DEVELOPMENT CORPORATION, a Texas non-profit corporation (hereinafter referred to as the “CEDC”).

In consideration of mutual agreements described hereinafter and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and CEDC, agree as follows:

Section 1. *City Obligations.* The City represents that it has current resources to provide the services contemplated herein. Upon request by the CEDC’s Board of Directors (the “Board”) or Executive Director, the City agrees to provide any of the following services and personnel which shall include, but not be limited to:

- a. Providing all personnel necessary for the operation of the CEDC as set forth by the Bylaws to include IT, GIS, finance and administrative services.
- b. Providing all necessary accounting, recordkeeping, and financial services through the Department of Finance of the City. Preparing all reports and keeping all books and records required by the CEDC’s Bylaws, as well as any other reports and records requested by the Board or any officer of the CEDC.
- c. Providing suitable office space as needed for the daily operations of the CEDC.
- d. Providing any other routine and non-routine services.

Section 2. *CEDC Obligations.* The CEDC represents that it has current funds to pay for the services to be provided by the City. In consideration of the City’s obligations, the CEDC agrees to provide the following, which shall include but not be limited to:

- a. Paying \$30,000 per year to the City for the cost of the services, including IT, GIS, and administrative services to be paid in equal monthly payments on the first of each month.
- b. On an annual basis, pay 25% of the total salaries set forth in Exhibit A.
- c. Granting authority to the City to disburse funds and incur budgeted expenses on behalf of the CEDC and designate the Economic Development Manager/Executive Director, Board President and/or Board Designee as authorized signatories of the CEDC.

- d. Granting the City access to the books and records of the CEDC at all times.

Section 3. *Term.*

- a. This Agreement shall be for a period of five (5) year from the Effective Date of this Agreement with automatic 1-year extensions, subject to the terms of this Agreement, the Bylaws of the CEDC and state law.
- b. The City and CEDC may mutually amend this Agreement, at any time.
- c. This Agreement may be terminated at any time by the City or the CEDC, in whole, or from time to time, in part. Termination shall be effective sixty (60) days after delivery of Notice of Termination, which shall specify to what extent services under this Agreement shall be terminated.

Section 4. *Miscellaneous Provisions.*

- a. This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party. This Agreement shall be binding on and inure to the benefit of the Parties and their respective administrators, legal representatives, successors, and assigns when permitted by this Agreement.
- b. This Agreement embodies the entire agreement between the parties and may only be modified in writing executed by both parties.
- c. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of the Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.
- d. This Agreement shall be construed in accordance with the laws of the State of Texas and venue for all purposes hereunder shall be in Denton or Collin County, Texas.
- e. This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.
- f. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same, to the addressee thereof. Notice given in accordance herewith shall be

effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to City, to: City of Celina
Attn: Jason Laumer
142 North Ohio Street
Celina, TX 75009
Phone: (972) 382-2682

If to CEDC, to: Celina Economic Development Corporation
Attn: Alexis Jackson
302 W. Walnut
Celina, TX 75009
Phone: (972) 382-3455

[SIGNATURE PAGES TO FOLLOW]

APPROVED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, in its meeting held on the ____ day of _____, 2019, and executed by its authorized representative.

CITY OF CELINA, TEXAS

Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

APPROVED BY THE CELINA ECONOMIC DEVELOPMENT CORPORATION in its meeting held on the ____ day of _____, 2019, and executed by its authorized representative.

CORPORATION

CELINA ECONOMIC DEVELOPMENT

Kyle Rose, President

ATTEST:

Alexis Jackson, Director

EXHIBIT “A”
Salary Sheet

	Salary	Benefits	Total	25%	33%	50%
Jeanie Regan	41,498.29	18,817.74	60,316.03	15,079.01	19,904.29	30,158.02
Howard Corbett	134,715.71	32,218.91	166,934.62	41,733.66		
				<u>\$ 56,812.91</u>	<u>\$ 61,638.27</u>	<u>\$ 71,892.17</u>



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: September 10, 2019
 Re: Resolution approving EDC TIRZ/Sales Tax Agreement

Action Requested:

Consider and act upon a resolution of the City Council of the City of Celina to approve an incentive agreement between the City of Celina and Celina Economic Development Corporation for projects within Tax Increment Investment Zone No. Eleven (Downtown). (EDC TIRZ/sales tax agreement) (DeBuff)

Background Information:

This item approves a sales tax sharing agreement between the Celina Economic Development Corporation (EDC) and the City of Celina, in order to facilitate development and encourage private investment over property that would otherwise impair the sound growth of the City.

Board Review/Citizen Input:

This item is a resolution by the Celina City Council approving the agreement recommended by the TIRZ #11 Board of Directors.

Alternatives:

N/A

Financial Considerations:

The proposed agreement contemplates the EDC sharing one-half of its sales tax revenues earned within the 687 acres of the Downtown TIRZ #11 district with the TIRZ #11 fund for the purposes of infrastructure improvements to the area.

The estimated cost of necessary infrastructure and project costs, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements, for development of the Zone is \$58,304,205.

Legal Review:

The City Attorney has reviewed this agreement and resolution.

Supporting Documents:

- Proposed resolution & agreement as Exhibit A.

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA TO APPROVE AN INCENTIVE AGREEMENT BETWEEN THE CITY OF CELINA AND CELINA ECONOMIC DEVELOPMENT CORPORATION FOR PROJECTS WITHIN TAX INCREMENT INVESTMENT ZONE NO. ELEVEN (DOWNTOWN).

WHEREAS, the City of Celina, Texas is a home-rule municipality ("City"); and

WHEREAS, the Celina Economic Development Corporation ("EDC") is a Type A economic development corporation operating pursuant to the Development Corporation Act, Title 12, Subtitle C1, of the Texas Local Government Code, as amended (the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean targeted infrastructure and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: manufacturing and industrial facilities, distribution centers, and small warehouse facilities capable of serving as decentralized storage and distribution centers; 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, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; and

WHEREAS, the City created "City of Celina Tax Increment Reinvestment Zone Number Eleven", in Celina, Texas covering approximately 687 acres in and around downtown Celina, including a portion of a rail line and deteriorating or abandoned industrial buildings adjacent thereto, to facilitate development and encourage private investment over property that would otherwise continue to impair the sound growth of the City and appointed a Board of Directors therefore (the "Zone"); and

WHEREAS, the promotion and development of the Zone will require public infrastructure to support approximately 687 acres of development; and

WHEREAS, the estimated cost of necessary infrastructure and project costs, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements, for development of the Zone is \$58,304,205 (the "Project"); and

WHEREAS, City has requested assistance with infrastructure improvements authorized by Section 501.103 of the Act from the EDC in the amount of half of the sales tax received by the EDC from within the Zone; and

WHEREAS, the City has demonstrated that development of the Zone is a project that will promote and/or develop new and/or expanded business development and the Board of Directors of EDC hereby finds that such project will promote and/or develop new and/or expanded business development; and

WHEREAS, the City and the EDC believe that entering into this Agreement will be in the best interests of the economic development of the City of Celina; and

WHEREAS, the EDC's Board of Directors has determined that financial assistance provided to the City for the Project is consistent with and meets the definition of "project" as that term is defined in Sections 501.101, 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, the EDC has determined that granting economic development incentives in accordance with this Agreement will further the objectives of the EDC, will benefit the EDC and the City and the City's inhabitants, will promote local economic development, and retain employment, business and commercial activity in the City; and

WHEREAS, the Board of Directors of the Zone has recommended approval of this Agreement to the City Council and the Board of Directors for the EDC has approved this Agreement.

WHEREAS, the City 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 EDC, and accordingly this Agreement is not effective until the City Council has approved this project and expenditure at a City Council meeting called and held for that purpose.

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

SECTION 1. The Incentive Agreement between the City of Celina and Celina Economic Development Corporation is hereby approved as attached in **Exhibit A**; and the Mayor is authorized to execute the agreement.

SECTION 2. This Resolution shall be effective from and after its passage as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CELINA
this _____ day of _____, 2019.

Sean Terry, Mayor

ATTEST:

Vicki Faulkner
City Secretary

INCENTIVE AGREEMENT

This **INCENTIVE AGREEMENT** by and between the City of Celina, Texas, a home-rule municipality (the "City"), and the Celina Economic Development Corporation (the "EDC"), is made and executed on the following terms and conditions.

WHEREAS, the EDC is a Type A economic development corporation operating pursuant to the Development Corporation Act, Title 12, Subtitle C1, of the Texas Local Government Code, as amended (the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean targeted infrastructure and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: manufacturing and industrial facilities, distribution centers, and small warehouse facilities capable of serving as decentralized storage and distribution centers; 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, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; and

WHEREAS, the City created "City of Celina Tax Increment Reinvestment Zone Number Eleven", in Celina, Texas covering approximately 687 acres in and around downtown Celina, including a portion of a rail line and deteriorating or abandoned industrial buildings adjacent thereto, to facilitate development and encourage private investment over property that would otherwise continue to impair the sound growth of the City (the "Zone"); and

WHEREAS, the promotion and development of the Zone will require public infrastructure to support approximately 687 acres of development; and

WHEREAS, the estimated cost of necessary infrastructure and project costs, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements, for development of the Zone is \$58,304,205 (the "Project"); and

WHEREAS, City has requested assistance with infrastructure improvements authorized by Section 501.103 of the Act from the EDC in the amount of half of the sales tax received by the EDC from within the Zone; and

WHEREAS, the City has demonstrated that development of the Zone is a project that will promote and/or develop new and/or expanded business development and the Board of Directors of EDC hereby finds that such project will promote and/or develop new and/or

expanded business development; and

WHEREAS, the City and the EDC believe that entering into this Agreement will be in the best interests of the economic development of the City of Celina; and

WHEREAS, the EDC's Board of Directors has determined that financial assistance provided to the City for the Project is consistent with and meets the definition of "project" as that term is defined in Sections 501.101, 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, the EDC has determined that granting economic development incentives in accordance with this Agreement will further the objectives of the EDC, will benefit the EDC and the City and the City's inhabitants, will promote local economic development, and retain employment, business and commercial activity in the City; and

WHEREAS, the City 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 EDC, and accordingly this Agreement is not effective until the City Council has approved this project and expenditure 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, EDC and the City 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. This Agreement shall be effective as of the Effective Date of this Agreement and shall continue thereafter until the earlier of December 31, 2048 or termination of the Zone by the City (the "Term").

SECTION 3. ECONOMIC ASSISTANCE.

A. The EDC collects a one-half cent sales and use tax on taxable purchases within the City of Celina ("EDC Sales Tax"). Subject to the terms, covenants, and conditions of this Agreement, the EDC agrees to provide economic development incentives to the City for the Project totaling fifty percent (50%), being a one-quarter cent, of the EDC Sales Tax collected in the Zone during the Term of this Agreement (the "Incentive"). The City will deposit all Incentive payments received from the EDC into the Tax Increment Fund created by City Ordinance No. 2017-136.

B. City shall only use the Incentive to pay for Project costs, which are site improvements, streets and roads, water and sewer utilities, gas utilities, electric utilities, drainage, rail spurs and related improvements within the Zone, as permitted under the Zone's Project and Financing Plan, as it presently exists or may be amended.

C. The EDC shall make Incentive payments to the City within thirty (30) days of receiving EDC Sales Tax proceeds from the City pursuant to Section 504.301 of the Act. The EDC and City shall work cooperatively to determine the portion of the EDC Sales Tax that was collected from the Zone, with the City making the final determination as to the amount of EDC Sales Tax collected from the Zone and the number or identity of taxpayers located in the Zone. The Incentive money may not be spent unless the EDC Board of Directors has voted in favor of the expenditure. The City will provide EDC with the receipts or other documents that reflect the use of the Incentive on permissible Project expenditures each fiscal year within ninety (90) days of the end of the City's fiscal year.

D. To the extent an audit or review by the Texas Comptroller results in an adjustment to the sales and use taxes being collected from the Zone, City and EDC agree to promptly adjust the Incentive accordingly to reflect the true measure of the EDC Sales Tax collected from within the Zone.

SECTION 4. AFFIRMATIVE OBLIGATIONS OF CITY. City covenants and agrees with EDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Performance.** City agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and to only use the Incentive for the Project.
- (b) **Certain Prohibited Economic Incentives.** City covenants and agrees that this Agreement does not violate Section 501.161 of the Texas Local Government Code, as amended.

SECTION 5. AFFIRMATIVE OBLIGATIONS OF EDC. The EDC agrees to make Incentive payments to City after the Effective Date in accordance with the terms and provisions set forth in this Agreement.

SECTION 6. 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 (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such party has been given an opportunity to cure the alleged failure as provided herein. In the case of a failure of an obligation to make a payment required under this Agreement, the failure to pay must be cured by making the payment within five (5) business days after written notice of the failure to pay. For all other failures, no party shall be in default under this Agreement if, within thirty (30) days, the party to whom the notice was given cures the failure. A party that does not timely cure a failure shall be deemed in default. Except for failures of an obligation to make a payment under this Agreement, if a party who has received notice under this Section 6 cannot cure an alleged failure using

reasonable efforts within thirty (30) days after receipt of written notice, such party shall give written notice to the other party within such thirty (30) day period (a) stating that the party cannot cure the alleged failure within thirty (30) days after receipt of written notice, and explaining the reason; and (b) providing a date by which such Party can reasonably cure the alleged failure ("Cure Time Notice"). A party who does not timely provide a Cure Time Notice shall be deemed to be able to cure the alleged failure to perform within thirty (30) days after the initial written notice of the alleged failure has been given.

SECTION 7. REMEDIES. If a Party is in default under this Agreement as provided in Section 6, 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, specific performance, mandamus, and injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL:

- (a) entitle the aggrieved party to terminate this Agreement; or
- (b) entitle the aggrieved party to suspend performance under this Agreement; or
- (c) entitle the aggrieved party to seek or recover monetary damages of any kind; or
- (d) limit the Term.

In addition, in the event that a failure by EDC to timely make an Incentive payment to City is not cured within five (5) days as provided in Section 6 above, the EDC expressly grants, authorizes, and assigns to the City the right to withhold the past-due amount, as determined by the City, from the EDC Sales Tax received by the City from the Comptroller of the State of Texas and then provide the remaining EDC Sales Tax to the EDC pursuant to Section 504.301 of the Act.

SECTION 8. TERMINATION OF AGREEMENT WITHOUT DEFAULT. The EDC or City, respectively, may terminate this Agreement immediately if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid or illegal. Termination of this Agreement under this Section 8 shall render this Agreement null and void from that point forward with each party having no further rights against each other under this Agreement or at law; provided, however, that (i) City shall be entitled to receive from EDC any payment due the City through the date of termination and (ii) the EDC and City agree to negotiate in good faith a remedy that preserves the intent of the parties hereunder as much as reasonably possible including, without limitation, the creation of an interest and sinking fund.

SECTION 9. EMPLOYMENT OF UNDOCUMENTED WORKERS. As required by Chapter 2264 of the Texas Government Code, during the term of this Agreement, City agrees not to knowingly employ any undocumented workers.

SECTION 10. MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement, together with any related documents, 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 Denton and Collin County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Denton or Collin County, Texas.
- (c) **Assignment.** This Agreement may not be assigned.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. City warrants and represents that the individual or individuals executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. EDC 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) **Effective Date.** The effective date (the "Effective Date") of this Agreement shall be April 9, 2019.
- (h) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.
- (i) **Notices.** Any notice or other communication required or permitted by this Agreement is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand, (deliveries after 5:00 p.m. shall be considered delivered on the following day), (ii) by electronic mail to the electronic mail address below (deliveries after 5:00 p.m. shall be considered delivered on the following day), 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 the City: City of Celina, Texas
Attn: Jason Laumer, City Manager
142 North Ohio Street
Celina, Texas 75009
E-mail: jlaumer@celina-tx.gov

if to the EDC: Celina Economic Development Corporation
c/o City of Celina, Texas
Attn: Alexis Jackson, Executive Director
302 W. Walnut
Celina, Texas 75009
E-mail: ajackson@celinaedc.com

- (j) **Ordinance Applicability.** The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising.
- (k) **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.
- (l) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

THIS INCENTIVE AGREEMENT IS ENTERED INTO AS OF APRIL 9, 2019.

THE CITY:

THE CITY OF CELINA TEXAS

By: _____

Name & Title: Sean Terry, Mayor

Date: _____

ATTEST:

_____, City Secretary

EDC:

CELINA ECONOMIC DEVELOPMENT CORPORATION,
a Texas non-profit corporation

By: _____

Name and Title: _____

Date: _____

ATTEST:

_____, Secretary

EXHIBIT A



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: September 10, 2019
 Re: Resolution approving CDC TIRZ/Sales Tax Agreement

Action Requested:

Consider and act upon a resolution of the City Council of the City of Celina to approve an incentive agreement between the City of Celina and Celina Community Development Corporation for projects within Tax Increment Investment Zone No. Eleven (Downtown). (CDC TIRZ/sales tax agreement) (DeBuff)

Background Information:

This item approves a sales tax sharing agreement between the Celina Community Development Corporation (CDC) and the City of Celina, in order to facilitate development and encourage private investment over property that would otherwise impair the sound growth of the City.

Board Review/Citizen Input:

This item is a resolution by the Celina City Council approving the agreement recommended by the TIRZ #11 Board of Directors.

Alternatives:

N/A

Financial Considerations:

The proposed agreement contemplates the CDC sharing one-half of its sales tax revenues earned within the 687 acres of the Downtown TIRZ #11 district with the TIRZ #11 fund for the purposes of infrastructure improvements to the area.

The estimated cost of necessary infrastructure and project costs, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements, for development of the Zone is \$58,304,205.

Legal Review:

The City Attorney has reviewed this agreement and resolution.

Supporting Documents:

- Proposed resolution & agreement as Exhibit A.

Staff Recommendation:
Staff recommends approval.

CITY OF CELINA, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA TO APPROVE AN INCENTIVE AGREEMENT BETWEEN THE CITY OF CELINA AND CELINA COMMUNITY DEVELOPMENT CORPORATION FOR PROJECTS WITHIN TAX INCREMENT INVESTMENT ZONE NO. ELEVEN (DOWNTOWN).

WHEREAS, the City of Celina, Texas is a home-rule municipality ("City"); and

WHEREAS, the Celina Community Development Corporation ("CDC") is a Type B economic development corporation operating pursuant to the Development Corporation Act, Title 12, Subtitle C1, of the Texas Local Government Code, as amended (the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean targeted infrastructure and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: manufacturing and industrial facilities, distribution centers, and small warehouse facilities capable of serving as decentralized storage and distribution centers; 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, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; and

WHEREAS, the City created "City of Celina Tax Increment Reinvestment Zone Number Eleven", in Celina, Texas covering approximately 687 acres in and around downtown Celina, including a portion of a rail line and deteriorating or abandoned industrial buildings adjacent thereto, to facilitate development and encourage private investment over property that would otherwise continue to impair the sound growth of the City and appointed a Board of Directors therefore (the "Zone"); and

WHEREAS, the promotion and development of the Zone will require public infrastructure to support approximately 687 acres of development; and

WHEREAS, the estimated cost of necessary infrastructure and project costs identified in the Zone's Project and Financing Plan, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements, for development of the Zone is \$58,304,205 (the "Project"); and

WHEREAS, City has requested assistance with infrastructure improvements authorized by Section 501.103 of the Act from the CDC in the amount of half of the sales tax received by the CDC from within the Zone; and

WHEREAS, the City has demonstrated that development of the Zone is a project that will promote and/or develop new and/or expanded business development and the Board of Directors of CDC hereby finds that such project will promote and/or develop new and/or expanded business development; and

WHEREAS, the City and the CDC believe that entering into this Agreement will be in the best interests of the economic development of the City of Celina and assist with financing of the Project; and

WHEREAS, the CDC's Board of Directors has determined that financial assistance provided to the City for the Project is consistent with and meets the definition of "project" as that term is defined in Sections 501.101, 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 that requirements of Section 505.159(b) of the Act do not apply to this project because it is undertaken under Subchapter C of Chapter 501; and

WHEREAS, the CDC has determined that granting economic development incentives in accordance with this Agreement will further the objectives of the CDC, will benefit the CDC and the City and the City's inhabitants, will promote local economic development, and retain employment, business and commercial activity in the City; and

WHEREAS, the Board of Directors of the Zone has recommended approval of this Agreement to the City Council and the Board of Directors for the CDC has approved this Agreement.

WHEREAS, the City 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 CDC, and accordingly this Agreement is not effective until the City Council has approved this project and expenditure at a City Council meeting called and held for that purpose.

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

SECTION 1. The Incentive Agreement between the City of Celina and Celina Community Development Corporation is hereby approved as attached in **Exhibit A**; and the Mayor is authorized to execute the agreement.

SECTION 2. This Resolution shall be effective from and after its passage as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CELINA
this _____ day of _____, 2019.

Sean Terry, Mayor

ATTEST:

Vicki Faulkner
City Secretary

INCENTIVE AGREEMENT

This **INCENTIVE AGREEMENT** by and between the City of Celina, Texas, a home-rule municipality (the "City"), and the Celina Community Development Corporation (the "CDC"), is made and executed on the following terms and conditions.

WHEREAS, the CDC is a Type B community development corporation operating pursuant to the Development Corporation Act, Title 12, Subtitle C1, of the Texas Local Government Code, as amended (the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean targeted infrastructure and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: manufacturing and industrial facilities, distribution centers, and small warehouse facilities capable of serving as decentralized storage and distribution centers; 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, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; and

WHEREAS, the City created "City of Celina Tax Increment Reinvestment Zone Number Eleven", in Celina, Texas covering approximately 687 acres in and around downtown Celina, including a portion of a rail line and deteriorating or abandoned industrial buildings adjacent thereto, to facilitate development and encourage private investment over property that would otherwise continue to impair the sound growth of the City (the "Zone"); and

WHEREAS, the promotion and development of the Zone will require public infrastructure to support approximately 687 acres of development; and

WHEREAS, the estimated cost of necessary infrastructure and project costs, including streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements, for development of the Zone is \$58,304,205 (the "Project"); and

WHEREAS, City has requested assistance with infrastructure improvements authorized by Section 501.103 of the Act from the CDC in the amount of half of the sales tax received by the CDC from within the Zone; and

WHEREAS, the City has demonstrated that development of the Zone is a project that will promote and/or develop new and/or expanded business development and the Board of Directors of CDC hereby finds that such project will promote and/or develop new and/or

expanded business development; and

WHEREAS, the City and the CDC believe that entering into this Agreement will be in the best interests of the community development of the City of Celina; and

WHEREAS, the CDC's Board of Directors has determined that financial assistance provided to the City for the Project is consistent with and meets the definition of "project" as that term is defined in Sections 501.101, 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 that requirements of Section 505.159(b) of the Act do not apply to this project because it is undertaken under Subchapter C of Chapter 501; and

WHEREAS, the CDC has determined that granting community development incentives in accordance with this Agreement will further the objectives of the CDC, will benefit the CDC and the City and the City's inhabitants, will promote local community development, and retain employment, business and commercial activity in the City; and

WHEREAS, the City 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 CDC, and accordingly this Agreement is not effective until the City Council has approved this project and expenditure 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, CDC and the City 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. This Agreement shall be effective as of the Effective Date of this Agreement and shall continue thereafter until the earlier of December 31, 2048 or termination of the Zone by the City (the "Term").

SECTION 3. ECONOMIC ASSISTANCE.

A. The CDC collects a one-half cent sales and use tax on taxable purchases within the City of Celina ("CDC Sales Tax"). Subject to the terms, covenants, and conditions of this Agreement, the CDC agrees to provide Community development incentives to the City for the Project totaling fifty percent (50%), being a one-quarter cent, of the CDC Sales Tax collected in the Zone during the Term of this Agreement (the "Incentive"). The City will deposit all Incentive payments received from the CDC into the Tax Increment Fund created by City Ordinance No. 2017-136.

B. City shall only use the Incentive to pay for Project costs, which are site improvements, streets and roads, water and sewer utilities, gas utilities, electric utilities, drainage, rail spurs and related improvements within the Zone, as permitted under the Zone's Project and Financing Plan, as it presently exists or may be amended.

C. The CDC shall make Incentive payments to the City within thirty (30) days of receiving CDC Sales Tax proceeds from the City pursuant to Section 504.301 of the Act. The CDC and City shall work cooperatively to determine the portion of the CDC Sales Tax that was collected from the Zone, with the City making the final determination as to the amount of CDC Sales Tax collected from the Zone and the number or identity of taxpayers located in the Zone. The City will provide CDC with the receipts or other documents that reflect the use of the Incentive on permissible Project expenditures each fiscal year within ninety (90) days of the end of the City's fiscal year.

D. To the extent an audit or review by the Texas Comptroller results in an adjustment to the sales and use taxes being collected from the Zone, City and CDC agree to promptly adjust the Incentive accordingly to reflect the true measure of the CDC Sales Tax collected from within the Zone.

SECTION 4. AFFIRMATIVE OBLIGATIONS OF CITY. City covenants and agrees with CDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Performance.** City agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and to only use the Incentive for the Project.
- (b) **Certain Prohibited Community Incentives.** City covenants and agrees that this Agreement does not violate Section 501.161 of the Texas Local Government Code, as amended.

SECTION 5. AFFIRMATIVE OBLIGATIONS OF CDC. The CDC agrees to make Incentive payments to City after the Effective Date in accordance with the terms and provisions set forth in this Agreement.

SECTION 6. 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 (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such party has been given an opportunity to cure the alleged failure as provided herein. In the case of a failure of an obligation to make a payment required under this Agreement, the failure to pay must be cured by making the payment within five (5) business days after written notice of the failure to pay. For all other failures, no party shall be in default under this Agreement if, within thirty (30) days, the party to whom the notice was given cures the failure. A party that does not timely cure a failure shall be deemed in default. Except for failures of an obligation to make a payment under this Agreement, if a party who has received notice under this Section 6 cannot cure an alleged failure using reasonable efforts within thirty (30) days after receipt of written notice, such party shall give

written notice to the other party within such thirty (30) day period (a) stating that the party cannot cure the alleged failure within thirty (30) days after receipt of written notice, and explaining the reason; and (b) providing a date by which such Party can reasonably cure the alleged failure ("Cure Time Notice"). A party who does not timely provide a Cure Time Notice shall be deemed to be able to cure the alleged failure to perform within thirty (30) days after the initial written notice of the alleged failure has been given.

SECTION 7. REMEDIES. If a Party is in default under this Agreement as provided in Section 6, 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, specific performance, mandamus, and injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL:

- (a) entitle the aggrieved party to terminate this Agreement; or
- (b) entitle the aggrieved party to suspend performance under this Agreement; or
- (c) entitle the aggrieved party to seek or recover monetary damages of any kind; or
- (d) limit the Term.

In addition, in the event that a failure by CDC to timely make an Incentive payment to City is not cured within five (5) days as provided in Section 6 above, the CDC expressly grants, authorizes, and assigns to the City the right to withhold the past-due amount, as determined by the City, from the CDC Sales Tax received by the City from the Comptroller of the State of Texas and then provide the remaining CDC Sales Tax to the CDC pursuant to Section 504.301 of the Act.

SECTION 8. TERMINATION OF AGREEMENT WITHOUT DEFAULT. The CDC or City, respectively, may terminate this Agreement immediately if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid or illegal. Termination of this Agreement under this Section 8 shall render this Agreement null and void from that point forward with each party having no further rights against each other under this Agreement or at law; provided, however, that (i) City shall be entitled to receive from CDC any payment due the City through the date of termination and (ii) the CDC and City agree to negotiate in good faith a remedy that preserves the intent of the parties hereunder as much as reasonably possible including, without limitation, the creation of an interest and sinking fund.

SECTION 9. EMPLOYMENT OF UNDOCUMENTED WORKERS. As required by Chapter 2264 of the Texas Government Code, during the term of this Agreement, City agrees not to knowingly employ any undocumented workers.

SECTION 10. MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement, together with any related documents, 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 Denton and Collin County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Denton or Collin County, Texas.
- (c) **Assignment.** This Agreement may not be assigned.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. City warrants and represents that the individual or individuals executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. CDC 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) **Effective Date.** The effective date (the "Effective Date") of this Agreement shall be April 9, 2019.
- (h) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.
- (i) **Notices.** Any notice or other communication required or permitted by this Agreement is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand, (deliveries after 5:00 p.m. shall be considered delivered on the following day), (ii) by electronic mail to the electronic mail address below (deliveries after 5:00 p.m. shall be considered delivered on the following day), 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 the City: City of Celina, Texas
 Attn: Jason Laumer, City Manager
 142 North Ohio Street
 Celina, Texas 75009
 E-mail: jlaumer@celina-tx.gov

if to the CDC: Celina Community Development Corporation
 c/o City of Celina, Texas
 Attn: Vicki Faulkner, City Secretary
 142 N. Ohio Street
 Celina, Texas 75009
 E-mail: vfaulkner@celina-tx.gov

- (j) **Ordinance Applicability.** The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising.
- (k) **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.
- (l) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

THIS INCENTIVE AGREEMENT IS ENTERED INTO AS OF _____, 2019.

THE CITY:

THE CITY OF CELINA TEXAS

By: _____

Name & Title: Sean Terry, Mayor

Date: _____

ATTEST:

_____, City Secretary

CDC:

CELINA COMMUNITY DEVELOPMENT CORPORATION,
a Texas non-profit corporation

By: _____

Name and Title: _____

Date: _____

ATTEST:

_____, Secretary

EXHIBIT A



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: September 10, 2019
Re: City Manager Special Event Waiver Authority

Action Requested:

Consider and act upon an ordinance of the City Council of the City of Celina, Texas, amending the City's Code of Ordinances; Chapter 1 General Provisions; Article 1.12 Special Events; providing for incorporation of premises; providing for findings; providing for amendment to the code of ordinances. (Special Events Waiver) (DeBuff)

Background Information:

This item provides city management the ability to waive certain requirements related to the operation of special events on City property, and to require that certain activities at the event be restricted as a condition of granting the waiver.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

This item has been reviewed by the City Attorney.

Supporting Documents:

- Proposed ordinance

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES; CHAPTER 1 GENERAL PROVISIONS; ARTICLE 1.12 SPECIAL EVENTS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR AMENDMENT TO THE CODE OF ORDINANCES; PROVIDING FOR A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Celina 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, the Texas Constitution and operating pursuant to the enabling legislation of the state of Texas; and

WHEREAS, all legal notices, requirements and conditions were fulfilled prior to passing of this Ordinance; and

WHEREAS, after due deliberations and consideration, the City Council has determined that the amendments set forth herein should be adopted, and that such amendments are in the best interest of the public health, safety, and welfare of the citizens of the City.

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

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 Ordinances is in the best interests of the City of Celina, Texas, and of the public health, safety and welfare.

SECTION 3
AMENDMENTS

- 3.01 That the City of Celina Code of Ordinances, Chapter 1: General Provisions; Article 1.12 Special Events; Division 1; Generally, Section 1.12.002; permit required; exemptions; additional permits is hereby amended to add a new subsection (b)(5) which shall read as follows:

“(b)(5) An event for which an applicant has obtained a waiver from the City Manager. The City Manager may require that an applicant provide information related to the event or restrict activities conducted at the event as a condition of granting a waiver.”

- 3.02 All other articles, chapters, sections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed.

SECTION 4

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 the 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 5

SEVERABILITY

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

PENALTY

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 Five Hundred Dollars (\$500) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.

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

ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Celina is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the City Council of the City of Celina and by filing this Ordinance in the Ordinance records of the City.

SECTION 8

EFFECTIVE DATE

This Ordinance shall be in full force and effect 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 _____ day of September, 2019.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

[SEAL]

APPROVED AS TO FORM:

Lance Vanzant, City Attorney
City of Celina, Texas

Attachment: 2019 0826 Amendment - Special events-cty mrg waiver (City Manager Special Event Waiver Authority)



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: September 10, 2019
 Re: Ordinance Approving Atmos Energy Rate Settlement

Action Requested:

Consider and act upon an ordinance of the City Council of the City of Celina, Texas, approving a negotiated settlement between the Atmos Cities Steering Committee (“ACSC”) and Atmos Energy Corp., Mid-Tex Division regarding the company’s 2019 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC’s legal counsel. (Atmos Rate Settlement) (DeBuff)

Background Information:

- The City of Celina, along with 171 other Texas cities served by Atmos Energy, is a member of the Atmos Cities Steering Committee (ACSC).
- The Gas Reliability Infrastructure Program (GRIP) legislation allowed gas utility companies to create annual rate increases associated with capital investments. ACSC strongly opposed the GRIP process because it unfairly raised customers’ rates without any regulatory oversight.
- Consequently, Atmos and ACSC worked collaboratively to develop a new method to designate annual rates. This new method, referred to as the Rate Review Mechanism (RRM), allows for greater input from ACSC cities in the ratemaking processes.
- The ACSC Executive Committee approved the settlement and recommends ACSC Cities adopt the ACSC approved ordinance.
- New rates become effective October 1, 2019.

Board Review/Citizen Input:

n/a

Alternatives:

n/a

Financial Considerations:

- After review, ACSC's Executive Committee and the Company negotiated a settlement at an increase of \$35.4 million from ACSC Cities under the RRM process as opposed to \$70 million under the GRIP legislation.
- ACSC's consultants produced a report indicating that a settlement at \$35.4 million is fair and reasonable.
- The impact on average residential rates is an increase of \$2.05 on a monthly basis, or 3.7 percent.
- The increase for average commercial usage will be \$6.18 or 2.31 percent.

Legal Review:

This item was created and reviewed by attorneys representing the 172 cities, including the City of Celina.

Supporting Documents:

- Proposed Ordinance

Staff Recommendation:

Staff recommends approval.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2019 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

WHEREAS, the City of Celina, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by

the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and

WHEREAS, on about April 1, 2019, Atmos Mid-Tex filed its 2019 RRM rate request with ACSC Cities based on a test year ending December 31, 2018; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2019 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$35.4 million applicable to ACSC Cities; and

WHEREAS, the attached tariffs (Exhibit A) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Exhibit B); and

WHEREAS, the settlement agreement establishes an amortization schedule for regulatory liability (Exhibit C); and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications;

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

Section 1. That the findings set forth in this Ordinance are hereby in all things approved.

Section 2. That, without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$35.4 million for ACSC Cities represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2019 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

Section 3. That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Exhibit A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$35.4 million from customers in ACSC Cities, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

Section 4. That the ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Exhibit B, attached hereto and incorporated herein.

Section 5. That amortization of regulatory liability shall be consistent with the schedule found in attached Exhibit C attached hereto and incorporated herein.

Section 6. That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2019 RRM filing.

Section 7. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 8. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 9. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 10. That consistent with the City Ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after October 1, 2019.

Section 11. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LJB Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED this _____ day of _____, 2019.

Mayor Sean Terry

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

Exhibit A

Rate Tariffs Effective October 1, 2019

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RRC Tariff No:

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 19.55 per month
Rider CEE Surcharge	\$ 0.05 per month ¹
Total Customer Charge	\$ 19.60 per month
Commodity Charge – All <u>Ccf</u>	\$0.17423 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2019.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RRC Tariff No:

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 46.50 per month
Rider CEE Surcharge	\$ 0.02 per month ²
Total Customer Charge	\$ 46.52 per month
Commodity Charge – All Ccf	\$ 0.09924 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2019.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RRC Tariff No:

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 845.50 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.3572 per MMBtu
Next 3,500 MMBtu	\$ 0.2616 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0561 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RRC Tariff No:

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RRC Tariff No:

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 845.50 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.3572 per MMBtu
Next 3,500 MMBtu	\$ 0.2616 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0561 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RRC Tariff No:

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2019	PAGE:

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2019	PAGE:

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

- Where
- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
 - $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
 - R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.
 - HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
 - NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
 - ADD = billing cycle actual heating degree days.
 - BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2019	PAGE:

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	9.77	0.1487	88.49	0.7036
Austin	9.04	0.1537	201.48	1.0000
Dallas	13.07	0.2202	184.64	1.1385
Waco	8.77	0.1470	135.70	0.7744
Wichita Falls	11.40	0.1468	117.90	0.5943

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

Exhibit B

2019 Benchmark for Pensions and Retiree Medical Benefits

ATMOS ENERGY CORP., MID-TEX DIVISION
PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL
TEST YEAR ENDING DECEMBER 31, 2018

Line No.	Description	Shared Services		Mid-Tex Direct			Adjustment Total
		Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Supplemental Executive Benefit Plan	Post-Employment Benefit Plan	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Proposed Benefits Benchmark - Fiscal Year 2019 Willis Towers Watson Report as adjusted (1) (2) (3)	\$ 2,744,088	\$ 2,267,927	\$ 4,724,119	\$ 193,211	\$ 2,621,842	
2	Allocation to Mid-Tex	43.48%	43.48%	73.88%	100.00%	73.88%	
3	Proposed Benefits Benchmark Costs Allocated to Mid-Tex (Ln 1 x Ln 2)						
4	O&M and Capital Allocation Factor	\$ 1,193,029	\$ 986,012	\$ 3,490,241	\$ 193,211	\$ 1,937,051	
5	Proposed Benefits Benchmark Costs to Approve (Ln 3 x Ln 4) (3)	100.00%	100.00%	100.00%	100.00%	100.00%	
6		\$ 1,193,029	\$ 986,012	\$ 3,490,241	\$ 193,211	\$ 1,937,051	\$ 7,799,544
7							
8	Summary of Costs to Approve (1):						
9							
10	O&M Expense Factor (WP_F-2.3, Ln 2)	81.35%	81.35%	38.28%	16.24%	38.28%	
11							
12							
13	Total Pension Account Plan	\$ 970,514		\$ 1,336,038			\$ 2,306,553
14	Total Post-Employment Benefit Plan		\$ 802,108			\$ 741,489	1,543,597
15	Total Supplemental Executive Benefit Plan				\$ 31,377		31,377
16	Total (Ln 13 + Ln 14 + Ln 15)	\$ 970,514	\$ 802,108	\$ 1,336,038	\$ 31,377	\$ 741,489	\$ 3,881,527

Notes:

1. Studies not applicable to Mid-Tex or Shared Services are omitted.
2. The Company is requesting that the benchmark amount approved by the RRM Cities for future periods include only the expense amount.
- The amount attributable to capital would continue to be recorded to utility plant through the overhead process as described in the CAM.
3. SSU amounts exclude cost centers which do not allocate to Mid-Tex for rate making purposes.

Exhibit C

2019 Amortization Schedule for Regulatory Liability

**ATMOS ENERGY CORP., MID-TEX DIVISION
RATE BASE ADJUSTMENTS
TEST YEAR ENDING DECEMBER 31, 2018
AMORTIZATION OF REGULATORY LIABILITY**

Line No.	Year Ended Dec. 31	Beginning of Year Rate Base Adjustment Amount (1)	Annual Amortization (2)	End of Year Rate Base Adjustment Amount
	(a)	(b)	(c)	(d)
1	2018	\$ 290,043,948	\$ -	290,043,948
2	2019	290,043,948	12,085,165	277,958,784
3	2020	277,958,784	12,085,165	265,873,619
4	2021	265,873,619	12,085,165	253,788,455
5	2022	253,788,455	12,085,165	241,703,290
6	2023	241,703,290	12,085,165	229,618,126
7	2024	229,618,126	12,085,165	217,532,961
8	2025	217,532,961	12,085,165	205,447,797
9	2026	205,447,797	12,085,165	193,362,632
10	2027	193,362,632	12,085,165	181,277,468
11	2028	181,277,468	12,085,165	169,192,303
12	2029	169,192,303	12,085,165	157,107,139
13	2030	157,107,139	12,085,165	145,021,974
14	2031	145,021,974	12,085,165	132,936,810
15	2032	132,936,810	12,085,165	120,851,645
16	2033	120,851,645	12,085,165	108,766,481
17	2034	108,766,481	12,085,165	96,681,316
18	2035	96,681,316	12,085,165	84,596,152
19	2036	84,596,152	12,085,165	72,510,987
20	2037	72,510,987	12,085,165	60,425,823
21	2038	60,425,823	12,085,165	48,340,658
22	2039	48,340,658	12,085,165	36,255,494
23	2040	36,255,494	12,085,165	24,170,329
24	2041	24,170,329	12,085,165	12,085,165

25 2042 12,085,165 12,085,165 (0)

27

28

29	Revenue Related Tax Factor	6.71%	See WP_F-5.1
	Revenue Related Taxes on Annual		Amortization * Tax
30	Amortization (see WP_B-6.3)	\$ 810,653	Factor
31	Related Taxes (see WP_B-6.3)	<u>\$ 12,905,421</u>	Amortization + Taxes

32

33 Notes:

34 1. The beginning 2018 balance is the September, 2018 balance. The regulatory
 35 liability for excess deferred taxes is an estimate. This estimate will be
 36 finalized when the Company files its federal tax return in July, 2019. To the
 37 extent that this estimate changes with the filing of the Company's tax return,
 38 the Company will 'true-up' the amount in the 2020 RRM filing.

39 2. The annual amortization of a 24 year recovery period is based on the
 40 Reverse South Georgia Method.

41 3. The Regulatory Liability is recorded to FERC Account 253, Sub Account 27909.



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: September 10, 2019
Re: Ordinance approving Sutton Fields II PID Bond sale

Action Requested:

Consider and act upon an ordinance approving and authorizing the issuance and sale of the City of Celina, Texas, Special Assessment Revenue Bonds, Series 2019 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-3 Project); approving and authorizing related agreements, and providing for an effective date. (Sutton Fields II Bond Ordinance) (DeBuff)

Background Information:

This ordinance approves and authorizes the sale of \$6,355,000 in bonds against Sutton Fields II Public Improvement District. The updated Service and Assessment Plan and corresponding Assessment Ordinance for this phase was previously adopted by Council, on June 11, 2019.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this item.

Supporting Documents:

- Proposed ordinance

Staff Recommendation:

Staff recommends approval.

ORDINANCE NO. 2019-____

AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF CELINA, TEXAS, SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2019 (SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT NEIGHBORHOOD IMPROVEMENT AREAS #2-3 PROJECT); APPROVING AND AUTHORIZING RELATED AGREEMENTS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Celina, Texas (the "City"), pursuant to and in accordance with the terms, provisions and requirements of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code (the "PID Act"), has established the "Sutton Fields II Public Improvement District", pursuant to Resolution No. 2015-51R adopted by the City Council of the City (the "City Council") on October 13, 2015; and

WHEREAS, pursuant to the PID Act, the City Council published notice of and held a public hearing on August 28, 2018 regarding the levy of special assessments against benefitted property located in Neighborhood Improvement Area #2 of the District at the August 28, 2018 meeting of the City Council, and after hearing testimony at such public hearing, the City Council closed the public hearing and adopted Ordinance No. 2018-46 (the "NIA #2 Assessment Ordinance"); and

WHEREAS, in the NIA #2 Assessment Ordinance, the City Council approved and accepted the Sutton Fields II Public Improvement District Amended and Restated Service and Assessment Plan, Updated for Neighborhood Improvement Area #2, dated as of August 28, 2018, (the "NIA #2 Service and Assessment Plan") relating to the District and levied the Neighborhood Improvement Area #2 Assessments (as defined in the NIA #2 Assessment Ordinance, the "NIA #2 Assessments") against the Neighborhood Improvement Area #2 Assessment Roll (as defined and described in the NIA #2 Service and Assessment Plan, the "NIA #2 Assessment Roll"); and

WHEREAS, pursuant to the PID Act, the City Council published notice of and held a public hearing on June 11, 2019 regarding the levy of special assessments against benefitted property located in Neighborhood Improvement Area #3 of the District at the June 11, 2019 meeting of the City Council, and after hearing testimony at such public hearing, the City Council closed the public hearing and adopted Ordinance No. 2019-21 (the "NIA #3 Assessment Ordinance"); and

WHEREAS, in the NIA #3 Assessment Ordinance, the City Council approved and accepted the Sutton Fields II Public Improvement District Amended and Restated Service and Assessment Plan Updated for Neighborhood Improvement Area #2 & Neighborhood Improvement Area #3, dated as of August 28, 2018, as updated on June 11, 2019 (the "NIA #3 Service and Assessment Plan") relating to the District and levied the Neighborhood Improvement Area #3 Assessments (as defined in the NIA #3 Assessment Ordinance, the "NIA #3 Assessments") against the Neighborhood Improvement Area #3 Assessment Roll (as defined and described in the NIA #3 Service and Assessment Plan, the "NIA #3 Assessment Roll"); and

WHEREAS, the City is authorized by the PID Act to issue its revenue bonds payable from the NIA #2 Assessments and NIA #3 Assessments and other revenues received for the purposes of (i) paying a portion of the Actual Costs of the Neighborhood Improvement Areas #2-

3 Improvements, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Neighborhood Improvement Areas #2-3 Improvements, (iii) funding a reserve fund for payment of principal of and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization of the District, and (v) paying the costs of issuance of the Bonds; and

WHEREAS, the City Council hereby finds and determines that it is in the best interests of the City to issue its bonds to be designated "City of Celina, Texas, Special Assessment Revenue Bonds, Series 2019 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-3 Project)" (the "Bonds"), such series to be payable from and secured by the Pledged Revenues, as defined in the Indenture; and

WHEREAS, the City Council hereby finds and determines to (i) approve the issuance of the Bonds to finance a portion of the costs of the Phase #1 Improvements, as identified in the Service and Assessment Plan, (ii) approve the form, terms and provisions of an indenture of trust securing the Bonds authorized hereby, (iii) approve the form, terms and provisions of a Bond Purchase Agreement (defined below) between the City and the purchaser of the Bonds, (iv) approve a Preliminary Limited Offering Memorandum and a Limited Offering Memorandum (defined below), (v) approve the form, terms and provisions of a Service and Assessment Plan (defined below) and (v) approve the form, terms and provisions of a Continuing Disclosure Agreement (defined below); and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS:

SECTION 1. Approval of Issuance of Bonds and Indenture of Trust.

(a) The issuance of the Bonds in the principal amount of \$_____ for the purpose of (i) paying a portion of the Actual Costs of the Neighborhood Improvement Areas #2-3 Improvements, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Neighborhood Improvement Areas #2-3 Improvements, (iii) funding a reserve fund for payment of principal of and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization of the District, and (v) paying the costs of issuance of the Bonds.

(b) The Bonds shall be issued and secured under that certain Indenture of Trust (the "Indenture") dated as of October 1, 2019, between the City and U.S. Bank National Association, as trustee (the "Trustee"), with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the City Manager and the City's land use attorney, such approval to be evidenced by the execution and delivery of the Indenture by the Mayor or Mayor Pro Tem of the City, which Indenture is hereby approved in substantially the form attached hereto as **Exhibit A** which is incorporated herein as a part hereof for all purposes. The Mayor or Mayor Pro Tem of the City is hereby authorized and directed to execute the Indenture and the City Secretary is hereby authorized and directed to attest such signature of the Mayor or Mayor Pro Tem.

(c) The Bonds shall be dated, shall mature on the date or dates and in the principal amounts, shall bear interest, shall be subject to redemption and shall have such other terms and

provisions as set forth in the Indenture. The Bonds shall be in substantially the form set forth in the Indenture with such insertions, omissions and modifications as may be required to conform the form of bond to the actual terms of the Bonds. The Bonds shall be payable from and secured by the "Pledged Revenues" (as defined in the Indenture) and other assets of the "Trust Estate" (as defined in the Indenture) pledged to such series, and shall never be payable from ad valorem taxes.

SECTION 2. Sale of Bonds; Approval of Bond Purchase Agreement. The Bonds shall be sold to FMSbonds, Inc. (the "Underwriter") under that certain Bond Purchase Agreement (the "Bond Purchase Agreement"), dated the date hereof, between the City and the Underwriter, substantially in the form attached hereto as **Exhibit B** which is incorporated herein as a part hereof for all purposes, which terms of sale are declared to be in the best interests of the City at the price and on the terms and provisions set forth in the Bond Purchase Agreement. The form, terms and provisions of the Bond Purchase Agreement are hereby authorized and approved with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the City Manager and the City's land use attorney, such approval to be evidenced by the execution and delivery of the Bond Purchase Agreement by the Mayor or Mayor Pro Tem of the City. The Mayor or Mayor Pro Tem of the City is hereby authorized and directed to execute and deliver the Bond Purchase Agreement.

SECTION 3. Limited Offering Memorandum. The form and substance of the Preliminary Limited Offering Memorandum for the Bonds and any addenda, supplement or amendment thereto and the final Limited Offering Memorandum (the "Limited Offering Memorandum") are hereby in all respects approved and adopted. The Mayor or Mayor Pro Tem is hereby authorized and directed to execute such Limited Offering Memorandum with such changes and alterations therein as the Mayor or Mayor Pro Tem may approve, such approval to be conclusively evidenced by such execution thereof. The Limited Offering Memorandum as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Mayor or Mayor Pro Tem of the City and the Underwriter, may be used by the Underwriter in the offering and sale of the Bonds. The City Secretary is hereby authorized and directed to include and maintain a copy of the Preliminary Limited Offering Memorandum and Limited Offering Memorandum and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Limited Offering Memorandum in the offering of the Bonds is hereby ratified, approved and confirmed and the Preliminary Limited Offering Memorandum is hereby deemed "final" as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission. Notwithstanding the execution, approval and delivery of such Preliminary Limited Offering Memorandum and Limited Offering Memorandum by the Mayor or Mayor Pro Tem, this City Council, including the Mayor and Mayor Pro Tem, are not responsible for and proclaim no specific knowledge of the information contained in the Preliminary Limited Offering Memorandum and Limited Offering Memorandum pertaining to the Development (as defined in the Limited Offering Memorandum), the Developer (as defined in the Indenture) or their financial ability, any builders, any landowners, or the appraisal of the property in the District.

SECTION 4. Continuing Disclosure Agreement. That certain Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") between the City and HTS Continuing Disclosure Services, a division of Hilltop Securities Inc. (the "Dissemination Agent") is hereby authorized and approved in substantially the form attached hereto as **Exhibit C** which is incorporated herein as a part hereof for all purposes and the City Manager, Mayor and/or Mayor Pro Tem of the City is authorized and directed to execute and deliver such Continuing Disclosure Agreement with such changes as may be required to carry out the purpose of this

Ordinance and as approved by the City Manager, Mayor or Mayor Pro Tem, such approval to be evidenced by the execution thereof.

SECTION 5. Service and Assessment Plan Update. That certain Amended and Restated Service and Assessment Plan Updated for Neighborhood Improvement Area #2 & Neighborhood Improvement Area #3 dated August 28, 2018, as updated on June 11, 2019, and on September 10, 2019 (as updated, the "Service and Assessment Plan") is hereby authorized and approved in substantially the form attached hereto as **Exhibit D** which is incorporated herein as a part hereof for all purposes and the City Manager, Mayor and Mayor Pro Tem of the City is each hereby authorized and directed to deliver such Service and Assessment Plan with such changes as may be required to carry out the purposes of this Ordinance. The Service and Assessment Plan, including the method of assessment, is approved and adopted as the Service and Assessment Plan for Neighborhood Improvement Area #2 of the District and Neighborhood Improvement Area #3 of the District and the Neighborhood Improvement Area #2 Assessment Roll attached as Appendix B-3 thereto and the Neighborhood Improvement Area #3 Assessment Roll attached as Appendix B-4 thereto, respectively, sets forth the Neighborhood Improvement Area #2 Assessments levied against the Neighborhood Improvement Area #2 Assessed Property and the Neighborhood Improvement Area #3 Assessments levied against the Neighborhood Improvement Area #3 Assessed Property which are hereby approved as an act and deed of the City Council. The City Secretary is hereby directed to file the Service and Assessment Plan in the real property records of Denton County.

SECTION 6. Additional Actions. The Mayor, Mayor Pro Tem, the City Manager, the Director of Finance, and the City Secretary are each hereby authorized and directed to take any and all actions on behalf of the City necessary or desirable to carry out the intent and purposes of this Ordinance and to issue the Bonds in accordance with the terms of this Ordinance. The Mayor, Mayor Pro Tem, the City Manager, the Director of Finance, and the City Secretary are each hereby authorized and directed to execute and deliver any and all certificates, agreements, notices, instruction letters, requisitions, and other documents which may be necessary or advisable in connection with the sale, issuance and delivery of the Bonds and the carrying out of the purposes and intent of this Ordinance or any other certificates, agreements, or other documents subsequent to the delivery of the Bonds which may be necessary or appropriate to carry out or fulfill the purpose and intent of the Service and Assessment Plan and the acquisition and construction of the Phase #2 Improvements.

SECTION 7. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 8. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 9. Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance or the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 10. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 11. Incorporation of Findings and Determinations. The findings and determinations of the City Council contained in the preamble of this Ordinance are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 12. Effective Date. This Ordinance shall take effect and be in force immediately from and after its adoption on the date shown below in accordance with Texas Government Code, Section 1201.028, as amended.

PASSED AND ADOPTED, this September 10, 2019.

CITY OF CELINA, TEXAS

Mayor Pro Tem

ATTEST:

City Secretary

(City Seal)

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

EXHIBIT A
INDENTURE OF TRUST

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

INDENTURE OF TRUST

By and Between

CITY OF CELINA, TEXAS

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

DATED AS OF OCTOBER 1, 2019

SECURING

\$ _____
CITY OF CELINA, TEXAS,
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2019
(SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT
NEIGHBORHOOD IMPROVEMENT AREAS #2-3 PROJECT)

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST, dated as of October 1, 2019 is by and between the CITY OF CELINA, TEXAS (the "City"), and U.S. BANK NATIONAL ASSOCIATION, as trustee (together with its successors, the "Trustee"). Capitalized terms used in the preambles, recitals and granting clauses and not otherwise defined shall have the meanings assigned thereto in Article I.

WHEREAS, a petition was submitted by the Petitioner (defined herein) and filed with the City Secretary of the City (the "City Secretary") pursuant to the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended (the "PID Act"), requesting the creation of a public improvement district located within the corporate limits and extraterritorial jurisdiction of the City to be known as the Sutton Fields II Public Improvement District (the "District"); and

WHEREAS, the petition contained the signature of the owner of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of the Denton Central Appraisal District, and the signature of the property owner of taxable real property that constitutes more than fifty percent of the area of all taxable property that is liable for assessment by the District; and

WHEREAS, on October 13, 2015, after due notice, the City Council of the City (the "City Council") held the public hearing in the manner required by law on the advisability of the improvement projects and services described in the petition as required by Section 372.009 of the PID Act and on October 13, 2015 the City Council made the findings required by Section 372.009(b) of the PID Act and, by Resolution No. 2015-51R adopted by a majority of the members of the City Council, authorized the District in accordance with its finding as to the advisability of the improvement projects and services; and

WHEREAS, on October 15, 2015, the City published notice of its authorization of the District in the *Dallas Morning News*, a newspaper of general circulation in the City and the extraterritorial jurisdiction of the City; and

WHEREAS, no written protests of the District from any owners of record of property within the District were filed with the City Secretary within 20 days after October 15, 2015; and

WHEREAS, on August 14, 2018, the City Council by Resolution No. 2018-__R made findings and determinations relating to the Actual Costs of certain Neighborhood Improvement Area #2 Improvements, received and accepted a preliminary service and assessment plan and proposed assessment roll, called a public hearing for August 28, 2018 and directed City staff to (i) file said proposed assessment roll with the City Secretary and to make it available for public inspection as required by Section 372.016(b) of the PID Act and (ii) publish such notice as required by Section 372.016(b) of the PID Act relating to the August 28, 2018 hearing; and

WHEREAS, on August 17, 2018 the City Council, pursuant to Section 372.016(b) of the PID Act, published notice of a public hearing in the *Celina Record*, a newspaper of general circulation in the City and in the extraterritorial jurisdiction of the City in which the District is located, to consider the proposed "Neighborhood Improvement Area #2 Assessment Roll" and

the "Service and Assessment Plan" and the levy of the "Neighborhood Improvement Area #2 Assessments" on property in the District; and

WHEREAS, the City Council, pursuant to Section 372.016(c) of the PID Act, mailed notice of the public hearing to consider the proposed Neighborhood Improvement Area #2 Assessment Roll and the Service and Assessment Plan and the levy of Neighborhood Improvement Area #2 Assessments on property in the District to the last known address of the owners of the property liable for the Neighborhood Improvement Area #2 Assessments; and

WHEREAS, the City Council opened and convened the hearing on August 28, 2019, and at such public hearing all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the proposed Neighborhood Improvement Area #2 Assessment Roll and the Neighborhood Improvement Area #2 Assessments, and to offer testimony pertinent to any issue presented on the amount of the Neighborhood Improvement Area #2 Assessments, the allocation of Actual Costs of the Neighborhood Improvement Area #2 Improvements, the purposes of the Neighborhood Improvement Area #2 Assessments, the special benefits of the Neighborhood Improvement Area #2 Improvements, and the penalties and interest on annual installments and on delinquent annual installments of the Neighborhood Improvement Area #2 Assessments, and there were no written objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of Actual Costs of the Neighborhood Improvement Area #2 Improvements, the Neighborhood Improvement Area #2 Assessment Roll, and the levy of the Neighborhood Improvement Area #2 Assessments; and

WHEREAS, the City Council closed the hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, and

WHEREAS, on August 28, 2018, the City approved and accepted the Service and Assessment Plan in conformity with the requirements of the PID Act and adopted the Neighborhood Improvement Area #2 Assessment Ordinance and therein levied the Neighborhood Improvement Area #2 Assessments as provided in the Service and Assessment Plan and the Neighborhood Improvement Area #2 Assessment Roll; and

WHEREAS, on May 28, 2019, the City Council by Resolution No. 2019-26R made findings and determinations relating to the Actual Costs of certain Neighborhood Improvement Area #3 Improvements, received and accepted a preliminary service and assessment plan and proposed assessment roll, called a public hearing for June 11, 2019 and directed City staff to (i) file said proposed assessment roll with the City Secretary and to make it available for public inspection as required by Section 372.016(b) of the PID Act and (ii) publish such notice as required by Section 372.016(b) of the PID Act relating to the June 11, 2019 hearing; and

WHEREAS, on _____, 2019 the City Council, pursuant to Section 372.016(b) of the PID Act, published notice of a public hearing in the *Celina Record*, a newspaper of general circulation in the City and in the extraterritorial jurisdiction of the City in which the District is located, to consider the proposed "Neighborhood Improvement Area #3 Assessment Roll" and the "Service and Assessment Plan" and the levy of the "Neighborhood Improvement Area #3 Assessments" on property in the District; and

WHEREAS, the City Council, pursuant to Section 372.016(c) of the PID Act, mailed notice of the public hearing to consider the proposed Neighborhood Improvement Area #3 Assessment Roll and the Service and Assessment Plan and the levy of Neighborhood

Improvement Area #3 Assessments on property in the District to the last known address of the owners of the property liable for the Neighborhood Improvement Area #3 Assessments; and

WHEREAS, the City Council opened and convened the hearing on June 11, 2019, and at such public hearing all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the proposed Neighborhood Improvement Area #3 Assessment Roll and the Neighborhood Improvement Area #3 Assessments, and to offer testimony pertinent to any issue presented on the amount of the Neighborhood Improvement Area #3 Assessments, the allocation of Actual Costs of the Neighborhood Improvement Area #3 Improvements, the purposes of the Neighborhood Improvement Area #3 Assessments, the special benefits of the Neighborhood Improvement Area #3 Improvements, and the penalties and interest on annual installments and on delinquent annual installments of the Neighborhood Improvement Area #3 Assessments, and there were no written objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of Actual Costs of the Neighborhood Improvement Area #3 Improvements, the Neighborhood Improvement Area #3 Assessment Roll, and the levy of the Neighborhood Improvement Area #3 Assessments; and

WHEREAS, the City Council closed the hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, and

WHEREAS, on June 11, 2019, the City approved and accepted the Service and Assessment Plan in conformity with the requirements of the PID Act and adopted the Neighborhood Improvement Area #3 Assessment Ordinance and therein levied the Neighborhood Improvement Area #3 Assessments as provided in the Service and Assessment Plan and the Neighborhood Improvement Area #3 Assessment Roll; and

WHEREAS, the City Council is authorized by the PID Act to issue its revenue bonds payable from the Assessments for the purpose of (i) paying a portion of the Actual Costs of the Neighborhood Improvement Area #2-3 Improvements, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Neighborhood Improvement Area #2-3 Improvements, (iii) funding a reserve fund for payment of principal of and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization of the District, and (v) paying the costs of issuance of the Bonds; and

WHEREAS, the City Council now desires to issue revenue bonds, in accordance with the PID Act, such bonds to be entitled "City of Celina, Texas, Special Assessment Revenue Bonds, Series 2019 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-3 Project)" (the "Bonds"), such Bonds being payable solely from the Pledged Revenues and other funds pledged under this Indenture to the payment of the Bonds and for the purposes set forth in the preamble of this Indenture; and

WHEREAS, the Bonds are "Additional Obligations" as defined by that certain Indenture of Trust dated as of December 1, 2015 by and between the City and the Trustee relating to the "City of Celina, Texas, Special Assessment Revenue Bonds, Series 2015 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-5 Major Improvement Project)" (the "2015 Indenture") and the prerequisites required to issue the Additional Obligations set forth in Section 13.2(c) of the 2015 Indenture will be satisfied upon the issuance of the Bonds; and

WHEREAS, the Trustee has agreed to accept the trusts herein created upon the terms set forth in this Indenture;

NOW, THEREFORE, the City, in consideration of the foregoing premises and acceptance by the Trustee of the trusts herein created, of the purchase and acceptance of the Bonds by the Owners thereof, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, CONVEY, PLEDGE, TRANSFER, ASSIGN, and DELIVER to the Trustee for the benefit of the Owners, a security interest in all of the moneys, rights and properties described in the Granting Clauses hereof, as follows (collectively, the "Trust Estate"):

FIRST GRANTING CLAUSE

The Pledged Revenues, as herein defined, and all moneys and investments held in the Pledged Funds, including any contract or any evidence of indebtedness related thereto or other rights of the City to receive any of such moneys or investments, whether now existing or hereafter coming into existence, and whether now or hereafter acquired; and

SECOND GRANTING CLAUSE

Any and all other property or money of every name and nature which is, from time to time hereafter by delivery or by writing of any kind, conveyed, pledged, assigned or transferred, to the Trustee as additional security hereunder by the City or by anyone on its behalf or with its written consent, and the Trustee is hereby authorized to receive any and all such property or money at any and all times and to hold and apply the same subject to the terms thereof;

TO HAVE AND TO HOLD the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its successors or assigns;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the benefit of all present and future Owners of the Bonds from time to time issued under and secured by this Indenture, and for enforcement of the payment of the Bonds in accordance with their terms, and for the performance of and compliance with the obligations, covenants, and conditions of this Indenture;

PROVIDED, HOWEVER, that if and to the extent Assessments have been prepaid, the lien on real property associated with such Assessment prepayment shall be released from the Trust Estate and shall no longer constitute a part of the Trust Estate;

PROVIDED, FURTHER, HOWEVER, if the City or its assigns shall well and truly pay, or cause to be paid, the principal or redemption price of and the interest on all the Bonds at the times and in the manner stated in the Bonds, according to the true intent and meaning thereof, then this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture is to be and remain in full force and effect;

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated, and delivered and the Trust Estate hereby created, assigned, and pledged is to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses, and purposes as hereinafter expressed, and the City has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Owners from time to time of the Bonds as follows:

ARTICLE I

DEFINITIONS, FINDINGS AND INTERPRETATION

Section 1.1. Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Indenture, the following terms shall have the meanings specified below:

“Account” means any of the accounts established pursuant to Section 6.1 of this Indenture.

“Actual Costs” means, with respect to the Neighborhood Improvement Areas #2-3 Improvements, the demonstrated, reasonable, allocable, and allowable costs of constructing such Neighborhood Improvement Areas #2-3 Improvement, as specified in a NIA #2 Certification for Payment (with respect to Neighborhood Improvement Area #2 Improvements) or a NIA #3 Certification for Payment (with respect to Neighborhood Improvement Area #3 Improvements), that has been reviewed and approved by the City. Actual Cost may include (a) the costs for the design, planning, financing, administration, management, acquisition, installation, construction and/or implementation of such Neighborhood Improvement Areas #2-3 Improvement, (b) the costs of preparing the construction plans for such Neighborhood Improvement Areas #2-3 Improvement, (c) the fees paid for obtaining permits, licenses or other governmental approvals for such Neighborhood Improvement Areas #2-3 Improvement, (d) the costs for external professional costs associated with such Neighborhood Improvement Areas #2-3 Improvement, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, and taxes (e) the costs of all labor, bonds and materials, including equipment and fixtures, incurred by contractors, builders and material men in connection with the acquisition, construction or implementation of the Neighborhood Improvement Areas #2-3 Improvement, (f) all related permitting, zoning and public approval expenses, architectural, engineering, legal, and consulting fees, financing charges, taxes, governmental fees and charges (including inspection fees, County permit fees, development fees), insurance premiums, miscellaneous expenses, and all advances and payments for Administrative Expenses. Actual Costs include general contractor’s fees in an amount up to a percentage equal to the percentage of work completed and accepted by the City or construction management fees in an amount up to five percent of the eligible Actual Costs described in a NIA #2 Certification for Payment or a NIA #3 Certification for Payment, as applicable, that has been reviewed and approved by the City. The amounts expended on legal costs, taxes, governmental fees, insurance premiums, permits, financing costs, and appraisals shall be excluded from the base upon which the general contractor and construction management fees are calculated.

“Additional Obligations” means any bonds or obligations, including specifically, any installment contracts, reimbursement agreements, temporary notes or time warrants secured in whole or in part by an assessment, other than the Assessments securing the Bonds, levied against property within the District in accordance with the PID Act.

“Administrative Fund” means that Fund established by Section 6.1 and administered pursuant to Section 6.9 hereof.

“Administrator” means an employee or designee of the City who shall have the responsibilities provided in the Service and Assessment Plan, this Indenture, or any other agreement or document approved by the City related to the duties and responsibilities of the administration of the District. The initial Administrator shall be MuniCap, Inc.

"Administrative Expenses" means the administrative, organization, maintenance and operation costs and expenses associated with, or incident to, the administration, organization, maintenance and operation of the District, including, but not limited to, the costs of: (i) creating and organizing the District, including conducting hearings, preparing notices and petitions, and all costs incident thereto, including engineering fees, legal fees and consultant fees, (ii) the annual administrative, organization, maintenance, and operation costs and expenses associated with, or incident and allocable to, the administration, organization, and operation of the District, (iii) computing, levying, billing and collecting Assessments or the Annual Installments thereof, (iv) maintaining the record of installments of the Assessments and the system of registration and transfer of the Bonds, (v) issuing, paying and redeeming the Bonds (vii) investing or depositing of monies, (viii) complying with the PID Act and codes with respect to the Bonds, (ix) the Trustee fees and expenses relating to the Bonds, including other reasonable fees (x) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors (xi) administering the construction of the Neighborhood Improvement Areas #2-3 Improvements. Administrative Expenses do not include payment of the actual principal of, redemption premium, if any, and interest on the Bonds. Administrative Expenses collected and not expended for actual Administrative Expenses shall be carried forward and applied to reduce Administrative Expenses in subsequent years to avoid the over-collection of amounts to pay Administrative Expenses.

"Annual Debt Service" means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled (including by reason of Sinking Fund Installments), and (ii) the principal amount of the Outstanding Bonds due in such Bond Year (including any Sinking Fund Installments due in such Bond Year).

"Annual Installment" means, with respect to each Assessed Parcel, each annual payment of (i) the Assessment as shown on the Assessment Rolls and related to the Bonds and the Neighborhood Improvement Areas #2-3 Improvements; (ii) Administrative Expenses, (iii) the additional per annum interest payment equivalent to 0.50% higher than the rate on the Bonds which amount is used to fund the Prepayment and Delinquency Reserve Account.

"Annual Service Plan Update" means the annual review and update of the Service and Assessment Plan required by the PID Act and the Service and Assessment Plan.

"Applicable Laws" means the PID Act, and all other laws or statutes, rules, or regulations, and any amendments thereto, of the State of Texas or of the United States, by which the City and its powers, securities, operations, and procedures are, or may be, governed or from which its powers may be derived.

"Assessed Parcel" means each respective parcel of land located within Neighborhood Improvement Area #2 of the District and Neighborhood Improvement Area #3 of the District against which an Assessment is levied by either the Neighborhood Improvement Area #2 Assessment Ordinance or the Neighborhood Improvement Area #3 Assessment Ordinance, in accordance with the Service and Assessment Plan.

"Assessment Revenue" means monies collected by or on behalf of the City from any one or more of the following: (i) an Assessment levied against an Assessed Parcel, or Annual Installment payment thereof, including any interest on such Assessment or Annual Installment thereof during any period of delinquency, (ii) a Prepayment, (iii) and Foreclosure Proceeds.

"Assessment Ordinances" means, collectively, the Neighborhood Improvement Area #2 Assessment Ordinance and the Neighborhood Improvement Area #3 Assessment Ordinance.

"Assessments" means, collectively, the Neighborhood Improvement Area #2 Assessments and the Neighborhood Improvement Area #3 Assessments.

"Assessment Rolls" means, collectively, the Neighborhood Improvement Area #2 Assessment Roll and the Neighborhood Improvement Area #3 Assessment Roll.

"Authorized Denomination" means \$100,000 and any integral multiple of \$5,000 in excess thereof; provided, however, that if the total principal amount of the Outstanding Bonds is less than \$100,000 then the Authorized Denomination shall be the amount of the Outstanding Bonds.

"Authorized Improvements" means improvements authorized by Section 372.003 of the PID Act, including those listed in Section III-D and Section III-E of the Service and Assessment Plan, for which Assessments are levied against an Assessed Parcel that are designed, constructed, and installed in accordance with the Service and Assessment Plan or an Annual Service Plan Update.

"Bond" means any of the Bonds.

"Bond Counsel" means Norton Rose Fulbright US LLP or any other attorney or firm of attorneys designated by the City that are nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

"Bond Date" means the date designated as the initial date of the Bonds by Section 3.2(a) of this Indenture.

"Bond Fund" means the Fund established pursuant to Section 6.1 and administered as provided in Section 6.4.

"Bond Ordinance" means Ordinance No. 2019-__ adopted by the City Council on _____, 2019 authorizing the issuance of the Bonds pursuant to this Indenture.

"Bond Pledged Revenue Account" means the Account of such name established pursuant to Section 6.1.

"Bond Year" means the one-year period beginning on October 1 in each year and ending on September 30 in the following year.

"Bonds" means the City's bonds authorized to be issued by Section 3.1(a) of this Indenture entitled "City of Celina, Texas, Special Assessment Revenue Bonds, Series 2019 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-3 Project)".

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the State of Texas observed as such by the City or the Trustee.

"Capitalized Interest Account" means the Account of such name established pursuant to Section 6.1.

"City Certificate" means a certificate signed by a City Representative and delivered to the Trustee.

"City Order" means written instructions by the City, executed by a City Representative and delivered to the Trustee.

"City Representative" means any official or agent of the City authorized by the City Council to undertake the action referenced herein.

"Closing Date" means the date of the initial delivery of and payment for the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

"Costs of Issuance Account" means the Account established pursuant to Section 6.1.

"Defeasance Securities" means Investment Securities then authorized by applicable law for the investment of funds to defease public securities.

"Delinquent Collection Costs" means interest, penalties and expenses incurred or imposed with respect to any delinquent installment of an Assessment in accordance with the PID Act and the costs related to pursuing collection of a delinquent Assessment and foreclosing the lien against an Assessed Parcel, including attorney's fees.

"Designated Payment/Transfer Office" means (i) with respect to the initial Paying Agent/Registrar named in this Indenture, the transfer/payment office located in St. Paul, Minnesota, or such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

"Developer" means CADG Sutton Fields, LLC, a Texas limited liability company (including its successors and assigns).

"Development Agreement" means the Amended and Restated Sutton Fields Facilities and Development Agreement by and between the City and CADG Sutton Fields, LLC effective June 13, 2017 which provides for the development of property within the District, the creation of the District, the construction and financing of the Neighborhood Improvement Areas #2-3 Improvements and other matters related thereto.

"District Administration Account" means the Account of such name established pursuant to Section 6.1.

"DTC" shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" shall mean brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Foreclosure Proceeds” means the proceeds, including interest and penalty interest, received by the City from the enforcement of the Assessments against any Assessed Parcel or Assessed Parcels, whether by foreclosure of lien or otherwise, but excluding and net of all Delinquent Collection Costs.

“Fund” means any of the funds established pursuant to Section 6.1 of this Indenture.

“Indenture” means this Indenture of Trust as originally executed or as it may be from time to time supplemented or amended by one or more indentures supplemental hereto and entered into pursuant to the applicable provisions hereof.

“Independent Financial Consultant” means any consultant or firm of such consultants appointed by the City who, or each of whom: (i) is judged by the City, as the case may be, to have experience in matters relating to the issuance and/or administration of the Bonds; (ii) is in fact independent and not under the domination of the City; (iii) does not have any substantial interest, direct or indirect, with or in the City, or any owner of real property in the District, or any real property in the District; and (iv) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

“Initial Bond” means the Initial Bond as set forth in Exhibit A to this Indenture.

“Interest Payment Date” means the date or dates upon which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being on March 1 and September 1 of each year, commencing March 1, 2020.

“Investment Securities” means those authorized investments described in the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended; and provided that such investments are, at the time made, included in and authorized by the City’s official investment policy as approved by the City Council from time to time.

“Maximum Annual Debt Service” means the largest Annual Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bonds.

“Neighborhood Improvement Area #2” means the second Neighborhood Improvement Area to be developed within the District and further identified and described in the Service and Assessment Plan.

“Neighborhood Improvement Area #2 Assessment Ordinance” means Ordinance No. 2018-46 adopted by the City Council on August 28, 2018, that levied the Neighborhood Improvement Area #2 Assessments on the Assessed Parcels located within Neighborhood Improvement Area #2 of the District.

“Neighborhood Improvement Area #2 Assessments” means the aggregate assessments shown on the Neighborhood Improvement Area #2 Assessment Roll. The singular of such term means the assessment levied against an Assessed Parcel located within Neighborhood Improvement Area #2 of the District, as shown on the Neighborhood Improvement Area #2 Assessment Roll, subject to reallocation upon the subdivision of an Assessed Parcel located within Neighborhood Improvement Area #2 of the District or reduction according to the provisions of the Service and Assessment Plan and the PID Act.

“Neighborhood Improvement Area #2 Assessment Roll” means the assessment roll attached as Appendix B-2 to the Service and Assessment Plan or any other Neighborhood Improvement Area #2 Assessment Roll in an amendment or supplement to the Service and Assessment Plan or in an Annual Service Plan Update, showing the total amount of the Neighborhood Improvement Area #2 Assessment against each Assessed Parcel located within Neighborhood Improvement Area #2 of the District related to the Bonds and the Neighborhood Improvement Areas #2-3 Improvements, as updated, modified, or amended from time to time in accordance with the terms of the Service and Assessment Plan and the PID Act.

“Neighborhood Improvement Area #2 Improvement Account” means the Account of such name established pursuant to Section 6.1.

“Neighborhood Improvement Area #2 Improvements” means the Authorized Improvements which will only benefit Assessed Parcels located within Neighborhood Improvement Area #2 of the District more particularly described in Section III-D of the Service and Assessment Plan.

“Neighborhood Improvement Area #2 Reimbursement Agreement” means the reimbursement agreement between the City and the Developer, dated as of August 28, 2018, which provides, in part, for the deposit of proceeds from the issuance and sale of the Bonds and the payment of costs of Neighborhood Improvement Area #2 Improvements within Neighborhood Improvement Area #2 of the District, the issuance of bonds, the reimbursement of costs to the Developer from the proceeds of the Bonds for funds advanced by the Developer and used to pay costs of Neighborhood Improvement Area #2 Improvements and other matters related thereto.

“Neighborhood Improvement Area #3” means the third Neighborhood Improvement Area to be developed within the District and further identified and described in the Service and Assessment Plan.

“Neighborhood Improvement Area #3 Assessment Ordinance” means Ordinance No. 2019-__ adopted by the City Council on June 11, 2019, that levied the Neighborhood Improvement Area #3 Assessments on the Assessed Parcels located within Neighborhood Improvement Area #3 of the District.

“Neighborhood Improvement Area #3 Assessments” means the aggregate assessments shown on the Neighborhood Improvement Area #3 Assessment Roll. The singular of such term means the assessment levied against an Assessed Parcel located within Neighborhood Improvement Area #3 of the District, as shown on the Neighborhood Improvement Area #3 Assessment Roll, subject to reallocation upon the subdivision of an Assessed Parcel located within Neighborhood Improvement Area #3 of the District or reduction according to the provisions of the Service and Assessment Plan and the PID Act.

“Neighborhood Improvement Area #3 Assessment Roll” means the assessment roll attached as Appendix B-3 to the Service and Assessment Plan or any other Neighborhood Improvement Area #3 Assessment Roll in an amendment or supplement to the Service and Assessment Plan or in an Annual Service Plan Update, showing the total amount of the Neighborhood Improvement Area #3 Assessment against each Assessed Parcel located within Neighborhood Improvement Area #3 of the District related to the Bonds and the Neighborhood Improvement Areas #2-3 Improvements, as updated, modified, or amended from time to time in accordance with the terms of the Service and Assessment Plan and the PID Act.

"Neighborhood Improvement Area #3 Improvement Account" means the Account of such name established pursuant to Section 6.1.

"Neighborhood Improvement Area #3 Improvements" means the Authorized Improvements which will only benefit Assessed Parcels located within Neighborhood Improvement Area #3 of the District more particularly described in Section III-E of the Service and Assessment Plan.

"Neighborhood Improvement Area #3 Reimbursement Agreement" means the reimbursement agreement between the City and the Developer, dated as of June 11, 2019, which provides, in part, for the deposit of proceeds from the issuance and sale of the Bonds and the payment of costs of Neighborhood Improvement Area #3 Improvements within Neighborhood Improvement Area #3 of the District, the issuance of bonds, the reimbursement of costs to the Developer from the proceeds of the Bonds for funds advanced by the Developer and used to pay costs of Neighborhood Improvement Area #3 Improvements and other matters related thereto.

"Neighborhood Improvement Areas #2-3 Improvements" means, collectively, the Neighborhood Improvement Area #2 Improvements and the Neighborhood Improvement Area #3 Improvements.

"NIA #2 Certification for Payment" means a certificate substantially in the form of Exhibit B attached to the NIA #2 Construction, Funding and Acquisition Agreement or otherwise approved by the Developer and the City Representative executed by an engineer, construction manager or other person or entity acceptable to the City, as evidenced by the signature of a City Representative, delivered to the City Representative and the Trustee specifying the amount of work performed and the Actual Costs thereof related to Neighborhood Improvement Area #2 Improvements, and requesting payment for such Actual Costs of the Neighborhood Improvement Area #2 Improvements from money on deposit in the Neighborhood Improvement Area #2 Improvement Account of the Project Fund as further described in the NIA #2 Construction, Funding and Acquisition Agreement and Section 6.5 herein.

"NIA #2 Construction, Funding, and Acquisition Agreement" means the "Neighborhood Improvement Area #2 Construction, Funding and Acquisition Agreement" between the City and the Developer dated as of August 28, 2018 which relates to the levying and collection of Neighborhood Improvement Area #2 Assessments, the construction of the Neighborhood Improvement Area #2, the maintenance of the Neighborhood Improvement Area #2, the issuance of bonds and other matters related thereto.

"NIA #3 Certification for Payment" means a certificate substantially in the form of Exhibit B attached to the NIA #3 Construction, Funding and Acquisition Agreement or otherwise approved by the Developer and the City Representative executed by an engineer, construction manager or other person or entity acceptable to the City, as evidenced by the signature of a City Representative, delivered to the City Representative and the Trustee specifying the amount of work performed and the Actual Costs thereof related to Neighborhood Improvement Area #3 Improvements, and requesting payment for such Actual Costs of the Neighborhood Improvement Area #3 Improvements from money on deposit in the Neighborhood Improvement Area #3 Improvement Account of the Project Fund as further described in the NIA #3 Construction, Funding and Acquisition Agreement and Section 6.5 herein.

"NIA #3 Construction, Funding, and Acquisition Agreement" means the "Neighborhood Improvement Area #3 Construction, Funding and Acquisition Agreement" between the City and the Developer dated as of June 11, 2019 which relates to the levying and collection of Neighborhood Improvement Area #3 Assessments, the construction of the Neighborhood Improvement Area #3 Improvements, the maintenance of the Neighborhood Improvement Area #3 Improvements, the issuance of bonds and other matters related thereto.

"Outstanding" means, as of any particular date when used with reference to the Bonds, all Bonds authenticated and delivered under this Indenture except (i) any Bond that has been canceled by the Trustee (or has been delivered to the Trustee for cancellation) at or before such date, (ii) any Bond for which the payment of the principal or redemption price of and interest on such Bond shall have been made as provided in Article IV, and (iii) any Bond in lieu of or in substitution for which a new Bond shall have been authenticated and delivered pursuant to Section 3.10 herein.

"Owner(s)" means the Person or Persons who is the registered owner of any Bond, as shown in the Register, which shall be Cede & Co., as nominee for DTC, so long as the Bonds are in book-entry only form and held by DTC as securities depository in accordance with Section 3.11 herein.

"Paying Agent/Registrar" means initially the Trustee, or any successor thereto as provided in this Indenture.

"Person" or "Persons" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Petitioner" means CADG Sutton Fields, LLC, a Texas limited liability company.

"PID Act" means Texas Local Government Code, Chapter 372, as amended.

"Pledged Funds" means the Pledged Revenue Fund, the Bond Fund, the Project Fund, the Reserve Fund, and the Redemption Fund.

"Pledged Revenue Fund" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.3 herein.

"Pledged Revenues" means the sum of (i) Assessment Revenue less the Administrative Expenses, (ii) the moneys held in any of the Pledged Funds, and (iii) any additional revenues that the City may pledge to the payment of Bonds.

"Prepayment" means the payment of all or a portion of an Assessment before the due date thereof.

"Prepayment and Delinquency Reserve Account" means the Account of such name established pursuant to Section 6.1.

"Prepayment and Delinquency Reserve Requirement" means an amount equal to 5.50% of the principal amount of the Outstanding Bonds which will be funded from revenues received from the payment of Assessments deposited to the Pledged Revenue Fund.

"Principal and Interest Account" means the Account of such name established pursuant to Section 6.1.

"Project Fund" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.5 herein.

"Purchaser" means the initial purchaser of the Bonds.

"Rebate Amount" has the meaning set forth in section 1.148-1(b) of the Regulations.

"Rebate Fund" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.8 herein.

"Record Date" means the close of business on the fifteenth calendar day (whether or not a Business Day) of the month next preceding an Interest Payment Date.

"Redemption Fund" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.6 herein.

"Refunding Bonds" means bonds issued pursuant to the PID Act, as amended, and/or Chapter 1207 of the Texas Government Code, as amended, to refund all or any portion of the then-Outstanding Bonds.

"Reimbursement Agreements" means, collectively, the Neighborhood Improvement Area #2 Reimbursement Agreement and the Neighborhood Improvement Area #3 Reimbursement Agreement.

"Register" means the register specified in Article III of this Indenture.

"Reserve Account" means the Account of such name established pursuant to Section 6.1.

"Reserve Account Requirement" means the least of: (i) Maximum Annual Debt Service on the Bonds as of the date of issuance of the Bonds, (ii) 125% of average Annual Debt Service on the Bonds as of the date of issuance of the Bonds, or (iii) 10% of the proceeds of the Bonds; provided, however, that such amount shall be reduced by the amount of any transfers made pursuant to subsections (d) and (f) of Section 6.7; and provided further that as a result of an optional redemption pursuant to Section 4.3, the Reserve Account Requirement shall be reduced by a percentage equal to the pro rata principal amount of Bonds redeemed by such optional redemption divided by the total principal amount of the Outstanding Bonds prior to such redemption. As of the date of delivery of the Bonds, the Reserve Account Requirement is \$_____ which is an amount equal to [the Maximum Annual Debt Service] on the Bonds as of the date of issuance of the Bonds.

"Reserve Fund" means that fund established pursuant to Section 6.1 and administered in Section 6.7 herein.

"Reserve Fund Obligations" means cash or Investment Securities.

"Service and Assessment Plan" means the document entitled "Sutton Fields II Public Improvement District Amended and Restated Service and Assessment Plan" dated August 28,

2018, as updated on June 11, 2019 and _____, 2019, including the Neighborhood Improvement Area #2 Assessment Roll, as amended, and the Neighborhood Improvement Area #3, as amended, including any annual updates thereto, a version of which was attached as Exhibit ___ to the Neighborhood Improvement Area #2 Assessment Ordinance and as Exhibit ___ to the Neighborhood Improvement Area #3 Assessment Ordinance.

“Sinking Fund Installment” means the amount of money to redeem or pay at maturity the portion of the principal of Outstanding Bonds payable from such installments at the times and in the amounts provided in Section 4.2 herein.

“Stated Maturity” means the date of the Bonds, or any portion of the Bonds, as applicable, are scheduled to mature without regard to any redemption or prepayment.

“Supplemental Indenture” means an indenture which has been duly executed by the Trustee and the City Representative pursuant to an ordinance adopted by the City Council and which indenture amends or supplements this Indenture, but only if and to the extent that such indenture is specifically authorized hereunder.

“Tax Certificate” means the Certificate as to Tax Exemption delivered by the City on the Closing Date for the Bonds setting forth the facts, estimates and circumstances in existence on the Closing Date which establish that it is not expected that the proceeds of the Bonds will be used in a manner that would cause the interest on such Bonds to be included in the gross income of the Owners thereof for Federal income tax purposes.

“Trust Estate” means the Trust Estate described in the granting clauses of this Indenture.

“Trustee” means U.S. Bank National Association, Dallas, Texas, and its successors, and any other corporation or association that may at any time be substituted in its place, as provided in Article IX, such entity to serve as Trustee and Paying Agent/Registrar for the Bonds.

Section 1.2. Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Indenture are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.3. Table of Contents, Titles and Headings.

The table of contents, titles, and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Indenture or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.4. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Words importing persons include any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or agency or political subdivision thereof.

(c) Any reference to a particular Article or Section shall be to such Article or Section of this Indenture unless the context shall require otherwise.

(d) This Indenture and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Indenture.

ARTICLE II

THE BONDS

Section 2.1. Security for the Bonds.

The Bonds, as to both principal and interest, are and shall be equally and ratably secured by and payable from a first lien on and pledge of the Trust Estate.

The lien on and pledge of the Pledged Revenues shall be valid and binding and fully perfected from and after the Closing Date, which is the date of the delivery of this Indenture, without physical delivery or transfer of control of the Pledged Revenues, the filing of this Indenture or any other act; all as provided in Texas Government Code, Chapter 1208, as amended, which applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the City under this Indenture, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while any of the Bonds are Outstanding such that the pledge of the Pledged Revenues granted by the City under this Indenture is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

Section 2.2. Limited Obligations.

The Bonds are special and limited obligations of the City, payable solely from and secured solely by the Trust Estate, including the Pledged Revenues and the Pledged Funds; and the Bonds shall never be payable out of funds raised or to be raised by taxation or from any other revenues, properties or income of the City.

Section 2.3. Authorization for Indenture.

The terms and provisions of this Indenture and the execution and delivery hereof by the City to the Trustee have been duly authorized by official action of the City Council of the City. The City has ascertained and it is hereby determined and declared that the execution and delivery of this Indenture is necessary to carry out and effectuate the purposes set forth in the preambles of this Indenture and that each and every covenant or agreement herein contained and made is necessary, useful or convenient in order to better secure the Bonds and is a contract or agreement necessary, useful and convenient to carry out and effectuate the purposes herein described.

Section 2.4. Contract with Owners and Trustee.

(a) The purposes of this Indenture are to establish a lien and the security for, and to prescribe the minimum standards for the authorization, issuance, execution and delivery of, the Bonds and to prescribe the rights of the Owners, and the rights and duties of the City and the Trustee.

(b) In consideration of the purchase and acceptance of any or all of the Bonds by those who shall purchase and hold the same from time to time, the provisions of this Indenture shall be a part of the contract of the City with the Owners, and shall be deemed to be and shall constitute a contract among the City, the Owners, and the Trustee.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.1. Authorization.

The Bonds are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including particularly the PID Act, as amended. The Bonds shall be issued in the aggregate principal amount of \$_____ for the purpose of (i) paying a portion of the Actual Costs of the Neighborhood Improvement Areas #2-3 Improvements, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Neighborhood Improvement Areas #2-3 Improvements, (iii) funding a reserve fund for payment of principal of and interest on the Bonds, (iii) paying a portion of the costs incidental to the organization of the District, and (iv) paying the costs of issuance of the Bonds.

Section 3.2. Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall be dated October 1, 2019 (the "Bond Date") and shall be issued in Authorized Denominations. The Bonds shall be in fully registered form, without coupons, and shall be numbered separately from R-1 upward, except the Initial Bond, which shall be numbered T-1.

(b) Interest shall accrue and be paid on each Bond from the later of the date of initial delivery of the Bonds or the most recent Interest Payment Date to which interest has been paid or provided for, at the rate per annum set forth below until the principal thereof has been paid on the maturity date specified below or otherwise provided for. Such interest shall be payable semiannually on March 1 and September 1 of each year, commencing March 1, 2020 computed on the basis of a 360-day year of twelve 30-day months.

(c) The Bonds shall mature on September 1 in the years and in the principal amounts and shall bear interest as set forth below:

<u>Year</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
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<u>Year</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
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(d) The Bonds shall be subject to mandatory sinking fund redemption, optional redemption, and extraordinary optional redemption prior to maturity as provided in Article IV herein, and shall otherwise have the terms, tenor, denominations, details, and specifications as set forth in the form of Bond set forth in Exhibit A to this Indenture.

Section 3.3. Conditions Precedent to Delivery of Bonds.

The Bonds shall be executed by the City and delivered to the Trustee, whereupon the Trustee shall authenticate the Bonds and, upon payment of the purchase price of the Bonds, shall deliver the Bonds upon the order of the City, but only upon delivery to the Trustee of:

- (a) a certified copy of the Assessment Ordinances;
- (b) a certified copy of the Bond Ordinance;
- (c) a copy of the executed Reimbursement Agreements;
- (d) a copy of the executed Development Agreement;
- (e) a copy of the executed NIA #2 Construction, Funding and Acquisition Agreement;
- (f) a copy of the executed NIA #3 Construction, Funding and Acquisition Agreement;
- (g) a copy of this Indenture executed by the Trustee and the City; and

(h) a City Certificate directing the authentication and delivery of the Bonds, describing the Bonds to be authenticated and delivered, designating the purchasers to whom the Bonds are to be delivered, stating the purchase price of the Bonds and stating that all items required by this Section are therewith delivered to the Trustee in form and substance satisfactory to the City.

Section 3.4. Medium, Method and Place of Payment.

(a) Principal of and interest on the Bonds shall be paid in lawful money of the United States of America, as provided in this Section.

(b) Interest on the Bonds shall be payable to the Owners thereof as shown in the Register at the close of business on the relevant Record Date; provided, however, that in the event of nonpayment of interest on a scheduled Interest Payment Date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Trustee, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Trustee at the close of business on the last Business Day preceding the date of mailing such notice.

(c) Interest on the Bonds shall be paid by check, dated as of the Interest Payment Date, and sent, United States mail, first-class, postage prepaid, by the Paying Agent/Registrar to each Owner at the address of each as such appears in the Register or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, the Owner shall bear all risk and expense of such other banking arrangement.

(d) The principal of each Bond shall be paid to the Owner of such Bond on the due date thereof, whether at the maturity date or the date of prior redemption thereof, upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which such banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in Section 3.2 of this Indenture.

(f) Unclaimed payments of amounts due hereunder shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which such unclaimed payments pertain. Subject to any escheat, abandoned property, or similar law of the State of Texas, any such payments remaining unclaimed by the Owners entitled thereto for two (2) years after the applicable payment or redemption date shall be applied to the next payment or payments on such Bonds thereafter coming due and, to the extent any such money remains after the retirement of all Outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, none of the City, the Paying Agent/Registrar, or any other Person shall be liable or responsible to any holders of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to any applicable escheat law or similar law of the State of Texas.

Section 3.5. Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor or Mayor Pro Tem and City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Indenture unless and until there appears thereon the Certificate of Trustee substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Trustee. It shall not be required that the same officer or authorized signatory of the Trustee sign the Certificate of Trustee on all of the Bonds. In lieu of the executed Certificate of Trustee described above, the

Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his or her duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas, is a valid and binding obligation of the City, and has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Bond representing the entire principal amount of all of the Bonds, payable in stated installments to the Purchaser, or its designee, executed with the manual or facsimile signatures of the Mayor or Mayor Pro Tem and the City Secretary, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Bond, the Trustee shall cancel the Initial Bond and deliver to DTC on behalf of the Purchaser one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC.

Section 3.6. Ownership.

(a) The City, the Trustee, the Paying Agent/Registrar and any other Person may treat the Person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the Person in whose name such Bond is registered on the relevant Record Date) and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Trustee, nor the Paying Agent/Registrar, shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of any Bond shall be valid and effectual and shall discharge the liability of the City, the Trustee and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.7. Registration, Transfer and Exchange.

(a) So long as any Bond remains Outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a Register in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Indenture. The Paying Agent/Registrar represents and warrants that it will file and maintain a copy of the Register with the City, and shall cause the Register to be current with all registration and transfer information as from time to time may be applicable.

(b) A Bond shall be transferable only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and bearing the same interest rate and in any Authorized Denomination and in an aggregate principal amount equal to the unpaid principal amount of the Bond presented for exchange. The Trustee is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) The Trustee is hereby authorized to authenticate and deliver Bonds transferred or exchanged in accordance with this Section. A new Bond or Bonds will be delivered by the Paying Agent/Registrar, in lieu of the Bond being transferred or exchanged, at the Designated Payment/Transfer Office, or sent by United States mail, first-class, postage prepaid, to the Owner or his designee. Each transferred Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such transferred Bond is delivered.

(e) Each exchange Bond delivered in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(f) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different Authorized Denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer, or exchange of a Bond.

(g) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond or portion thereof called for redemption prior to maturity within forty-five (45) days prior to the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

Section 3.8. Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Indenture, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Indenture, shall be cancelled, and proper records shall be made regarding such payment, redemption, exchange, or replacement. The Paying Agent/Registrar shall dispose of cancelled Bonds in accordance with the records retention requirements of the Trustee.

Section 3.9. Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the City may execute and, upon the City's request, the Trustee shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Indenture.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Trustee the Bonds in definitive form; thereupon, upon the presentation and surrender of the

Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and the Trustee shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the Authorized Denomination, and in the same aggregate principal amount, as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.10. Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Trustee shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Trustee, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the Trustee to save them and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Trustee and the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Trustee.

(c) After the delivery of such replacement Bond, if a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the Person to whom it was delivered or any Person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the City, the Paying Agent/Registrar or the Trustee in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the

benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.11. Book-Entry Only System.

The Bonds shall initially be issued in book-entry-only form and shall be deposited with DTC, which is hereby appointed to act as the securities depository therefor, in accordance with the letter of representations from the City to DTC. On the Closing Date, the definitive Bonds shall be issued in the form of a single typewritten certificate for each maturity thereof registered in the name of Cede & Co., as nominee for DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any Person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other Person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other Person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Indenture to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the Person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners as shown in the Register, as provided in this Indenture, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No Person other than an Owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Indenture. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Indenture with respect to interest checks or drafts being mailed to the registered owner at the close of business on the relevant Record Date, the word "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

Section 3.12. Successor Securities Depository: Transfer Outside Book-Entry-Only System.

In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the letter of representations from the City to DTC, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC

accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Indenture.

Section 3.13. Payments to Cede & Co.

Notwithstanding any other provision of this Indenture to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the blanket letter of representations from the City to DTC.

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.1. Limitation on Redemption.

The Bonds shall be subject to redemption before their scheduled maturity only as provided in this Article IV.

Section 4.2. Mandatory Sinking Fund Redemption.

(a) The Bonds are subject to mandatory sinking fund redemption prior to their Stated Maturity and will be redeemed by the City in part at the price of par plus accrued and unpaid interest to the date of redemption from moneys available for such purpose in the Principal and Interest Account of the Bond Fund pursuant to Article VI, on the dates and in the respective Sinking Fund Installments as set forth in the following schedule:

Term Bonds Maturing September 1, 20

<u>Redemption Date</u>	<u>Sinking Fund Installments</u>	<u>Redemption Date</u>	<u>Sinking Fund Installments</u>
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* Stated Maturity

Term Bonds Maturing September 1, 20

<u>Redemption Date</u>	<u>Sinking Fund Installments</u>	<u>Redemption Date</u>	<u>Sinking Fund Installments</u>
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* Stated Maturity

(b) At least forty-five (45) days prior to each mandatory sinking fund redemption date, the Trustee shall select a principal amount of Bonds of such maturity equal to the Sinking Fund Installment of such Bonds to be redeemed, shall call such Bonds for redemption on such scheduled mandatory sinking fund redemption date, and shall give notice of such redemption, as provided in Section 4.6.

(c) The principal amount of Bonds of a Stated Maturity required to be redeemed on any mandatory sinking fund redemption date pursuant to subparagraph (a) of this Section 4.2 shall be reduced, at the option of the City, by the principal amount of any Bonds of such maturity which, at least 45 days prior to the mandatory sinking fund redemption date shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued unpaid interest to the date of purchase thereof, and delivered to the Trustee for cancellation.

(d) The principal amount of Bonds required to be redeemed on any mandatory sinking fund redemption date pursuant to subparagraph (a) of this Section 4.2 shall be reduced on a pro rata basis among Outstanding Sinking Fund Installments by the principal amount of any Bonds which, at least forty-five (45) days prior to the sinking fund redemption date, shall have been redeemed pursuant to the optional redemption or extraordinary optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Section 4.3. Optional Redemption.

The City reserves the right and option to redeem Bonds maturing on or after September 1, 20__ before their scheduled maturity date, in whole or in part, on any date on or after September 1, 20__, at the price of par plus accrued interest to the date of redemption.

Section 4.4. Extraordinary Optional Redemption.

The City reserves the right and option to redeem Bonds before their scheduled maturity date, in whole or in part, on the first day of any month, at the price of 100% of the principal amount of such Bonds, or portions thereof, to be redeemed plus accrued interest to the date of redemption from amounts on deposit in the Redemption Fund as a result of Prepayments (including related transfers to the Redemption Fund made pursuant to Sections 6.3(d), 6.3(e), 6.7(b), 6.7(d), 6.7(f), 6.7(h), or 6.7(j) hereof, or as a result of unexpended amounts transferred from the Project Fund as provided in Section 6.5(c) and 6.5(d)).

Section 4.5. Partial Redemption.

(a) If less than all of the Bonds are to be redeemed pursuant to either Sections 4.2, or 4.3, Bonds shall be redeemed in minimum principal amounts of \$100,000 or any integral of \$5,000 in excess thereof by a pro rata reduction of the outstanding maturities. If less than all of the Bonds of a particular maturity are to be redeemed, the Bonds of such maturity shall be redeemed by lot or other customary method that results in a random selection. Each Bond shall be treated as representing the number of Bonds that is obtained by dividing the principal amount of such Bond by the smallest Authorized Denomination for such Bond.

(b) If less than all of the Bonds are to be redeemed pursuant to Section 4.4, Bonds shall be redeemed in minimum principal amounts of \$5,000 or any integral of \$5,000 in excess thereof by a pro rata reduction of the outstanding maturities. If less than all of the Bonds of a particular maturity are to be redeemed, the Bonds of such maturity shall be redeemed by lot or other customary method that results in a random selection. Each Bond shall be treated as representing the number of Bonds that is obtained by dividing the principal amount of such Bond by the smallest Authorized Denomination for such Bond.

(c) Notwithstanding the foregoing, no redemption shall result in a Bond in a denomination of less than an Authorized Denomination; provided, however, if the amount of Outstanding Bonds is less than an Authorized Denomination after giving effect to such partial redemption, a Bond in the principal amount equal to the unredeemed portion, but not less than \$1,000, may be issued.

(d) Upon surrender of any Bond for redemption in part, the Trustee in accordance with Section 3.7 of this Indenture, shall authenticate and deliver and exchange the Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

Section 4.6. Notice of Redemption to Owners.

(a) The Trustee shall give notice of any redemption of Bonds by sending notice by United States mail, first-class, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond or portion thereof to be redeemed, at the address shown in the Register. So long as the Bonds are in book-entry-only form and held by the DTC as security depository, Owner means Cede & Co., as nominee for DTC.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds Outstanding are to be redeemed, and subject to Section 4.5 hereof, an identification of the Bonds or portions thereof to be redeemed, any conditions to such redemption and that on the redemption date, if all conditions, if any, to such redemption have been satisfied, such Bond shall become due and payable.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

(d) The City has the right to rescind any optional redemption or extraordinary optional redemption described in Section 4.3 or 4.4 by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default under the Indenture. The Trustee shall mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

(e) With respect to any optional redemption of the Bonds, unless the Trustee has received funds sufficient to pay the redemption price of the Bonds to be redeemed before giving of a notice of redemption, the notice may state the City may condition redemption on the receipt of such funds by the Trustee on or before the date fixed for the redemption, or on the satisfaction of any other prerequisites set forth in the notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not satisfied and

sufficient funds are not received, the notice shall be of no force and effect, the City shall not redeem the Bonds and the Trustee shall give notice, in the manner in which the notice of redemption was given, that the Bonds have not been redeemed.

Section 4.7. Payment Upon Redemption.

(a) The Trustee shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust an amount from the Redemption Fund or otherwise received by the Trustee from the City and shall use such funds solely for the purpose of paying the redemption price on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the designated corporate trust office of the Trustee on or after the date fixed for redemption, the Trustee shall pay the redemption price on such Bond to the date of redemption from the moneys set aside for such purpose.

Section 4.8. Effect of Redemption.

Notice of redemption having been given as provided in Section 4.6 of this Indenture, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption provided that funds for the payment of the principal amount of plus accrued and unpaid interest on such Bonds to the date fixed for redemption are on deposit with the Trustee; thereafter, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

ARTICLE V

FORM OF THE BONDS

Section 5.1. Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Trustee, and the Assignment to appear on each of the Bonds, (i) shall be substantially in the form set forth in Exhibit A to this Indenture with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Indenture, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 5.2. CUSIP Registration.

The City may secure identification numbers through the CUSIP Services managed by S&P Global Market Intelligence on behalf of The American Bankers Association, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and none of the City, the Trustee, or the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds. The Trustee may include in any redemption notice a statement to the effect that the CUSIP numbers on the Bonds have been assigned by an independent service and are included in such notice solely for the convenience of the Owners of the Bonds and that neither the City nor the Trustee shall be liable for any inaccuracies of such numbers.

Section 5.3. Legal Opinion.

The approving legal opinion of Bond Counsel may be printed on or attached to each Bond over the certification of the City Secretary of the City, which may be executed in facsimile.

ARTICLE VI

FUNDS AND ACCOUNTS

Section 6.1. Establishment of Funds and Accounts.

(a) Creation of Funds. The following Funds are hereby created and established under this Indenture:

- (i) Pledged Revenue Fund;
- (ii) Bond Fund;
- (iii) Project Fund;
- (iv) Reserve Fund;
- (v) Redemption Fund;
- (vi) Rebate Fund; and
- (vii) Administrative Fund.

(b) Creation of Accounts.

(i) The following Accounts are hereby created and established under the Bond Fund:

- (A) Principal and Interest Account; and
- (B) Capitalized Interest Account.

(ii) The following Accounts are hereby created and established under the Reserve Fund:

- (A) Reserve Account; and

(B) Prepayment and Delinquency Reserve Account.

(iii) The following Accounts are hereby created and established under the Project Fund:

(A) Neighborhood Improvement Area #2 Improvement Account;

(B) Neighborhood Improvement Area #3 Improvement Account; and

(C) Costs of Issuance Account.

(iv) The following Account is hereby created and established under the Pledged Revenue Fund:

(A) Bond Pledged Revenue Account.

(v) The following Account is hereby created and established under the Administrative Fund:

(A) District Administration Account.

(c) Each Fund and each Account created within such Fund shall be maintained by the Trustee separate and apart from all other funds and accounts of the City. The Pledged Funds shall constitute trust funds which shall be held in trust by the Trustee as part of the Trust Estate solely for the benefit of the Owners of the Bonds.

(d) Interest earnings and profit on each respective Fund and Account established by this Indenture shall be applied or withdrawn for the purposes of such Fund or Account as specified below.

Section 6.2. Initial Deposits to Funds and Accounts.

(a) The proceeds from the sale of the Bonds shall be paid to the Trustee and deposited or transferred by the Trustee as follows:

(i) to the Capitalized Interest Account of the Bond Fund: \$_____;

(ii) to the Reserve Account of the Reserve Fund: \$_____;

(iii) to the Costs of Issuance Account of the Project Fund: \$_____;

(iv) to the Neighborhood Improvement Area #2 Improvement Account of the Project Fund: \$_____;

(v) to the Neighborhood Improvement Area #3 Improvement Account of the Project Fund: \$_____; and

(vi) to the District Administration Account of the Administrative Fund: \$_____.

Section 6.3. Pledged Revenue Fund.

(a) On or before February 1 of each year while the Bonds are Outstanding and beginning in 2020, the City shall deposit or cause to be deposited the Pledged Revenues into the Pledged Revenue Fund. Specifically, the City shall deposit or cause to be deposited Assessment Revenues as follows: (i) first, to the Bond Pledged Revenue Account of the Pledged Revenue Fund in an amount sufficient to pay debt service on the Bonds next coming due, (ii) second, to the Reserve Account of the Reserve Fund in an amount to cause the amount in the Reserve Account to equal the Reserve Account Requirement, (iii) third, to the Prepayment and Delinquency Reserve Account in an amount equal to the Prepayment and Delinquency Reserve Requirement, and (iv) fourth, after satisfaction of the Prepayment and Delinquency Reserve Requirement, to the Redemption Fund.

(b) From time to time as needed to pay the obligations relating to the Bonds, but no later than five (5) Business Days before each Interest Payment Date, the Trustee shall withdraw from the Bond Pledged Revenue Account and transfer to the Principal and Interest Account of the Bond Fund, an amount, taking into account any amounts then on deposit in such Principal and Interest Account and any expected transfers from the Capitalized Interest Account to the Principal and Interest Account, such that the amount on deposit in the Principal and Interest Account equals the principal (including any Sinking Fund Installments) and interest due on the Bonds on the next Interest Payment Date.

(c) If, after the foregoing transfers and any transfer from the Reserve Fund as provided in Section 6.7 herein, there are insufficient funds to make the payments provided in paragraph (b) above, the Trustee shall apply the available funds in the Principal and Interest Account first to the payment of interest, then to the payment of principal (including any Sinking Fund Installments) on the Bonds.

(d) Notwithstanding Section 6.3(a) hereof, the Trustee shall deposit Prepayments to the Pledged Revenue Fund and as soon as practicable after such deposit shall transfer such Prepayments to the Redemption Fund.

(e) Notwithstanding Section 6.3(a) hereof, the Trustee shall deposit Foreclosure Proceeds to the Pledged Revenue Fund and as soon as practicable after such deposit shall transfer Foreclosure Proceeds first, to the Reserve Fund to restore any transfers from the Reserve Fund made with respect to the Assessed Parcel or Assessed Parcels to which the Foreclosure Proceeds relate, and second, to the Redemption Fund.

(f) After satisfaction of the requirement to provide for the payment of the principal and interest on the Bonds and to fund any deficiency that may exist in the Reserve Fund, the City may direct the Trustee, by City Order, to apply Assessments for any lawful purposes permitted by the PID Act for which Assessments may be paid.

Section 6.4. Bond Fund.

(a) On each Interest Payment Date, the Trustee shall withdraw from the Principal and Interest Account and transfer to the Paying Agent/Registrar the principal (including any Sinking Fund Installments) and/or interest then due and payable on the Bonds, less any amount to be used to pay interest on the Bonds on such Interest Payment Date from the Capitalized Interest Account as provided below.

(b) If amounts in the Principal and Interest Account are insufficient for the purposes set forth in paragraph (a) above, the Trustee shall withdraw from the Reserve Fund amounts to cover the amount of such insufficiency, in the order described in Section 6.7(g) hereof. Amounts so withdrawn from the Reserve Fund shall be deposited in the Principal and Interest Account and transferred to the Paying Agent/Registrar.

(c) Moneys in the Capitalized Interest Account shall be used for the payment of interest on the Bonds on the following date and in the following amount:

<u>Date</u>	<u>Amount (\$)</u>
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Any amounts on deposit to the Capitalized Interest Account after the payment of interest on the dates and in the amounts listed above shall be transferred to the Improvement Account of the Project Fund, or if the Project Fund has been closed as provided in Section 6.5(f) herein, such amounts shall be transferred to the Redemption Fund to be used to redeem Bonds and the Capitalized Interest Account shall be closed.

Section 6.5. Project Fund.

(a) Money on deposit in the Project Fund shall be used for the purposes specified in Section 3.1 hereof. Notwithstanding any other provisions, money on deposit in the Neighborhood Improvement Area #2 Improvement Account of the Project fund shall only be used to pay Actual Costs of the Neighborhood Improvement Area #2 Improvements and money on deposit in the Neighborhood Improvement Area #3 Improvement Account of the Project Fund shall only be used to pay Actual Costs of Neighborhood Improvement Area #3 Improvements.

(b) Disbursements from the Costs of Issuance Account of the Project Fund shall be made by the Trustee to pay costs of issuance of the Bonds pursuant to one or more City Certificates. Disbursements from the Neighborhood Improvement Area #2 Improvement Account of the Project Fund to pay Actual Costs of the Neighborhood Improvement Area #2 Improvements shall be made by the Trustee upon receipt by the Trustee of a properly executed and completed NIA #2 Certification for Payment. Disbursements from the Neighborhood Improvement Area #3 Improvement Account of the Project Fund to pay Actual Costs of the Neighborhood Improvement Area #3 Improvements shall be made by the Trustee upon receipt by the Trustee of a properly executed and completed NIA #3 Certification for Payment. The disbursement of funds from Accounts within the Project Fund pursuant to a either a NIA #2 Certification for Payment or a NIA #3 Certification for Payment shall be pursuant to and in accordance with the disbursement procedures described in the NIA #2 Construction, Funding and Acquisition Agreement (with respect to a NIA #2 Certification for Payment) or in the NIA #3 Construction, Funding and Acquisition Agreement (with respect to a NIA #3 Certification for Payment), respectively. Such provisions and procedures related to such disbursement contained in the NIA #2 Construction, Funding and Acquisition Agreement and the NIA #3 Construction, Funding and Acquisition Agreement, as applicable, and no other provisions of the NIA #2 Construction, Funding and Acquisition Agreement or NIA #3 Construction, Funding and Acquisition Agreement, are herein incorporated by reference and deemed set forth herein in full.

(c) If the City Representative determines in his or her sole discretion that amounts then on deposit in the Neighborhood Improvement Area #2 Improvement Account of the Project Fund are not expected to be expended for purposes of the Neighborhood Improvement Area #2 Improvement Account due to the abandonment, or constructive abandonment, of the Neighborhood Improvement Area #2 Improvements, such that, in the opinion of the City Representative, it is unlikely that the amounts in the Neighborhood Improvement Area #2 Improvement Account of the Project Fund will ever be expended for the purposes of the Neighborhood Improvement Area #2 Improvement Account, the City Representative shall file a City Certificate with the Trustee which identifies the amounts then on deposit in the Neighborhood Improvement Area #2 Improvement Account of the Project Fund that are not expected to be used for purposes of paying Actual Costs of the Neighborhood Improvement Area #2 Improvements. If such City Certificate is so filed, the amounts on deposit in the Neighborhood Improvement Area #2 Improvement Account of the Project Fund shall be transferred to the Redemption Fund to redeem Bonds on the earliest practicable date after notice of redemption has been provided in accordance with the Indenture.

(d) If the City Representative determines in his or her sole discretion that amounts then on deposit in the Neighborhood Improvement Area #3 Improvement Account of the Project Fund are not expected to be expended for purposes of the Neighborhood Improvement Area #3 Improvement Account due to the abandonment, or constructive abandonment, of the Neighborhood Improvement Area #3 Improvements, such that, in the opinion of the City Representative, it is unlikely that the amounts in the Neighborhood Improvement Area #3 Improvement Account of the Project Fund will ever be expended for the purposes of the Neighborhood Improvement Area #3 Improvement Account, the City Representative shall file a City Certificate with the Trustee which identifies the amounts then on deposit in the Neighborhood Improvement Area #3 Improvement Account of the Project Fund that are not expected to be used for purposes of paying Actual Costs of the Neighborhood Improvement Area #3 Improvements. If such City Certificate is so filed, the amounts on deposit in the Neighborhood Improvement Area #3 Improvement Account of the Project Fund shall be transferred to the Redemption Fund to redeem Bonds on the earliest practicable date after notice of redemption has been provided in accordance with the Indenture.

(e) In making any determination pursuant to this Section, the City Representative may conclusively rely upon a certificate of an Independent Financial Consultant.

(f) Upon the filing of a City Certificate stating that all Neighborhood Improvement Area #2 Improvements have been completed and that all Actual Costs of the Neighborhood Improvement Area #2 Improvements have been paid, or that any such Actual Costs of the Neighborhood Improvement Area #2 Improvements are not required to be paid from the Neighborhood Improvement Area #2 Improvement Account of the Project Fund pursuant to a NIA #2 Certification for Payment, the Trustee (i) shall transfer the amount, if any, remaining within the Neighborhood Improvement Area #2 Improvement Account of the Project Fund to the Bond Fund and (ii) the Neighborhood Improvement Area #2 Improvement Account of the Project Fund shall be closed. Upon the filing of a City Certificate stating that all Neighborhood Improvement Area #3 Improvements have been completed and that all Actual Costs of the Neighborhood Improvement Area #3 Improvements have been paid, or that any such Actual Costs of the Neighborhood Improvement Area #3 Improvements are not required to be paid from the Neighborhood Improvement Area #3 Improvement Account of the Project Fund pursuant to a NIA #3 Certification for Payment, the Trustee (i) shall transfer the amount, if any, remaining within the Neighborhood Improvement Area #3 Improvement Account of the Project Fund to the Bond Fund and (ii) the Neighborhood Improvement Area #3 Improvement Account

of the Project Fund shall be closed. If both the Neighborhood Improvement Area #2 Improvement Account and the Neighborhood Improvement Area #3 Improvement Account have been closed pursuant to the provisions of this Section, the Project Fund shall be closed.

(g) Not later than six months following the Closing Date, upon a determination by the City Representative that all costs of issuance of the Bonds have been paid, any amounts remaining in the Costs of Issuance Account shall be transferred to another Account in the Project Fund and used to pay Actual Costs of the Neighborhood Improvement Areas #2-3 Improvements or to the Principal and Interest Account of the Bond Fund and used to pay interest on the Bonds, as directed by the City in a City Certificate filed with the Trustee, and the Costs of Issuance Account shall be closed.

Section 6.6. Redemption Fund.

(a) The Trustee shall cause to be deposited to the Redemption Fund from the Bond Pledged Revenue Account of the Pledged Revenue Fund an amount sufficient to redeem Bonds as provided in Sections 4.3 and 4.4 on the dates specified for redemption as provided in Sections 4.3 and 4.4. Amounts on deposit in the Redemption Fund shall be used and withdrawn by the Trustee to redeem Bonds as provided in Article IV.

Section 6.7. Reserve Fund.

(a) The City agrees with the Owners of the Bonds to accumulate from the deposits outlined in Section 6.3(a) hereof, and when accumulated maintain in the Reserve Account of the Reserve Fund, an amount equal to not less than the Reserve Account Requirement. All amounts deposited in the Reserve Account of the Reserve Fund shall be used and withdrawn by the Trustee for the purpose of making transfers to the Principal and Interest Account of the Bond Fund as provided in this Indenture.

(b) The Trustee, if needed, will transfer from the Bond Pledged Revenue Account of the Pledged Revenue Fund to the Prepayment and Delinquency Reserve Account on March 1 and September 1 of each year, commencing March 1, 2020 an amount equal to .50% of the interest rate component of the Annual Installments to the Prepayment and Delinquency Reserve Account. Once the Prepayment and Delinquency Reserve Requirement has accumulated in the Prepayment and Delinquency Reserve Account, all amounts in excess of the Prepayment and Delinquency Reserve Requirement shall be transferred by the Trustee to the Redemption Fund to redeem Bonds as provided in Article IV; provided, however, that at any time the amount on deposit in the Prepayment and Delinquency Reserve Account is less than the Prepayment and Delinquency Reserve Requirement, the Trustee shall resume depositing such amounts from the Bond Pledged Revenue Account into the Prepayment and Delinquency Reserve Account until the Prepayment and Delinquency Reserve Requirement has accumulated in the Prepayment and Delinquency Reserve Account.

(c) Whenever a transfer is made from any Account of the Reserve Fund to the Bond Fund due to a deficiency in the Bond Fund, the Trustee shall provide written notice thereof to the City, specifying the amount withdrawn and the source of said funds.

(d) Whenever Bonds are to be redeemed with the proceeds of Prepayments pursuant to Section 4.4, a proportionate amount in the Reserve Account of the Reserve Fund shall be transferred on the Business Day prior to the redemption date (or such other date as directed by a City Order) by the Trustee to the Redemption Fund to be applied to the

redemption of the Bonds. The amount so transferred from the Reserve Account of the Reserve Fund shall be equal to a percentage of the amount of the Bonds redeemed with such percentage equal to the lesser of: (i) the amount required to be in the Reserve Account of the Reserve Fund, as a percentage of the Outstanding Bonds prior to the redemption, and (ii) the amount actually in the Reserve Account of the Reserve Fund, as a percentage of the Outstanding Bonds prior to the redemption. If after such transfer, and after applying investment earnings on the Prepayment toward payment of accrued interest, there are insufficient funds to pay the principal amount plus accrued and unpaid interest on such Bonds to the date fixed for redemption of the Bonds to be redeemed as a result of such Prepayment, the Trustee shall transfer an amount equal to the shortfall from the Prepayment and Delinquency Reserve Account to the Redemption Fund to be applied to the redemption of the Bonds.

(e) Whenever, on any Interest Payment Date, or on any other date at the written request of a City Representative, the amount in the Reserve Account exceeds the Reserve Account Requirement, the Trustee shall provide written notice to the City Representative of the amount of the excess. Such excess shall be transferred to the Principal and Interest Account to be used for the payment of interest on the Bonds on the next Interest Payment Date in accordance with Section 6.4 hereof, unless within thirty days of such notice to the City Representative, the Trustee receives a City Order instructing the Trustee to apply such excess: (i) to pay amounts due under Section 6.8 hereof, (ii) to the Administrative Fund in an amount not more than the Administrative Expenses for the Bonds, or (iii) to the Project Fund if such application and the expenditure of funds is expected to occur within three years of the date hereof.

(f) Whenever, on any Interest Payment Date, or on any other date at the written request of the City Representative, the value of cash and the value of Investment Securities on deposit in the Prepayment and Delinquency Reserve Account exceeds the Prepayment and Delinquency Reserve Requirement, the Trustee shall provide written notice to the City of the amount of the excess. The amount of such excess on deposit in the Prepayment and Delinquency Reserve Account shall be transferred to the Redemption Fund in order to effect the redemption of Bonds pursuant to Section 4.4. hereof or as otherwise provided by the City pursuant to written direction.

(g) Whenever, on any Interest Payment Date, the amount on deposit in the Bond Fund is insufficient to pay the debt service on the Bonds due on such date, the Trustee shall transfer first, from the Prepayment and Delinquency Reserve Account of the Reserve Fund to the Bond Fund and second, from the Reserve Account of the Reserve Fund to the Bond Fund the amounts necessary to cure such deficiency.

(h) At the final maturity of the Bonds, the amount on deposit in the Reserve Account and the Prepayment and Delinquency Reserve Account of the Reserve shall be transferred to the Redemption Fund and applied to the payment of the principal of the Bonds.

(i) If, after a Reserve Account withdrawal, the amount on deposit in the Reserve Account of the Reserve Fund is less than the Reserve Account Requirement, the Trustee shall transfer from the Pledged Revenue Fund to the Reserve Account of the Reserve Fund the amount of such deficiency, in accordance with Section 6.3.

(j) If the amount held in the Reserve Fund together with the amount held in the Bond Fund and Redemption Fund is sufficient to pay the principal amount and of all Outstanding Bonds on the next Interest Payment Date, together with the unpaid interest

accrued on such Outstanding Bonds as of such Interest Payment Date, the moneys in these funds shall be transferred to the Redemption Fund and thereafter used to redeem all Outstanding Bonds as of such Interest Payment Date.

Section 6.8. Rebate Fund: Rebate Amount.

(a) There is hereby established a special fund of the City to be designated "City of Celina, Texas, Rebate Fund" (the "Rebate Fund") to be held by the Trustee in accordance with the terms and provisions of this Indenture. Amounts on deposit in the Rebate Fund shall be used solely for the purpose of paying amounts due the United States Government in accordance with the Code.

(b) In order to assure that Rebate Amount is paid to the United States rather than to a third party, investments of funds on deposit in the Rebate Fund shall be made in accordance with the Code and the Tax Certificate.

(c) The Trustee conclusively shall be deemed to have complied with the provisions of this Section and Section 7.5(h) and shall not be liable or responsible if it follows the instructions of the City and shall not be required to take any action under this Section and Section 7.5(h) in the absence of written instructions from the City.

(d) If, on the date of each annual calculation, the amount on deposit in the Rebate Fund exceeds the Rebate Amount, the City may direct the Trustee, pursuant to a City Order, to transfer the amount in excess of the Rebate Amount to the Bond Fund.

Section 6.9. Administrative Fund.

(a) The City shall deposit or cause to be deposited to the District Administration Account of the Administrative Fund the amounts collected each year to pay the Administrative Expenses and Delinquent Collection Costs.

(b) Moneys in the District Administration Account of the Administrative Fund shall be held by the Trustee separate and apart from the other Funds created and administered hereunder and used as directed by a City Order solely for the purposes set forth in the Service and Assessment Plan.

Section 6.10. Investment of Funds.

(a) Money in any Fund or Account established pursuant to this Indenture shall be invested by the Trustee as directed by the City pursuant to a City Order filed with the Trustee at least two (2) days in advance of the making of such investment in time deposits or certificates of deposit secured in the manner required by law for public funds, or be invested in direct obligations of, including obligations the principal and interest on which are unconditionally guaranteed by, the United States of America, in obligations of any agencies or instrumentalities thereof, or in such other investments as are permitted under the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended, or any successor law, as in effect from time to time; provided that all such deposits and investments shall be made in such manner (which may include repurchase agreements for such investment with any primary dealer of such agreements) that the money required to be expended from any Fund will be available at the proper time or times. Such investments shall be valued each year in terms of current market value as of September 30. For purposes of maximizing investment returns, to the

extent permitted by law, money in such Funds may be invested in common investments of the kind described above, or in a common pool of such investment which shall be kept and held at an official depository bank, which shall not be deemed to be or constitute a commingling of such money or funds provided that safekeeping receipts or certificates of participation clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such Fund are held by or on behalf of each such Fund. If necessary, such investments shall be promptly sold to prevent any default.

(b) Obligations purchased as an investment of moneys in any Fund shall be deemed to be part of such Fund or Account, subject, however, to the requirements of this Indenture for transfer of interest earnings and profits resulting from investment of amounts in Funds and Accounts. Whenever in this Indenture any moneys are required to be transferred by the City to the Trustee, such transfer may be accomplished by transferring a like amount of Investment Securities.

(c) The Trustee and its affiliates may act as sponsor, advisor, depository, principal or agent in the acquisition or disposition of any investment. The Trustee shall have no investment discretion and the Trustee's only responsibility for investments shall be to follow the written instructions of the City Order or to insure the investment directed is a permitted investment. The Trustee shall not incur any liability for losses arising from any investments made pursuant to this Section. The Trustee shall not be required to determine the suitability or legality of any investments.

(d) Investments in any and all Funds and Accounts may be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular Funds or Accounts of amounts received or held by the Trustee hereunder, provided that the Trustee shall at all times account for such investments strictly in accordance with the Funds and Accounts to which they are credited and otherwise as provided in this Indenture.

(e) The Trustee will furnish the City monthly cash transaction statements which include detail for all investment transactions made by the Trustee hereunder; and, unless the Trustee receives a written request, the Trustee is not required to provide brokerage confirmations so long as the Trustee is providing such monthly cash transaction statements.

Section 6.11. Security of Funds.

All Funds or Accounts heretofore created or reaffirmed, to the extent not invested as herein permitted, shall be secured in the manner and to the fullest extent required by law for the security of public funds, and such Funds or Accounts shall be used only for the purposes and in the manner permitted or required by this Indenture.

ARTICLE VII

COVENANTS

Section 7.1. Confirmation of Assessments.

The City hereby confirms, covenants, and agrees that, in the Assessment Ordinances, it has levied the Assessments against the respective Assessed Parcels from which the Pledged Revenues will be collected and received.

Section 7.2. Collection and Enforcement of Assessments.

(a) For so long as any Bonds are Outstanding and/or amounts are due to the Developer to reimburse it for its funds it has contributed to pay Actual Costs of the Neighborhood Improvement Areas #2-3 Improvements, the City covenants, agrees and warrants that it will take and pursue all actions permissible under Applicable Laws to cause the Assessments to be collected and the liens thereof enforced continuously, in the manner and to the maximum extent permitted by Applicable Laws, and to cause no reduction, abatement or exemption in the Assessments.

(b) The City will determine or cause to be determined, no later than February 15 of each year, whether or not any Annual Installment is delinquent and, if such delinquencies exist, the City will order and cause to be commenced as soon as practicable any and all appropriate and legally permissible actions to obtain such Annual Installment, and any delinquent charges and interest thereon, including diligently prosecuting an action in district court to foreclose the currently delinquent Annual Installment. Notwithstanding the foregoing, the City shall not be required under any circumstances to purchase or make payment for the purchase of the delinquent Assessment or the corresponding Assessed Parcel. Furthermore, nothing shall obligate the City, the City Attorney, or any appropriate designee to undertake collection or foreclosure actions against delinquent accounts in violation of applicable state law, court order, or existing contractual provisions between the City and its appropriate collections enforcement designees.

Section 7.3. Against Encumbrances.

(a) Other than bonds issued to refund all or a portion of the Bonds, the City shall not create and, to the extent Pledged Revenues are received, shall not suffer to remain, any lien, encumbrance or charge upon the Pledged Revenues, other than that specified in Section 9.6 of this Indenture, or upon any other property pledged under this Indenture, except the pledge created for the security of the Bonds, and other than a lien or pledge subordinate to the lien and pledge of such property related to the Bonds.

(b) So long as Bonds are Outstanding hereunder and except as set forth in Section 13.2 hereof, the City shall not issue any bonds, notes or other evidences of indebtedness other than the Bonds and bonds issued to refund all or a portion of the Bonds secured by any pledge of or other lien or charge on the Pledged Revenues or other property pledged under this Indenture, other than a lien or pledge subordinate to the lien and pledge of such property related to the Bonds.

Section 7.4. Records, Accounts, Accounting Reports.

The City hereby covenants and agrees that so long as any of the Bonds or any interest thereon remain outstanding and unpaid, and/or the obligation to the Developer to reimburse it for funds it has contributed to pay costs of the Neighborhood Improvement Areas #2-3 Improvements remain outstanding and unpaid, it will keep and maintain a proper and complete system of records and accounts pertaining to the Assessments. The Trustee and holder or holders of any Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all such records, accounts, and data relating thereto, upon written request to the City by the Trustee or duly authorized representative, as applicable. The City shall provide the Trustee or duly authorized representative, as applicable, an opportunity to

inspect such books and records relating to the Bonds during the City's regular business hours and on a mutually agreeable date not later than thirty days after the City receives such request.

Section 7.5. Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms shall have the following meanings:

"*Closing Date*" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"*Code*" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"*Computation Date*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"*Gross Proceeds*" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"*Investment*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"*Nonpurpose Investment*" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"*Regulations*" means any proposed, temporary or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"*Yield*" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely

affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of the Bonds:

(i) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan.

(i) Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(ii) The City covenants and agrees that the levied Assessments will meet the requirements of the "tax assessment loan exception" within the meaning of Section 1.141-5(d) of the Regulations on the date that the Bonds are delivered and will ensure that the Assessments continue to meet such requirements for so long as the Bonds are Outstanding.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested) if, as a result of such investment, the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall, pursuant to a City Order, direct the Trustee to transfer to the Rebate Fund from the funds or subaccounts designated in such City Order and direct the Trustee to pay to the United States from the Rebate Fund the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Director of Finance, or City Secretary, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Tax Certificate or similar or other appropriate certificate, form or document.

ARTICLE VIII

LIABILITY OF CITY

The City shall not incur any responsibility in respect of the Bonds or this Indenture other than in connection with the duties or obligations explicitly herein or in the Bonds assigned to or imposed upon it. The City shall not be liable in connection with the performance of its duties hereunder, except for its own willful default or act of bad faith. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions covenants or agreements of the Trustee herein or of any of the documents executed by the Trustee in connection with the Bonds, or as to the existence of a default or Event of Default thereunder.

In the absence of bad faith, the City may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the City and conforming to the requirements of this Indenture. The City shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts.

No provision of this Indenture, the Bonds, the Assessment Ordinances, or any agreement, document, instrument, or certificate executed, delivered or approved in connection with the issuance, sale, delivery, or administration of the Bonds (the "Bond Documents"), shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the Pledged Revenues and the Administrative Expenses) in the performance of any of its obligations hereunder, or in the exercise of any of its rights or powers, if in the judgment of the City there are reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it.

Neither the Owners nor any other Person shall have any claim against the City or any of its officers, officials, agents, or employees for damages suffered as a result of the City's failure to perform in any respect any covenant, undertaking, or obligation under any Bond Documents or as a result of the incorrectness of any representation in, or omission from, any of the Bond Documents, except to the extent that any such claim relates to an obligation, undertaking, representation, or covenant of the City, in accordance with the Bond Documents and the PID Act. Any such claim shall be payable only from Pledged Revenues or the Administrative Expenses. Nothing contained in any of the Bond Documents shall be construed to preclude any action or proceeding in any court or before any governmental body, agency, or instrumentality

against the City or any of its officers, officials, agents, or employees to enforce the provisions of any of the Bond Documents or to enforce all rights of the Owners of the Bonds by mandamus or other proceeding at law or in equity.

The City may rely on and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The City may consult with counsel with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Indenture the City shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the City, be deemed to be conclusively proved and established by a certificate of the Trustee, an Independent Financial Consultant, an independent inspector or City Manager or other person designated by the City Council to so act on behalf of the City, and such certificate shall be full warrant to the City for any action taken or suffered under the provisions of this Indenture upon the faith thereof, but in its discretion the City may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

In order to perform its duties and obligations hereunder, the City may employ such persons or entities as it deems necessary or advisable. The City shall not be liable for any of the acts or omissions of such persons or entities employed by it in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations, and directions of such persons or entities.

ARTICLE IX

THE TRUSTEE

Section 9.1. Trustee as Registrar and Paying Agent.

The Trustee is hereby designated and agrees to act as Registrar and Paying Agent for and in respect to the Bonds.

Section 9.2. Trustee Entitled to Indemnity.

The Trustee shall be under no obligation to institute any suit, or to undertake any proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified, to the extent permitted by law, to its satisfaction against any and all costs and expenses, outlays, and counsel fees and other reasonable disbursements, and against all liability except as a consequence of its own negligence or willful misconduct. Nevertheless, the Trustee may begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as the Trustee, without indemnity, and in such case the Trustee may make transfers from the Pledged Revenue Fund or the Administrative Fund to pay all costs and expenses, outlays, and counsel fees and other reasonable disbursements properly incurred in connection therewith and shall be entitled to a preference therefor over any Bonds Outstanding hereunder.

Section 9.3. Responsibilities of the Trustee.

The recitals contained in this Indenture and in the Bonds shall be taken as the statements of the City and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of the offering documents, this Indenture, or the Bonds or with respect to the security afforded by this Indenture, and the Trustee shall incur no liability with respect thereto. Except as otherwise expressly provided in this Indenture, the Trustee shall have no responsibility or duty with respect to: (i) the issuance of Bonds for value; (ii) the application of the proceeds thereof, except to the extent that such proceeds are received by it in its capacity as Trustee; (iii) the application of any moneys paid to the City or others in accordance with this Indenture, except as to the application of any moneys paid to it in its capacity as Trustee; or (iv) any calculation of arbitrage or rebate under the Code. The Trustee has the right to act through agents and attorneys and shall have no liability for the negligence or willful misconduct of the agents and attorneys appointed with due care.

The duties and obligations of the Trustee shall be determined by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture.

The Trustee shall not be liable for any action taken or omitted by it in the performance of its duties under this Indenture, except for its own negligence or willful misconduct, both before and after default by the City.

Section 9.4. Property Held in Trust.

All moneys and securities held by the Trustee at any time pursuant to the terms of this Indenture shall be held by the Trustee in trust for the purposes and under the terms and conditions of this Indenture.

Section 9.5. Trustee Protected in Relying on Certain Documents.

The Trustee may rely upon any order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond, or other document provided to the Trustee in accordance with the terms of this Indenture that it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or Person or to have been prepared and furnished pursuant to any of the provisions of this Indenture, or upon the written opinion of any counsel, architect, engineer, insurance consultant, management consultant, or accountant believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry into any statements contained or matters referred to in any such instrument. The Trustee may consult with counsel, who may or may not be Bond Counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it in good faith and in accordance therewith.

Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Indenture, such matter may be deemed to be conclusively proved and established by a City Certificate, unless other evidence in respect thereof be hereby specifically prescribed. Such City Certificate shall be full warrant for any action taken or suffered in good faith under the provisions hereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such

further or additional evidence as it may deem reasonable. Except as otherwise expressly provided herein, any request, order, notice, or other direction required or permitted to be furnished pursuant to any provision hereof by the City to the Trustee shall be sufficiently executed if executed in the name of the City by the City Representative.

The Trustee shall not be under any obligation to see to the recording or filing of this Indenture, or otherwise to the giving to any Person of notice of the provisions hereof except as expressly required in Section 9.13 herein.

Section 9.6. Compensation.

Unless otherwise provided by contract with the Trustee, the Trustee shall transfer from the District Administration Account of the Administrative Fund, from time to time, reasonable compensation for all services rendered by it hereunder, including its services as Registrar and Paying Agent, together with all its reasonable expenses, charges, and other disbursements and those of its counsel, agents and employees, incurred in and about the administration and execution of the trusts hereby created and the exercise of its powers and the performance of its duties hereunder, subject to any limit on the amount of such compensation or recovery of expenses or other charges as shall be prescribed by specific agreement, and the Trustee shall have a lien therefor on any and all funds at any time held by it hereunder prior to any Bonds Outstanding. None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if in the judgment of the Trustee there are reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it. If the City shall fail to make any payment required by this Section, the Trustee may make such payment from any moneys in its possession under the provisions of this Indenture and shall be entitled to a preference therefor over any Bonds Outstanding hereunder.

Section 9.7. Permitted Acts.

The Trustee and its directors, officers, employees, or agents may become the owner of or may in good faith buy, sell, own, hold and deal in Bonds and may join in any action that any Owner of Bonds may be entitled to take as fully and with the same rights as if it were not the Trustee. The Trustee may act as depository, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, the City or any committee formed to protect the rights of holders of Bonds or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Indenture, whether or not such committee shall represent the holders of a majority in aggregate outstanding principal amount of the Bonds.

Section 9.8. Resignation of Trustee.

The Trustee may at any time resign and be discharged of its duties and obligations hereunder by giving not fewer than 30 days' notice, specifying the date when such resignation shall take effect, to the City and each Owner of any Outstanding Bond. Such resignation shall take effect upon the appointment of a successor as provided in Section 9.10 and the acceptance of such appointment by such successor.

Section 9.9. Removal of Trustee.

The Trustee may be removed at any time by (i) the Owners of at least a majority of the aggregate Outstanding principal of the Bonds by an instrument or concurrent instruments in

writing signed and acknowledged by such Owners or by their attorneys-in-fact, duly authorized and delivered to the City, or (ii) so long as the City is not in default under this Indenture, the City. Copies of each such instrument shall be delivered by the City to the Trustee and any successor thereof. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the City or the Owners of not less than 10% of the aggregate Outstanding principal of the Bonds.

Section 9.10. Successor Trustee.

If the Trustee shall resign, be removed, be dissolved, or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator, or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of the Trustee hereunder shall thereupon become vacant.

If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, a successor Trustee may be appointed within one year after any such vacancy shall have occurred by the Owners of at least twenty-five percent (25%) of the aggregate Outstanding principal of the Bonds by an instrument or concurrent instruments in writing signed and acknowledged by such Owners or their attorneys-in-fact, duly authorized and delivered to such successor Trustee, with notification thereof being given to the predecessor Trustee and the City.

Until such successor Trustee shall have been appointed by the Owners of the Bonds, the City shall forthwith appoint a Trustee to act hereunder. Copies of any instrument of the City providing for any such appointment shall be delivered by the City to the Trustee so appointed. The City shall mail notice of any such appointment to each Owner of any Outstanding Bonds within 30 days after such appointment. Any appointment of a successor Trustee made by the City immediately and without further act shall be superseded and revoked by an appointment subsequently made by the Owners of Bonds.

If in a proper case no appointment of a successor Trustee shall be made within 45 days after the giving by any Trustee of any notice of resignation in accordance with Section 9.8 herein or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any Owner of Bonds may apply to any court of competent jurisdiction for the appointment of such a successor, and the court may thereupon, after such notice, if any, as the court may deem proper, appoint such successor and the City shall be responsible for the costs of such appointment process.

Any successor Trustee appointed under the provisions of this Section shall be a commercial bank or trust company or national banking association (i) having a capital and surplus and undivided profits aggregating at least \$50,000,000, if there be such a commercial bank or trust company or national banking association willing and able to accept the appointment on reasonable and customary terms, and (ii) authorized by law to perform all the duties of the Trustee required by this Indenture.

Each successor Trustee shall mail, in accordance with the provisions of the Bonds, notice of its appointment to the Trustee, any rating agency which, at the time of such appointment, is providing a rating on the Bonds and each of the Owners of the Bonds.

Section 9.11. Transfer of Rights and Property to Successor Trustee.

Any successor Trustee appointed under the provisions of Section 9.10 shall execute, acknowledge, and deliver to its predecessor and the City an instrument in writing accepting such appointment, and thereupon such successor, without any further act, deed, or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers, duties, obligations, and trusts of its predecessor hereunder, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request of the City or of such successor, execute, acknowledge, and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the rights, immunities, powers, and trusts of such Trustee and all the right, title, and interest of such Trustee in and to the Trust Estate, and shall pay over, assign, and deliver to such successor any moneys or other properties subject to the trusts and conditions herein set forth. Should any deed, conveyance, or instrument in writing from the City be required by such successor for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties, or obligations, any and all such deeds, conveyances, and instruments in writing, on request and so far as may be authorized by law, shall be executed, acknowledged, and delivered by the City.

Section 9.12. Merger, Conversion or Consolidation of Trustee.

Any corporation or association into which the Trustee may be merged or with which it may be consolidated or any corporation or association resulting from any merger, conversion or consolidation to which it shall be a party or any corporation or association to which the Trustee may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Trustee hereunder, without any further act, deed or conveyance, provided that such corporation or association shall be a commercial bank or trust company or national banking association qualified to be a successor to such Trustee under the provisions of Section 9.10, or a trust company that is a wholly-owned subsidiary of any of the foregoing.

Section 9.13. Trustee To File Continuation Statements Only.

The Trustee shall have no duty or obligation to file or record any financing statements pursuant to the UCC. If necessary, the Trustee shall file or cause to be filed, such continuation statements as are delivered to the Trustee by the City, or on behalf of the City, and which may be required by the Texas Uniform Commercial Code, as from time to time in effect (the "UCC"), in order to continue perfection of the security interest of the Trustee in such items of tangible or intangible personal property and any fixtures as may have been granted to the Trustee pursuant to this Indenture in the time, place and manner required by the UCC.

Section 9.14. Construction of Indenture.

The Trustee may construe any of the provisions of this Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof, and any construction of any such provisions hereof by the Trustee in good faith shall be binding upon the Owners of the Bonds. Permissive rights of the Trustee are not to be construed as duties.

ARTICLE X

MODIFICATION OR AMENDMENT OF THIS INDENTURE

Section 10.1. Amendments Permitted.

(a) This Indenture and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Indenture, except as provided below, pursuant to the affirmative vote at a meeting of Owners of the Bonds, or with the written consent without a meeting, of the Owners of at least sixty-six and two-thirds percent (66-2/3%) of the aggregate principal amount of the Bonds then Outstanding. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the Pledged Revenues superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by Applicable Laws or this Indenture), or reduce the percentage of Bonds required for the amendment hereof. Any such amendment may not modify any of the rights or obligations of the Trustee without its written consent.

(b) This Indenture and the rights and obligations of the City and of the Owners may also be modified or amended at any time by a Supplemental Indenture, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City in this Indenture contained, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City;

(ii) to make modifications not adversely affecting any Outstanding Bonds in any material respect;

(iii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in regard to questions arising under this Indenture, as the City and the Trustee may deem necessary or desirable and not inconsistent with this Indenture, and that shall not adversely affect the rights of the Owners of the Bonds;

(iv) to provide for the issuance of Refunding Bonds as set forth in Section 13.2 herein; and

(v) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Bonds.

The Trustee must receive an opinion of counsel for such Supplemental Indenture to the effect that the same is authorized or permitted by the terms of this Indenture. Any modification or amendment made pursuant to this Section 10.1(b) shall not be subject to the notice procedures specified in Section 10.3 below.

Section 10.2. Owners' Meetings.

The City may at any time call a meeting of the Owners of the Bonds. In such event the City is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof, and to fix and adopt rules and regulations for the conduct of said meeting.

Section 10.3. Procedure for Amendment with Written Consent of Owners.

The City and the Trustee may at any time adopt a Supplemental Indenture amending the provisions of the Bonds or of this Indenture, to the extent that such amendment is permitted by Section 10.1 herein, to take effect when and as provided in this Section. A copy of such Supplemental Indenture, together with a request to Owners for their consent thereto, shall be mailed by first class mail, by the Trustee to each Owner of Bonds from whom consent is required under this Indenture, but failure to mail copies of such Supplemental Indenture and request shall not affect the validity of the Supplemental Indenture when assented to as in this Section provided.

Such Supplemental Indenture shall not become effective unless there shall be filed with the Trustee the written consents of the Owners as required by this Indenture and a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 11.6 herein. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof), unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Bonds have filed their consents to the Supplemental Indenture, the City shall mail a notice to the Owners in the manner hereinbefore provided in this Section for the mailing of the Supplemental Indenture, stating in substance that the Supplemental Indenture has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of the Supplemental Indenture or consents thereto). Proof of the mailing of such notice shall be filed with the Trustee. A record, consisting of the papers required by this Section 10.3 to be filed with the Trustee, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Indenture shall become effective upon the filing with the Trustee of the proof of mailing of such notice, and the Supplemental Indenture shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the City and the Owners of all Bonds at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty-day period.

Section 10.4. Effect of Supplemental Indenture.

From and after the time any Supplemental Indenture becomes effective pursuant to this Article X, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties, and obligations under this Indenture of the City, the Trustee, and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and

conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 10.5. Endorsement or Replacement of Bonds Issued After Amendments.

The City may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon demand of the Owner of any Bond Outstanding at such effective date and presentation of his Bond for that purpose at the designated office of the Trustee or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owners' action, shall be prepared, executed, and delivered. In that case, upon demand of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the designated office of the Trustee without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

Section 10.6. Amendatory Endorsement of Bonds.

The provisions of this Article X shall not prevent any Owner from accepting any amendment as to the particular Bonds held by such Owner, provided that due notation thereof is made on such Bonds.

Section 10.7. Waiver of Default

With the written consent of at least sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the Bonds then Outstanding, the Owners may waive compliance by the City with certain past defaults under the Indenture and their consequences. Any such consent shall be conclusive and binding upon the Owners and upon all future Owners.

ARTICLE XI

DEFAULT AND REMEDIES

Section 11.1. Events of Default.

(a) Each of the following occurrences or events shall be and is hereby declared to be an "Event of Default," to wit:

(i) The failure of the City to deposit the Pledged Revenues to the Bond Pledged Revenue Account of the Pledged Revenue Fund;

(ii) The failure of the City to enforce the collection of the Assessments including the prosecution of foreclosure proceedings;

(iii) The failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable and such failure is not remedied within thirty (30) days provided, however, that the payments are to be made only from Pledged Revenues and the Pledged Revenues must be available to the City to make any such payments; and

(iv) Default in the performance or observance of any covenant, agreement or obligation of the City under this Indenture and the continuation thereof for a period of

ninety (90) days after written notice to the City by the Trustee, or by the Owners of at least 25% of the aggregate Outstanding principal of the Bonds with a copy to the Trustee, specifying such default by the Owners of at least 25% of the Bonds at the time Outstanding requesting that the failure be remedied.

(b) Nothing in Section 11.1(a) will be viewed to be an Event of Default if it is in violation of any applicable state law or court order.

Section 11.2. Immediate Remedies for Default.

(a) Subject to Article VIII, upon the happening and continuance of any of the Events of Default described in Section 11.1, the Owners of at least 25% of the Bonds then Outstanding, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Indenture, by action seeking mandamus or by other suit, action, or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief to the extent permitted by Applicable Laws, including, but not limited to, the specific performance of any covenant or agreement contained herein, or injunction; provided, however, that no action for money damages against the City may be sought or shall be permitted.

(b) THE PRINCIPAL OF THE BONDS SHALL NOT BE SUBJECT TO ACCELERATION UNDER ANY CIRCUMSTANCES.

(c) If the assets of the Trust Estate are sufficient to pay all amounts due with respect to all Outstanding Bonds, in the selection of Trust Estate assets to be used in the payment of Bonds due under this Article, the City shall determine, in its absolute discretion, and shall instruct the Trustee by City Order, which Trust Estate assets shall be applied to such payment and shall not be liable to any Owner or other Person by reason of such selection and application. In the event that the City shall fail to deliver to the Trustee such City Order, the Trustee shall select and liquidate or sell Trust Estate assets as provided in the following paragraph, and shall not be liable to any Owner, or other Person, or the City by reason of such selection, liquidation or sale.

(d) Whenever moneys are to be applied pursuant to this Article XI, irrespective of and whether other remedies authorized under this Indenture shall have been pursued in whole or in part, the Trustee may cause any or all of the assets of the Trust Estate, including Investment Securities, to be sold. The Trustee may so sell the assets of the Trust Estate and all right, title, interest, claim and demand thereto and the right of redemption thereof, in one or more parts, at any such place or places, and at such time or times and upon such notice and terms as the Trustee may deem appropriate and as may be required by law and apply the proceeds thereof in accordance with the provisions of this Section. Upon such sale, the Trustee may make and deliver to the purchaser or purchasers a good and sufficient assignment or conveyance for the same, which sale shall be a perpetual bar both at law and in equity against the City, and all other Persons claiming such properties. No purchaser at any sale shall be bound to see to the application of the purchase money proceeds thereof or to inquire as to the authorization, necessity, expediency, or regularity of any such sale. Nevertheless, if so requested by the Trustee, the City shall ratify and confirm any sale or sales by executing and delivering to the Trustee or to such purchaser or purchasers all such instruments as may be necessary or, in the judgment of the Trustee, proper for the purpose which may be designated in such request.

Section 11.3. Restriction on Owner's Action.

(a) No Owner shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust thereof or any other remedy hereunder, unless (i) a default has occurred and is continuing of which the Trustee has been notified in writing, (ii) such default has become an Event of Default and the Owners of at least 25% of the aggregate principal amount of the Bonds then Outstanding have made written request to the Trustee and offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, (iii) the Owners have furnished to the Trustee indemnity as provided in Section 9.2 herein, (iv) the Trustee has for ninety (90) days after such notice failed or refused to exercise the powers hereinbefore granted, or to institute such action, suit, or proceeding in its own name, (v) no direction inconsistent with such written request has been given to the Trustee during such 90-day period by the Owners of a majority of the aggregate principal amount of the Bonds then Outstanding, and (vi) notice of such action, suit, or proceeding is given to the Trustee; however, no one or more Owners of the Bonds shall have any right in any manner whatsoever to affect, disturb, or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner provided herein, and that all proceedings at law or in equity shall be instituted and maintained in the manner provided herein and for the equal benefit of the Owners of all Bonds then Outstanding. The notification, request and furnishing of indemnity set forth above shall, at the option of the Trustee, be conditions precedent to the execution of the powers and trusts of this Indenture and to any action or cause of action for the enforcement of this Indenture or for any other remedy hereunder.

(b) Subject to Article VIII, nothing in this Indenture shall affect or impair the right of any Owner to enforce, by action at law, payment of any Bond at and after the maturity thereof, or on the date fixed for redemption or the obligation of the City to pay each Bond issued hereunder to the respective Owners thereof at the time and place, from the source and in the manner expressed herein and in the Bonds.

(c) In case the Trustee or any Owners shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Owners, then and in every such case the City, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 11.4. Application of Revenues and Other Moneys After Default.

(a) All moneys, securities, funds and Pledged Revenues and the income therefrom received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such amounts, the expenses (including its counsel), liabilities, and advances incurred or made by the Trustee and the fees of the Trustee in carrying out this Indenture, during the continuance of an Event of Default, notwithstanding Section 11.2 hereof, shall be applied by the Trustee, on behalf of the City, to the payment of interest and principal or redemption price then due on Bonds, as follows:

FIRST: To the payment to the Owners entitled thereto all installments of interest then due in the direct order of maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment, then to the payment

thereof ratably, according to the amounts due on such installment, to the Owners entitled thereto, without any discrimination or preference; and

SECOND: To the payment to the Owners entitled thereto of the unpaid principal of Outstanding Bonds, or redemption price of any Bonds which shall have become due, whether at maturity or by call for redemption, in the direct order of their due dates and, if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal due and to the Owners entitled thereto, without any discrimination or preference.

Within ten (10) days of receipt of such good and available funds, the Trustee may fix a record and payment date for any payment to be made to Owners pursuant to this Section 11.4.

(b) In the event funds are not adequate to cure any of the Events of Default described in Section 11.1, the available funds shall be allocated to the Bonds that are Outstanding in proportion to the quantity of Bonds that are currently due and in default under the terms of this Indenture.

(c) The restoration of the City to its prior position after any and all defaults have been cured, as provided in Section 11.3, shall not extend to or affect any subsequent default under this Indenture or impair any right consequent thereon.

Section 11.5. Effect of Waiver.

No delay or omission of the Trustee, or any Owner, to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient.

Section 11.6. Evidence of Ownership of Bonds.

(a) Any request, consent, revocation of consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners of Bonds may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Indenture (except as otherwise herein expressly provided) if made in the following manner:

(i) The fact and date of the execution of such instruments by any Owner of Bonds or the duly appointed attorney authorized to act on behalf of such Owner may be provided by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the Person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation, association or partnership, such signature guarantee, certificate, or affidavit shall also constitute sufficient proof of his authority.

(ii) The ownership of Bonds and the amount, numbers and other identification and date of holding the same shall be proved by the Register.

(b) Except as otherwise provided in this Indenture with respect to revocation of a consent, any request or consent by an Owner of Bonds shall bind all future Owners of the same Bonds in respect of anything done or suffered to be done by the City or the Trustee in accordance therewith.

Section 11.7. No Acceleration.

In the event of the occurrence of an Event of Default under Section 11.1 hereof, the right of acceleration of any Stated Maturity is not granted as a remedy hereunder and the right of acceleration under this Indenture is expressly denied.

Section 11.8. Mailing of Notice.

Any provision in this Article for the mailing of a notice or other document to Owners shall be fully complied with if it is mailed, first-class, postage prepaid, only to each Owner at the address appearing upon the Register.

Section 11.9. Exclusion of Bonds.

Bonds owned or held by or for the account of the City will not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Indenture, and the City shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Indenture.

ARTICLE XII

GENERAL COVENANTS AND REPRESENTATIONS

Section 12.1. Representations as to Pledged Revenues.

(a) The City represents and warrants that it is authorized by Applicable Laws to authorize and issue the Bonds, to execute and deliver this Indenture and to pledge the Pledged Revenues in the manner and to the extent provided in this Indenture, and that the Pledged Revenues are and will be and remain free and clear of any pledge, lien, charge, or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and lien created in or authorized by this Indenture except as expressly provided in this Indenture.

(b) The City shall at all times, to the extent permitted by Applicable Laws, defend, preserve and protect the pledge of the Pledged Revenues and all the rights of the Owners and the Trustee, under this Indenture against all claims and demands of all Persons whomsoever.

(c) The City will take all steps reasonably necessary and appropriate, and will direct the Trustee to take all steps reasonably necessary and appropriate, to collect all delinquencies in the collection of the Assessments and any other amounts pledged to the payment of the Bonds to the fullest extent permitted by the PID Act and other Applicable Laws.

(d) To the extent permitted by law, notice of the Annual Installments shall be sent by, or on behalf of the City, to the affected property owners on the same statement or such

other mechanism that is used by the City, so that such Annual Installments are collected simultaneously with ad valorem taxes and shall be subject to the same penalties, procedures, and foreclosure sale in case of delinquencies as are provided for ad valorem taxes of the City.

Section 12.2. Accounts, Periodic Reports and Certificates.

The Trustee shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Funds and Accounts established by this Indenture and which shall at all times be subject to inspection by the City, and the Owner or Owners of not less than 10% in principal amount of any Bonds then Outstanding or their representatives duly authorized in writing.

Section 12.3. General.

The City shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the City under the provisions of this Indenture.

ARTICLE XIII

SPECIAL COVENANTS

Section 13.1. Further Assurances; Due Performance.

(a) At any and all times the City will duly execute, acknowledge and deliver, or will cause to be done, executed and delivered, all and every such further acts, conveyances, transfers, and assurances in a manner as the Trustee shall reasonably require for better conveying, transferring, pledging, and confirming unto the Trustee, all and singular, the revenues, Funds, Accounts and properties constituting the Pledged Revenues, and the Trust Estate hereby transferred and pledged, or intended so to be transferred and pledged.

(b) The City will duly and punctually keep, observe and perform each and every term, covenant and condition on its part to be kept, observed and performed, contained in this Indenture.

Section 13.2. Additional Obligations or Other Liens.

(a) The City reserves the right, subject to the limitations contained in this Section 13.2, to issue Additional Obligations under other indentures, assessment ordinances, or similar agreements or other obligations which do not constitute or create a lien on the Trust Estate and are not payable from the Pledged Revenues.

(b) Other than Refunding Bonds issued to refund all or a portion of the Bonds, the City will not create or voluntarily permit to be created any debt, lien or charge on the Trust Estate, and will not do or omit to do or suffer to be or omit to be done any matter or things whatsoever whereby the lien of this Indenture or the priority thereof might or could be lost or impaired.

(c) Notwithstanding any contrary provision of this Indenture, the City shall not issue additional bonds, notes, or other obligations under this Indenture, secured by any pledge of or

other lien or charge on the Pledged Revenues or other property pledged under this Indenture, other than Refunding Bonds. The City reserve the right to issue Refunding Bonds, the proceeds of which would be utilized to refund all or any portion of the Outstanding Bonds or Outstanding Refunding Bonds and to pay all costs incident to the Refunding Bonds, as authorized by the laws of the state of Texas.

Section 13.3. Books of Record.

(a) The City shall cause to be kept full and proper books of record and accounts, in which full, true and proper entries will be made of all dealing, business and affairs of the City, which relate to the Pledged Revenues, the Pledged Funds, and the Bonds.

(b) The Trustee shall have no responsibility with respect to the financial and other information received by it pursuant to this Section 13.3 except to receive and retain same, subject to the Trustee's document retention policies, and to distribute the same in accordance with the provisions of this Indenture. Specifically, but without limitation, the Trustee shall have no duty to review such information, is not considered to have notice of the contents of such information or a default based on such contents, and has no duty to verify the accuracy of such information.

ARTICLE XIV

PAYMENT AND CANCELLATION OF THE BONDS AND SATISFACTION OF THE INDENTURE

Section 14.1. Trust Irrevocable.

The trust created by the terms and provisions of this Indenture is irrevocable until the Bonds secured hereby are fully paid or provision is made for their payment as provided in this Article.

Section 14.2. Satisfaction of Indenture.

If the City shall pay or cause to be paid, or there shall otherwise be paid to the Owners, principal of and interest on all of the Bonds, at the times and in the manner stipulated in this Indenture, and all amounts due and owing with respect to the Bonds have been paid or provided for, then the pledge of the Trust Estate and all covenants, agreements, and other obligations of the City to the Owners of such Bonds, shall thereupon cease, terminate, and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the City copies of all such documents as it may have evidencing that principal of and interest on all of the Bonds has been paid so that the City may determine if this Indenture is satisfied; if so, the Trustee shall pay over or deliver all moneys held by it in the in Funds and Accounts held hereunder to the Person entitled to receive such amounts, or, if no Person is entitled to receive such amounts, then to the City.

Section 14.3. Bonds Deemed Paid.

All Outstanding Bonds shall prior to the Stated Maturity or redemption date thereof be deemed to have been paid and to no longer be deemed Outstanding if (i) in case any such Bonds are to be redeemed on any date prior to their Stated Maturity, the Trustee shall have given notice of redemption on said date as provided herein, (ii) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Defeasance Securities

the principal of and the interest on which when due will provide moneys which, together with any moneys deposited with the Trustee at the same time, shall be sufficient to pay when due the principal of and interest on the Bonds to become due on such Bonds on and prior to the redemption date or maturity date thereof, as the case may be, (iii) the Trustee shall have received a report by an independent certified public accountant selected by the City verifying the sufficiency of the moneys and/or Defeasance Securities deposited with the Trustee to pay when due the principal of and interest on of the Bonds to become due on such Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (iv) if the Bonds are then rated, the Trustee shall have received written confirmation from each rating agency that such deposit will not result in the reduction or withdrawal of the rating on the Bonds. Neither Defeasance Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on the Bonds. Any cash received from such principal of and interest on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, be reinvested in Defeasance Securities as directed in writing by the City maturing at times and in amounts sufficient to pay when due the principal of and interest on the Bonds on and prior to such redemption date or maturity date thereof, as the case may be. Any payment for Defeasance Securities purchased for the purpose of reinvesting cash as aforesaid shall be made only against delivery of such Defeasance Securities.

ARTICLE XV

MISCELLANEOUS

Section 15.1. Benefits of Indenture Limited to Parties.

Nothing in this Indenture, expressed or implied, is intended to give to any Person other than the City, the Trustee and the Owners, any right, remedy, or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture by and on behalf of the City shall be for the sole and exclusive benefit of the Owners and the Trustee.

Section 15.2. Successor is Deemed Included in All References to Predecessor.

Whenever in this Indenture or any Supplemental Indenture either the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 15.3. Execution of Documents and Proof of Ownership by Owners.

Any request, declaration, or other instrument which this Indenture may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys duly appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration, or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the Person signing such request, declaration, or other instrument or writing

acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number, and date of holding the same shall be proved by the Register.

Any request, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Trustee in good faith and in accordance therewith.

Section 15.4. Waiver of Personal Liability.

No member, officer, agent, or employee of the City shall be individually or personally liable for the payment of the principal of, or interest or any premium on, the Bonds; but nothing herein contained shall relieve any such member, officer, agent, or employee from the performance of any official duty provided by law.

Section 15.5. Notices to and Demands on City and Trustee.

(a) Except as otherwise expressly provided in this Indenture, all notices or other instruments required or permitted under this Indenture, including any City Certificate or City Order, shall be in writing and shall be telexed, cabled, delivered by hand, mailed by first class mail, postage prepaid, or transmitted by facsimile or e-mail and addressed as follows:

If to the City:

City of Celina, Texas
142 North Ohio Street
Celina, Texas 75009
Attn: Director of Finance

If to the Trustee
or the Paying Agent/Registrar:

U.S. Bank National Association
Attn: Bond Operations
111 Fillmore Avenue East
St. Paul, Minnesota 55107-1402

Any such notice, demand, or request may also be transmitted to the appropriate party by telegram or telephone and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing and sent as specified above.

Any of such addresses may be changed at any time upon written notice of such change given to the other party by the party effecting the change. Notices and consents given by mail in accordance with this Section shall be deemed to have been given five Business Days after the date of dispatch; notices and consents given by any other means shall be deemed to have been given when received.

(b) The Trustee shall mail to each Owner of a Bond notice of (i) any substitution of the Trustee; or (ii) the redemption or defeasance of all Bonds Outstanding.

(c) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means ("Electronic Means" means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the City shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the City whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The City understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and the City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the City. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the City; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 15.6. Partial Invalidity.

If any Section, paragraph, sentence, clause, or phrase of this Indenture shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Indenture. The City hereby declares that it would have adopted this Indenture and each and every other Section, paragraph, sentence, clause, or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid, or unenforceable.

Section 15.7. Applicable Laws.

This Indenture shall be governed by and enforced in accordance with the laws of the State of Texas applicable to contracts made and performed in the State of Texas.

Section 15.8. Payment on Business Day.

In any case where the date of the maturity of interest or of principal (and premium, if any) of the Bonds or the date fixed for redemption of any Bonds or the date any action is to be taken pursuant to this Indenture is other than a Business Day, the payment of interest or principal (and premium, if any) or the action need not be made on such date but may be made on the next succeeding day that is a Business Day with the same force and effect as if made on the date required and no interest shall accrue for the period from and after such date.

Section 15.9. Counterparts.

This Indenture may be executed in counterparts, each of which shall be deemed an original.

Section 15.10. No Boycott of Israel.

As required by Chapter 2270 of the Texas Government Code, the Trustee hereby verifies that the Trustee (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the Trustee) does not boycott Israel and will not boycott Israel through the term of this Indenture. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Section 15.11. Iran, Sudan, and Foreign Terrorist Organizations.

The Trustee represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Trustee and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Trustee understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

[remainder of page left blank intentionally]

IN WITNESS WHEREOF, the City and the Trustee have caused this Indenture of Trust to be executed all as of the date hereof.

CITY OF CELINA, TEXAS

By: _____,
CHAD ANDERSON, Mayor Pro Tem

Attest:

VICKI FAULKNER, City Secretary

[CITY SEAL]

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Officer

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

EXHIBIT A(a) Form of Bond.

NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS, THE CITY, OR ANY OTHER POLITICAL CORPORATION, SUBDIVISION OR AGENCY THEREOF, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS BOND.

REGISTERED

REGISTERED

No. _____

\$ _____

United States of America
State of Texas

CITY OF CELINA, TEXAS
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018
(SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT NEIGHBORHOOD IMPROVEMENT
AREAS #2-3 PROJECT)

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATE OF DELIVERY</u>	<u>CUSIP NUMBER</u>
_____ %	September 1, 20__	_____	_____

The City of Celina, Texas (the "City"), for value received, hereby promises to pay, solely from the Pledged Revenues, to

or registered assigns, on the Maturity Date, as specified above, the sum of

_____ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provision for such payment shall have been made, and to pay interest on the unpaid principal amount hereof from the later of the Date of Delivery, as specified above, or the most recent Interest Payment Date to which interest has been paid or provided for until such principal amount shall have been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on March 1 and September 1 of each year, commencing March 1, 2020, until maturity or prior redemption.

Capitalized terms appearing herein that are defined terms in the Indenture defined below, have the meanings assigned to them in the Indenture. Reference is made to the Indenture for such definitions and for all other purposes.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office in St. Paul, Minnesota (the "Designated Payment/Transfer Office"), of

U.S. Bank National Association, as trustee and paying agent/registrar (the "Trustee", which term includes any successor trustee under the Indenture), or, with respect to a successor trustee and paying agent/registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond is payable by check dated as of the Interest Payment Date, mailed by the Trustee to the registered owner at the address shown on the registration books kept by the Trustee or by such other customary banking arrangements acceptable to the Trustee, requested by, and at the risk and expense of, the Person to whom interest is to be paid. For the purpose of the payment of interest on this Bond, the registered owner shall be the Person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the fifteenth calendar day of the month next preceding such Interest Payment Date; provided, however, that in the event of nonpayment of interest on a scheduled Interest Payment Date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Trustee, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Trustee at the close of business on the last Business Day preceding the date of mailing such notice.

If a date for the payment of the principal of or interest on the Bonds is a Saturday, Sunday, legal holiday, or a day on which banking institutions in the city in which the Designated Payment/Transfer Office is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Bond is one of a duly authorized issue of assessment revenue bonds of the City having the designation specified in its title (herein referred to as the "Bonds"), dated October 1, 2019 and issued in the aggregate principal amount of \$_____ and issued, with the limitations described herein, pursuant to an Indenture of Trust, dated as of October 1, 2019 (the "Indenture"), by and between the City and the Trustee, to which Indenture reference is hereby made for a description of the amounts thereby pledged and assigned, the nature and extent of the lien and security, the respective rights thereunder to the holders of the Bonds, the Trustee, and the City, and the terms upon which the Bonds are, and are to be, authenticated and delivered and by this reference to the terms of which each holder of this Bond hereby consents. All Bonds issued under the Indenture are equally and ratably secured by the amounts thereby pledged and assigned. The Bonds are being issued for the purpose of (i) paying a portion of the Actual Costs of the Neighborhood Improvement Area #2-3 Improvements, (ii) funding a reserve fund for payment of principal of and interest on the Bonds, (iii) paying a portion of the costs incidental to the organization of the District, and (iv) paying the costs of issuance of the Bonds;.

The Bonds are limited obligations of the City payable solely from the Trust Estate as defined in the Indenture. Reference is hereby made to the Indenture, copies of which are on file with and available upon request from the Trustee, for the provisions, among others, with respect to the nature and extent of the duties and obligations of the City, the Trustee and the Owners. The Owner of this Bond, by the acceptance hereof, is deemed to have agreed and consented to the terms, conditions and provisions of the Indenture.

Notwithstanding any provision hereof, the Indenture may be released and the obligation of the City to make money available to pay this Bond may be defeased by the deposit of money and/or certain direct or indirect Defeasance Securities sufficient for such purpose as described in the Indenture.

The Bonds are issuable as fully registered bonds only in Authorized Denominations, subject to the provisions of the Indenture authorizing redemption in denominations of \$100,000 and any multiple of \$5,000 in excess thereof.

The Bonds are subject to sinking fund redemption prior to their respective maturities and will be redeemed by the City in part at a price equal to the principal amount thereof plus accrued and unpaid interest thereon to the date set for redemption from moneys available for such purpose in the Redemption Fund pursuant to Article VI of the Indenture, on the dates and in the Sinking Fund Installments as set forth in the following schedule:

Term Bonds Maturing September 1, 20

<u>Redemption Date</u>	<u>Sinking Fund Installments</u>	<u>Redemption Date</u>	<u>Sinking Fund Installments</u>
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* Stated Maturity

Term Bonds Maturing September 1, 20

<u>Redemption Date</u>	<u>Sinking Fund Installments</u>	<u>Redemption Date</u>	<u>Sinking Fund Installments</u>
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* Stated Maturity

At least forty-five (45) days prior to each mandatory sinking fund redemption date, the Trustee shall select a principal amount of Bonds of such maturity equal to the Sinking Fund Installments of such Bonds to be redeemed, shall call such Bonds for redemption on such scheduled mandatory sinking fund redemption date, and shall give notice of such redemption, as provided in Section 4.6 of the Indenture.

The principal amount of Bonds of a Stated Maturity required to be redeemed on any mandatory sinking fund redemption date shall be reduced, at the option of the City, by the principal amount of any Bonds of such maturity which, at least 45 days prior to the mandatory sinking fund redemption date shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued unpaid interest to the date of purchase thereof, and delivered to the Trustee for cancellation.

The principal amount of Bonds required to be redeemed on any mandatory sinking fund redemption date shall be reduced on a pro rata basis among Outstanding Sinking Fund Installments by the principal amount of any Bonds which, at least forty-five (45) days prior to the sinking fund redemption date, shall have been redeemed pursuant to the optional redemption or extraordinary optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

The City reserves the right and option to redeem Bonds maturing on or after September 1, 20__ before their scheduled maturity date, in whole or in part, on any date on or after September 1, 20__, at par plus accrued interest to the date of redemption.

Bonds are subject to extraordinary optional redemption prior to maturity in whole or in part, on the first day of any month, at a redemption price equal to the principal amount of the Bonds called for redemption, plus accrued and unpaid interest to the date fixed for redemption from amounts on deposit in the Redemption Fund as a result of Prepayments, other transfers to the Redemption Fund pursuant to the Indenture, or as a result of unexpended amounts transferred from the Project Fund, as provided in the Indenture.

The Trustee shall give notice of any redemption of Bonds by sending notice by United States mail, first-class, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register. The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds Outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed. Any notice so given shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

With respect to any optional redemption of the Bonds, unless the Trustee has received funds sufficient to pay the redemption price of the Bonds to be redeemed before giving of a notice of redemption, the notice may state the City may condition redemption on the receipt of such funds by the Trustee on or before the date fixed for the redemption, or on the satisfaction of any other prerequisites set forth in the notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not satisfied and sufficient funds are not received, the notice shall be of no force and effect, the City shall not redeem the Bonds, and the Trustee shall give notice, in the manner in which the notice of redemption was given, that the Bonds have not been redeemed.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the City and the rights of the holders of the Bonds under the Indenture at any time Outstanding affected by such modification. The Indenture also contains provisions permitting the holders of specified percentages in aggregate principal amount of the Bonds at the time Outstanding, on behalf of the holders of all the Bonds, to waive compliance by the City with certain past defaults under the Bond Ordinance or the Indenture and their consequences. Any such consent or waiver by the holder of this Bond or any predecessor Bond evidencing the same debt shall be conclusive and binding upon such holder and upon all future holders thereof and of any Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, whether or not notation of such consent or waiver is made upon this Bond.

As provided in the Indenture, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office, with such endorsement or other evidence of transfer as is acceptable to the Trustee, and upon delivery to the Trustee of such certifications and/or opinion of counsel as may be required under the Indenture for the transfer

of this Bond. Upon satisfaction of such requirements, one or more new fully registered Bonds of the same Stated Maturity, of Authorized Denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Trustee shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within 45 calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The City, the Trustee, and any other Person may treat the Person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the Person in whose name this Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Trustee shall be affected by notice to the contrary.

The City has reserved the right to issue Additional Obligations on the terms and conditions specified in the Indenture.

NEITHER THE FULL FAITH AND CREDIT NOR THE GENERAL TAXING POWER OF THE CITY OF CELINA, TEXAS, DENTON COUNTY, TEXAS, THE STATE OF TEXAS, OR ANY POLITICAL SUBDIVISION THEREOF, IS PLEDGED TO THE PAYMENT OF THE BONDS.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that the total indebtedness of the City, including the Bonds, does not exceed any Constitutional or statutory limitation.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be executed under the official seal of the City.

Mayor Pro Tem, City of Celina, Texas

City Secretary, City of Celina, Texas

[City Seal]

(b) Form of Comptroller's Registration Certificate.

The following Registration Certificate of Comptroller of Public Accounts shall appear on the Initial Bond:

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER §
 OF PUBLIC ACCOUNTS §
 THE STATE OF TEXAS §

REGISTER NO. _____

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Bond, and that this Bond has been registered this day by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this _____

 Comptroller of Public Accounts
 of the State of Texas

[SEAL]

(c) Form of Certificate of Trustee.

CERTIFICATE OF TRUSTEE

It is hereby certified that this is one of the Bonds of the series of Bonds referred to in the within mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
 Dallas, Texas, as Trustee

DATED: _____

By: _____
 Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and zip code of transferee):

(Social Security or other identifying number: _____) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Date: _____

Signature Guaranteed By:

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Trustee.

Authorized Signatory

(e) The Initial Bond shall be in the form set forth in paragraphs (a) through (d) of this Exhibit A, except for the following alterations:

(i) immediately under the name of the Bond the heading "INTEREST RATE" and "MATURITY DATE" shall both be completed with the expression "As Shown Below," and the reference to the "CUSIP NUMBER" shall be deleted;

(ii) in the first paragraph of the Bond, the words "on the Maturity Date, as specified above, the sum of _____ DOLLARS" shall be deleted and the following will be inserted: "on September 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years</u>	<u>Principal Installments (\$)</u>	<u>Interest Rates (%)</u>
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(Information to be inserted from Section 3.2(c) hereof); and

(iii) the Initial Bond shall be numbered T-1.

EXHIBIT B
BOND PURCHASE AGREEMENT

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

EXHIBIT C
CONTINUING DISCLOSURE AGREEMENT

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

**CITY OF CELINA, TEXAS,
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2019
(SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT NEIGHBORHOOD
IMPROVEMENT AREAS #2-3 PROJECT)**

CONTINUING DISCLOSURE AGREEMENT OF THE ISSUER

This Continuing Disclosure Agreement of the Issuer dated as of October 1, 2019 (this “Disclosure Agreement”) is executed and delivered by and between the City of Celina, Texas (the “Issuer”), MuniCap, Inc. (the “Administrator”) and HTS Continuing Disclosure Services, a division of Hilltop Securities Inc. (the “Dissemination Agent”), with respect to the Issuer’s “Special Assessment Revenue Bonds, Series 2019 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-3 Project)” (the “Bonds”). The Issuer, Administrator and the Dissemination Agent covenant and agree as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Issuer, the Administrator and the Dissemination Agent for the benefit of the Owners (defined below) and beneficial owners of the Bonds. Unless and until a different filing location is designated by the MSRB (defined below) or the SEC (defined below), all filings made by the Dissemination Agent pursuant to this Disclosure Agreement shall be filed with the MSRB through EMMA (defined below).

SECTION 2. Definitions. In addition to the definitions set forth above and in the Indenture of Trust dated as of October 1, 2019, relating to the Bonds (the “Indenture”), which apply to any capitalized term used in this Disclosure Agreement, including the Exhibits hereto, unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Administrative Expenses” shall have the meaning assigned to such term in the Indenture.

“Administrator” shall mean an employee or designee of the Issuer who shall have the responsibilities provided in the Service and Assessment Plan, the Indenture, or any other agreement or document approved by the Issuer related to the duties and responsibilities for the administration of the District.

“Affiliate” shall mean an entity that owns property within Neighborhood Improvement Areas #2-3 of the District and is controlled by, controls, or is under common control with the Developer or any Subsequent Third Party Owner (as such term is defined in the Disclosure Agreement of the Developer).

“Annual Financial Information” shall mean annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 4(a) of this Disclosure Agreement.

“Annual Installment(s)” shall have the meaning assigned to such term in the Indenture.

“Annual Issuer Report” shall mean any Annual Issuer Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Assessment(s)” shall have the meaning assigned to such term in the Indenture.

“Business Day” shall mean any day other than a Saturday, Sunday or legal holiday in the State of Texas observed as such by the Issuer or the Trustee or any national holiday observed by the Trustee.

“Developer” shall mean CADG Sutton Fields, LLC, a Texas limited liability company, its successors and assigns, including any Affiliate of the Developer.

“Disclosure Agreement of Developer” shall mean the Continuing Disclosure Agreement of the Developer dated as of October 1, 2019 executed and delivered by the Developer, the Administrator and HTS Continuing Disclosure Services, a division of Hilltop Securities Inc., as dissemination agent.

“Disclosure Representative” shall mean the Finance Director or City Manager of the Issuer or such other officer or employee as the Issuer, may designate in writing to the Dissemination Agent from time to time.

“Dissemination Agent” shall mean HTS Continuing Disclosure Services, a division of Hilltop Securities Inc., or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Trustee a written acceptance of such designation.

“District” shall mean Sutton Fields II Public Improvement District.

“EMMA” shall mean the Electronic Municipal Market Access System currently available on the internet at <http://emma.msrb.org>.

“Filing Due Date” is April 10 of each calendar year beginning in April 10, 2020.

“Financial Obligation” shall mean a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” shall mean the calendar year from October 1 through September 30.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive continuing disclosure reporting pursuant to the Rule.

“Neighborhood Improvement Area #2” shall have the meaning assigned to such term in the Service and Assessment Plan.

“Neighborhood Improvement Area #2 Assessments” shall have the meaning assigned to such term in the Service and Assessment Plan.

“Neighborhood Improvement Area #3” shall have the meaning assigned to such term in the Service and Assessment Plan.

“Neighborhood Improvement Area #3 Assessments” shall have the meaning assigned to such term in the Service and Assessment Plan.

“Outstanding” shall mean, as of any particular date when used with reference to Bonds, all Bonds authenticated and delivered under the Indenture except (i) any Bond that has been canceled by the Trustee (or has been delivered to the Trustee for cancellation) at or before such date, (ii) any Bond for which the payment of the principal or Redemption Price of and interest on such Bond shall have been made as provided in the Indenture, and (iii) any Bond in lieu of or in substitution for which a new Bond shall have been authenticated and delivered pursuant to the Indenture.

“Owner” shall mean the beneficial owner of any Bonds.

“Participating Underwriter” shall mean FMSbonds, Inc., and its successors and assigns.

“Prepayment” shall mean the payment of all or a portion of an Assessment before the due date thereof. Amounts received at the time of a Prepayment which represent a principal, interest or penalties on a delinquent installment of an Assessment are not to be considered a Prepayment, but rather are to be treated as the payment of the regularly scheduled Assessment.

“Rule” shall mean Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

“Service and Assessment Plan” shall have the meaning assigned to such term in the Indenture.

“Trust Estate” shall have the meaning assigned to such term in the Indenture.

“Trustee” shall mean U.S. Bank, National Association, or any successor trustee pursuant to the Indenture.

SECTION 3. Provision of Annual Issuer Reports.

(a) The Issuer shall cause and hereby directs the Dissemination Agent to provide or cause to be provided to the MSRB, in the electronic or other format required by the MSRB, commencing with the Fiscal Year ending September 30, 2019, an Annual Issuer Report provided to the Dissemination Agent which is consistent with the requirements of and within the time periods specified in Section 4 of this Disclosure Agreement. The audited financial statements of the Issuer, if prepared and when available, may be submitted separately from the Annual Issuer Report, and may be

submitted later than the date required in this paragraph for the filing of the Annual Issuer Report if audited financial statements are not available by that date. If, however, the audited financial statements are not complete by the deadline specified in Section 4(a), then the Issuer shall provide unaudited financial statements within such period. In each case, the Annual Issuer Report may be submitted as a single document or as separate documents comprising a package and may include by reference other information as provided in Section 4 of this Disclosure Agreement. If the Issuer's Fiscal Year changes, it shall file notice of such change (and of the date of the new Fiscal Year) with the MSRB prior to the next date by which the Issuer otherwise would be required to provide the Annual Issuer Report pursuant to this paragraph. All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

Not later than ten (10) days prior to the Filing Due Date, the Issuer shall provide the Annual Issuer Report to the Dissemination Agent. The Dissemination Agent shall provide such Annual Issuer Report to the MSRB not later than ten (10) days from receipt of such Annual Issuer Report from the Issuer, but in no case later than the Filing Due Date.

If by the fifth (5th) day before the filing date required under Section 4 of this Disclosure Agreement, the Dissemination Agent has not received a copy of the Annual Issuer Report, the Dissemination Agent shall contact the Disclosure Representative by telephone and in writing (which may be by e-mail) to remind the Issuer of its undertaking to provide the applicable Annual Issuer Report pursuant to this subsection (a). Upon such reminder, the Disclosure Representative shall either (i) provide the Dissemination Agent with an electronic copy of the Annual Issuer Report no later than two (2) Business Days prior to the filing date required under Section 4 of this Disclosure Agreement; or (ii) instruct the Dissemination Agent in writing that the Issuer will not be able to provide the Annual Issuer Report within the time required under this Disclosure Agreement, state the date by which the Annual Issuer Report for such year will be provided and instruct the Dissemination Agent to immediately send a notice to the MSRB in substantially the form attached as Exhibit A; provided, however, that in the event the Disclosure Representative is required to act under either (i) or (ii) described above, the Dissemination Agent still must file the Annual Issuer Report or the notice of failure to file, as applicable, to the MSRB, no later than six months after the end of each Fiscal Year; provided further, however, that in the event the Disclosure Representative fails to act under either (i) or (ii) described above, the Dissemination Agent shall file a notice of failure to file no later than on the last Business Day of the six month period after the end of the Fiscal Year.

(b) The Issuer shall or shall cause the Dissemination Agent to:

(i) determine the filing address or other filing location of the MSRB each year prior to filing the Annual Issuer Report on the date required in subsection (a);

(ii) file the Annual Issuer Report containing or incorporating by reference the information set forth in Section 4 hereof; and

(iii) if the Issuer has provided the Dissemination Agent with the completed Annual Issuer Report and the Dissemination Agent has filed such Annual Issuer Report with the MSRB, then the Dissemination Agent shall file a report with the Issuer certifying that the Annual Issuer Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and that it was filed with the MSRB.

SECTION 4. Content and Timing of Annual Issuer Reports. The Annual Issuer Report for the Bonds shall contain or incorporate by reference, and the Issuer agrees to provide or cause to be provided to the Dissemination Agent to file, the following:

- (a) Annual Financial Information (any or all of which may be unaudited):
 - (i) Tables setting forth the following information, as of the end of such Fiscal Year:
 - (A) For the Bonds, the maturity date or dates, the interest rate or rates, the original aggregate principal amount and principal amount remaining Outstanding;
 - (B) The amounts in the funds and accounts securing the Bonds; and
 - (C) The assets and liabilities of the Trust Estate.
 - (ii) The principal and interest paid on the Bonds during the most recent Fiscal Year and the minimum scheduled principal and interest required to be paid on the Bonds in the next Fiscal Year.
 - (iii) Any changes to the land use designation for the property in Neighborhood Improvement Areas #2-3 of the District from the purposes identified in the Service and Assessment Plan.
 - (iv) Updates to the information in the Service and Assessment Plan as most recently amended or supplemented (a "SAP Update"), including any changes to the methodology for levying the Assessments in Neighborhood Improvement Areas #2-3 of the District.
 - (v) The aggregate taxable assessed valuation for parcels or lots within Neighborhood Improvement Areas #2-3 of the District based on the most recent certified tax roll available to the Issuer.
 - (vi) With respect to single-family residential lots, until building permits have been issued for parcels or lots representing, in the aggregate, 95% of the total Assessments levied within Neighborhood Improvement Areas #2-3 of the District, such SAP Update shall include the following:
 - (A) the number of new homes completed in Neighborhood Improvement Areas #2-3 of the District during such Fiscal Year; and
 - (B) the aggregate number of new homes completed within Neighborhood Improvement Areas #2-3 of the District since filing the initial Annual Issuer Report for Fiscal Year ended September 30, 2019.
 - (vii) Listing of any property or property owners in Neighborhood Improvement Areas #2-3 of the District representing more than five percent (5%) of the levy of the Neighborhood Improvement Area #3 Assessments, the Neighborhood Improvement Area #2 Assessments, the amount of the levy of the Neighborhood Improvement Area #3 Assessments or the Neighborhood Improvement Area #2 Assessments, as applicable, against such landowners, and

the percentage of such of the Neighborhood Improvement Area #3 Assessments or the Neighborhood Improvement Area #2 Assessments, as applicable, relative to the entire levy of of the Neighborhood Improvement Area #3 Assessments or the Neighborhood Improvement Area #2 Assessments, as applicable, all as of the October 1 billing date for the Fiscal Year.

(viii) Collection and delinquency history of the Initial Assessments and the Additional Assessments within Neighborhood Improvement Areas #2-3 of the District for the past five Fiscal Years, in the following format:

Collection and Delinquency History of NIA #2 Assessments

Collected in Fiscal Year <u>Ending 9/30</u>	Assessment <u>Billed</u>	Parcels <u>Levied</u>	Delinquent Amount <u>as of 3/1</u>	Delinquent Percentage <u>as of 3/1</u>	Delinquent Amount <u>as of 9/1</u>	Delinquent Percentage <u>as of 9/1</u>	Total Assessments Collected ⁽¹⁾
20__	\$			—	—		\$

⁽¹⁾ Collected as of _____, 20__. Includes \$_____ attributable to Prepayments.

Collection and Delinquency History of NIA #3 Assessments

Collected in Fiscal Year <u>Ending 9/30</u>	Assessment <u>Billed</u>	Parcels <u>Levied</u>	Delinquent Amount <u>as of 3/1</u>	Delinquent Percentage <u>as of 3/1</u>	Delinquent Amount <u>as of 9/1</u>	Delinquent Percentage <u>as of 9/1</u>	Total Assessments Collected ⁽¹⁾
20__	\$			—	—		\$

⁽¹⁾ Collected as of _____, 20__. Includes \$_____ attributable to Prepayments.

(ix) For each calendar year, if the total amount of Annual Installments that are delinquent as of September 1 in such calendar year is equal to or greater than ten (10%) of the total amount of Annual Installments due in such calendar year, a list of parcel numbers for which the Annual Installments are delinquent.

(x) Total amount of Prepayments collected, as of the February 15 of the calendar year immediately succeeding such Fiscal Year, in each case with respect to the most recent billing period (generally, October 1 of the preceding calendar year through January 31 of the current calendar year).

(xi) The amount of delinquent Assessments by Fiscal Year:

(A) which are subject to institution of foreclosure proceedings (but as to which such proceedings have not been instituted);

(B) which are currently subject to foreclosure proceedings which have not been concluded;

(C) which have been reduced to judgment but not collected;

(D) which have been reduced to judgment and collected; and

(E) the result of any foreclosure sales of assessed property within Neighborhood Improvement Areas #2-3 of the District if the assessed property represents more than one percent (1%) of the total amount of Assessments.

(xii) A description of any amendment to this Disclosure Agreement and a copy of any restatements to the Issuer's audited financial statements during such Fiscal Year.

(b) If not provided with the financial information provided under subsection 4(a) above, if prepared and when available, the audited financial statements of the Issuer for the most recently ended Fiscal Year, prepared in accordance with generally accepted accounting principles applicable from time to time to the Issuer. If audited financial statements are not included with the financial information provided under subsection 4(a) above, unaudited financial statements shall be included with such financial information within the time period specified.

See Exhibit B hereto for a form for submitting the information set forth in the preceding paragraphs. The Issuer has designated MuniCap, Inc. as the initial Administrator. The Administrator, and if no Administrator is designated, Issuer's staff, shall prepare the Annual Financial Information.

(c) Any or all of the items listed above may be included by specific reference to other documents, including disclosure documents of debt issues of the Issuer, which have been submitted to and are publicly accessible from the MSRB. If the document included by reference is a final offering document, it must be available from the MSRB. The Issuer shall clearly identify each such other document so included by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, each of the following is a Listed Event with respect to the Bonds:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on credit enhancements reflecting financial difficulties.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions, the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.
7. Modifications to rights of Owners, if material.
8. Bond calls, if material, and tender offers.

9. Defeasances.
10. Release, substitution, or sale of property securing repayment of the bonds, if material.
11. Rating changes.
12. Bankruptcy, insolvency, receivership or similar event of the Issuer.
13. The consummation of a merger, consolidation, or acquisition of the Issuer, or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
14. Appointment of a successor trustee under the Indenture or the change of name of a trustee, if material.
15. Incurrence of a Financial Obligation of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Issuer, any of which affect security holders, if material.
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Issuer, any of which reflect financial difficulties.

For these purposes, any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Issuer in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer.

Upon the occurrence of a Listed Event, the Issuer shall promptly notify the Dissemination Agent in writing and the Issuer shall direct the Dissemination Agent to file a notice of such occurrence with the MSRB. The Dissemination Agent shall file such notice no later than the Business Day immediately following the day on which it receives written notice of such occurrence from the Issuer. Any such notice is required to be filed within ten (10) Business Days of the occurrence of such Listed Event.

Any notice under the preceding paragraphs shall be accompanied with the text of the disclosure that the Issuer desires to make, the written authorization of the Issuer for the Dissemination Agent to disseminate such information as provided herein, and the date the Issuer desires for the Dissemination Agent to disseminate the information (which date shall not be more than ten (10) Business Days after the occurrence of the Listed Event or failure to file).

In all cases, the Issuer shall have the sole responsibility for the content, design and other elements comprising substantive contents of all disclosures made under this Section 5. In addition, the Issuer shall have the sole responsibility to ensure that any notice required to be filed under this Section 5 is filed within ten (10) Business Days of the occurrence of the Listed Event.

(b) The Dissemination Agent shall, within one (1) Business Day of obtaining actual knowledge of the occurrence of any Listed Event with respect to the Bonds, notify the Disclosure Representative of such Listed Event. The Dissemination Agent shall not be required to file a notice of the occurrence of such Listed Event with the MSRB unless and until it receives written instructions from the Disclosure Representative to do so. If the Dissemination Agent has been instructed by the Disclosure Representative on behalf of the Issuer to report the occurrence of a Listed Event under this subsection (b), the Dissemination Agent shall immediately file a notice of such occurrence with the MSRB. It is agreed and understood that the duty to make or cause to be made the disclosures herein is that of the Issuer and not that of the Trustee or the Dissemination Agent. It is agreed and understood that the Dissemination Agent has agreed to give the foregoing notice to the Issuer as an accommodation to assist it in monitoring the occurrence of such event, but is under no obligation to investigate whether any such event has occurred. As used above, “actual knowledge” means the actual fact or statement of knowing, without a duty to make any investigation with respect thereto. In no event shall the Dissemination Agent be liable in damages or in tort to the Issuer, the Participating Underwriter, the Trustee, or any Owner or beneficial owner of any interests in the Bonds as a result of its failure to give the foregoing notice or to give such notice in a timely fashion.

(c) If in response to a notice from the Dissemination Agent under subsection (b), the Issuer determines that the Listed Event under number 2, 7, 8 (as to Bond calls only), 10, 13, 14 or 15 of subparagraph (a) above is not material under applicable federal securities laws, the Issuer shall promptly notify the Dissemination Agent and the Trustee (if the Dissemination Agent is not the Trustee) in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (b).

(d) In addition to the Listed Events above, the Issuer shall provide to the Dissemination Agent filing with the MSRB period reporting on delinquencies and collection activities related to delinquent Assessments and foreclosure activities in Neighborhood Improvement Areas #2-3 of the District as provided in Exhibit C hereto.

SECTION 6. Termination of Reporting Obligations. The obligations of the Issuer, the Administrator and the Dissemination Agent under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds, when the Issuer is no longer an obligated person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Dissemination Agent of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required. So long as any of the Bonds remain Outstanding, the Dissemination Agent may assume that the Issuer is an obligated person with respect to the Bonds until it receives written notice from the Disclosure Representative stating that the Issuer is no longer an obligated person with respect to the Bonds, and the Dissemination Agent may conclusively rely upon such written notice with no duty to make investigation or inquiry into any statements contained or matters referred to in such written notice. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for a Listed Event with respect to such series of Bonds under Section 5(a).

SECTION 7. Dissemination Agent. The Issuer may, from time to time, appoint or engage a Dissemination Agent or successor Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the Issuer shall be the Dissemination Agent. The initial Dissemination Agent appointed hereunder shall be HTS Continuing Disclosure Services, a division of Hilltop Securities Inc.

SECTION 8. Amendment; Waiver. Notwithstanding any other provisions of this Disclosure Agreement, the Issuer and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall not unreasonably withhold its consent to any amendment so requested by the Issuer), and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the delivery of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Owners of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or beneficial owners of the Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Issuer shall describe such amendment in the next related Annual Issuer Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(a), and (ii) the Annual Issuer Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. No amendment which materially adversely affects the Dissemination Agent may be made without its prior written consent (which consent will not be unreasonably withheld or delayed).

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Issuer Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Issuer chooses to include any information in any Annual Issuer Report or notice of occurrence of a Listed Event in addition to that

which is specifically required by this Disclosure Agreement, the Issuer shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Issuer Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Agreement, the Dissemination Agent may (and, at the request of any Participating Underwriter or the Owners of at least twenty-five (25%) aggregate principal amount of Outstanding Bonds, shall, upon being indemnified to its satisfaction), or any Owner or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to cause the Issuer, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture with respect to the Bonds, and the sole remedy under this Disclosure Agreement in the event of any failure of the Issuer to comply with this Disclosure Agreement shall be an action for mandamus or specific performance. A default under this Disclosure Agreement by the Issuer shall not be deemed a default under the Disclosure Agreement of Developer by the Developer, and a default under the Disclosure Agreement of Developer by the Developer shall not be deemed a default under this Disclosure Agreement by the Issuer.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent and Administrator.

(a) The Dissemination Agent shall not have any duty with respect to the content of any disclosures made pursuant to the terms hereof. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Dissemination Agent. To the extent permitted by law, the Issuer agrees to hold harmless the Dissemination Agent, its officers, directors, employees and agents, but only with funds to be provided by the Developer or from Assessments collected from the property owners in Neighborhood Improvement Areas #2-3 of the District, against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct; provided, however, that nothing herein shall be construed to require the Issuer to indemnify the Dissemination Agent for losses, expenses or liabilities arising from information provided to the Dissemination Agent by the Developer or the failure of the Developer to provide information to the Dissemination Agent as and when required under the Disclosure Agreement of Developer. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment in full of the Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Dissemination Agent is an "obligated person" under the Rule. The Dissemination Agent is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The fact that the Dissemination Agent may have a banking or other business relationship with the Issuer or any person with whom the Issuer contracts in connection with the transaction described in the Indenture, apart from the relationship created by the Indenture or this Disclosure Agreement, shall not be construed to mean that the Dissemination Agent has actual knowledge of any event described in Section 5 above, except as may be provided by written notice to the Dissemination Agent pursuant to this Disclosure Agreement.

(b) Except as otherwise provided herein, the Administrator shall not have any duty with respect to the content of any disclosures made pursuant to the terms hereof. The Administrator shall have only such duties as are specifically set forth in this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Administrator. To the extent permitted by law, the Issuer agrees to hold harmless the Administrator, its officers, directors, employees and agents, but only with funds to be provided by the Developer or from Assessments collected from the property owners in Neighborhood Improvement Areas #2-3 of the District, against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Administrator's negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Administrator and payment in full of the Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Administrator is an "obligated person" under the Rule. The Administrator is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The Administrator shall not in any event incur any liability with respect to (i) any action taken or omitted to be taken in good faith upon advice of legal counsel given with respect to any question relating to duties and responsibilities of the Administrator hereunder, or (ii) any action taken or omitted to be taken in reliance upon any document delivered to the Administrator and believed to be genuine and to have been signed or presented by the proper party or parties.

(c) The Dissemination Agent or the Administrator may, from time to time, consult with legal counsel of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or their respective duties hereunder, and the Dissemination Agent and Administrator shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel.

UNDER NO CIRCUMSTANCES SHALL THE DISSEMINATION AGENT, THE ADMINISTRATOR OR THE ISSUER BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, THE ADMINISTRATOR OR THE DISSEMINATION AGENT, RESPECTIVELY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS DISCLOSURE AGREEMENT, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE. THE DISSEMINATION AGENT AND THE ADMINISTRATOR IS UNDER NO OBLIGATION NOR IS IT REQUIRED TO BRING SUCH AN ACTION.

SECTION 12. Assessment Timeline. Subject to the provisions of Section 5(d) hereof, the basic expected timeline for the collection of Assessments and the anticipated procedures for pursuing the collection of delinquent Assessments is set forth in Exhibit C which is intended to illustrate the general procedures expected to be followed in enforcing the payment of delinquent Assessments.

SECTION 13. No Personal Liability. No covenant, stipulation, obligation or agreement of the Issuer, Administrator or Dissemination Agent contained in this Disclosure Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future council

members, officer, agent or employee of the Issuer, Administrator or Dissemination Agent in other than that person's official capacity.

SECTION 14. Severability. In case any section or provision of this Disclosure Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reasons held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other section or provision thereof or any other covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder (except to the extent that such remainder or section or provision or other covenant, stipulation, obligation, agreement, act or action, or part thereof is wholly dependent for its operation on the provision determined to be invalid), which shall be construed and enforced as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

SECTION 15. Sovereign Immunity. The Dissemination Agent agrees that nothing in this Disclosure Agreement shall constitute or be construed as a waiver of the Issuer's sovereign or governmental immunities regarding liability or suit.

SECTION 16. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Administrator, the Dissemination Agent, the Participating Underwriter, and the Owners and the beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity. Nothing in this Disclosure Agreement is intended or shall act to disclaim, waive or otherwise limit the duties of the Issuer under federal and state securities laws.

SECTION 17. Dissemination Agent Compensation. The fees and expenses incurred by the Dissemination Agent for its services rendered in accordance with this Disclosure Agreement constitute Administrative Expenses and will be included in the Annual Installments as provided in the annual updates to the Service and Assessment Plan. The Dissemination Agent has entered into a separate agreement with the Issuer, which agreement provides for the payment of the fees and expenses of the Dissemination Agent for its services rendered in accordance with this Disclosure Agreement.

SECTION 18. Administrator Compensation. The fees and expenses incurred by the Administrator for its services rendered in accordance with this Disclosure Agreement constitute Administrative Expenses and will be included in the Annual Installments as provided in the annual updates to the Service and Assessment Plan. The Administrator has entered into a separate agreement with the Issuer, which agreement governs the administration of Neighborhood Improvement Areas #2-3 of the District, including the payment of the fees and expenses of the Administrator for its services rendered in accordance with this Disclosure Agreement.

SECTION 19. Anti-Boycott Verification. The Dissemination Agent hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Disclosure Agreement is a contract for goods or services, will not boycott Israel during the term of this Disclosure Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not

contravene applicable Federal law. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Dissemination Agent understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Dissemination Agent and exists to make a profit.

SECTION 20. Iran, Sudan and Foreign Terrorist Organizations. The Dissemination Agent represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code on the following website: <https://comptroller.texas.gov/purchasing/publications/divestment.php>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Dissemination Agent and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Dissemination Agent understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Dissemination Agent and exists to make a profit.

SECTION 21. Governing Law. This Disclosure Agreement shall be governed by the laws of the State of Texas.

SECTION 22. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signature pages follow]

CITY OF CELINA, TEXAS

By: _____
City Manager

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

SIGNATURE PAGE OF CONTINUING DISCLOSURE AGREEMENT OF ISSUER

HTS CONTINUING DISCLOSURE SERVICES,
A Division Of Hilltop Securities Inc.
(as Dissemination Agent)

By: _____
Authorized Officer

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

SIGNATURE PAGE OF CONTINUING DISCLOSURE AGREEMENT OF ISSUER

MUNICAP, INC.
(as Administrator)

By: _____
Authorized Officer

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

SIGNATURE PAGE OF CONTINUING DISCLOSURE AGREEMENT OF ISSUER

EXHIBIT A**NOTICE TO MSRB OF FAILURE TO FILE
ANNUAL ISSUER REPORT**

Name of Issuer: City of Celina, Texas
 Name of Bond Issue: Special Assessment Revenue Bonds, Series 2019
 (Sutton Fields II Public Improvement District Neighborhood
 Improvement Areas #2-3 Project)
 (the "Bonds")
 CUSIP Nos. [insert CUSIP NOs.]
 Date of Delivery: _____, 20__

NOTICE IS HEREBY GIVEN that the City of Celina, Texas (the "Issuer"), has not provided [an Annual Issuer Report][annual audited financial statements] with respect to the Bonds as required by the Continuing Disclosure Agreement of Issuer dated October 1, 2019, between the Issuer, MuniCap, Inc., as "Administrator" and HTS Continuing Disclosure Services, a division of Hilltop Securities Inc., as "Dissemination Agent." The Issuer anticipates that [the Annual Issuer Report][annual audited financial statements] will be filed by _____.

Dated: _____

HTS Continuing Disclosure Services, a division of
 Hilltop Securities Inc.,
 on behalf of the City of Celina, Texas
 (as Dissemination Agent)

By: _____

Title: _____

cc: City of Celina, Texas

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

EXHIBIT B

**CITY OF CELINA, TEXAS,
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2019
(SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT NEIGHBORHOOD
IMPROVEMENT AREAS #2-3 PROJECT)**

ANNUAL ISSUER REPORT*

Delivery Date: _____, 20__

CUSIP NOS: [insert CUSIP NOs.]

BONDS OUTSTANDING

CUSIP Number	Maturity Date	Interest Rate	Original Principal Amount	Outstanding Principal Amount	Outstanding Interest Amount

INVESTMENTS

Fund/ Account Name	Investment Description	Par Value	Book Value	Market Value

*Excluding Audited Financial Statements of the Issuer

ITEMS REQUIRED BY SECTIONS 4(a)(ii) – (vii)

[Insert a line item]

SECTION 4(a)(viii) COLLECTION AND DELINQUENCY HISTORY OF THE ASSESSMENTS WITHIN NEIGHBORHOOD IMPROVEMENT AREAS #2-3 FOR THE PAST FIVE FISCAL YEARS, IN THE FOLLOWING FORMAT:

Collection and Delinquency History of NIA #2 Assessments

Collected in Fiscal Year	Assessment	Parcels	Delinquent Amount	Delinquent Percentage	Delinquent Amount	Delinquent Percentage	Total Assessments
<u>Ending 9/30</u>	<u>Billed</u>	<u>Levied</u>	<u>as of 3/1</u>	<u>as of 3/1</u>	<u>as of 9/1</u>	<u>as of 9/1</u>	<u>Collected⁽¹⁾</u>
20__	\$			—	—		\$

⁽¹⁾ Collected as of _____, 20__. Includes \$ _____ attributable to Prepayments.

Collection and Delinquency History of NIA #3 Assessments

Collected in Fiscal Year	Assessment	Parcels	Delinquent Amount	Delinquent Percentage	Delinquent Amount	Delinquent Percentage	Total Assessments
<u>Ending 9/30</u>	<u>Billed</u>	<u>Levied</u>	<u>as of 3/1</u>	<u>as of 3/1</u>	<u>as of 9/1</u>	<u>as of 9/1</u>	<u>Collected⁽¹⁾</u>
20__	\$			—	—		\$
⁽¹⁾ Collected as of _____, 20__. Includes \$ _____ attributable to Prepayments.							

ITEMS REQUIRED BY SECTIONS 4(a)(ix) – (xii) OF THE CONTINUING DISCLOSURE AGREEMENT OF ISSUER RELATING TO THE CITY OF CELINA, TEXAS SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2019, (SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT NEIGHBORHOOD IMPROVEMENT AREAS #2-3 PROJECT)

[Insert a line item for each applicable listing]

EXHIBIT C

**BASIC EXPECTED TIMELINE FOR ASSESSMENT COLLECTIONS
AND PURSUIT OF DELINQUENCIES¹**

<u>Date</u>	<u>Delinquency Clock (Days)</u>	<u>Activity</u>
January 31		Annual Installments of Assessments are due.
February 1	1	Annual Installments of Assessments Delinquent if not received.
February 15	15	Issuer forwards payment to Trustee for all collections received as of February 15, along with detailed breakdown. Subsequent payments and relevant details will follow monthly thereafter. Issuer and/or Administrator should be aware of actual and specific delinquencies. Issuer and/or Administrator should be aware if Reserve Fund needs to be utilized for debt service payments on March 1. If there is to be a shortfall, the Trustee and Dissemination Agent should be immediately notified in writing. Issuer and/or Administrator should also be aware if, based on collections, there will be a shortfall for September payment. Issuer and/or Administrator should determine if previously collected surplus funds, if any, plus actual collections will be fully adequate for debt service in March and September. At this point, if total delinquencies are under 5% and if there is adequate funding for March and September payments, no further action is anticipated for collection of Annual Installments of Assessments except that the Issuer or Administrator, working with the City Attorney or an appropriate designee, will begin process to cure deficiency. For properties delinquent by more than one year or if the delinquency exceeds \$10,000 the matter will be referred for commencement of foreclosure. If there are over 5% delinquencies or if there is inadequate funding in the Pledged Revenue

¹ Illustrates anticipated dates and procedures for pursuing the collection of delinquent Annual Installments of Assessments, which dates and procedures are subject to adjustment by the Issuer.

March 15

43/44

Fund for transfer to the Principal and Interest Account of such amounts as shall be required for the full March and September payments, the collection-foreclosure procedure will proceed against all delinquent properties.

Trustee pays bond interest payments to bondholders.

Reserve Fund payment to Bond Fund may be required if Assessments are below approximately 50% collection rate.

Issuer, or the Trustee, on behalf of the Issuer, to notify Dissemination Agent of the occurrence of draw on the Reserve Fund and, following receipt of such notice, Dissemination Agent to notify MSRB of such draw on the Reserve Fund for debt service.

Use of Reserve Fund for debt service payment should trigger commencement of foreclosure on delinquent properties.

Issuer determines whether or not any Annual Installments of Assessments are delinquent and, if such delinquencies exist, the Issuer commences as soon as practicable appropriate and legally permissible actions to obtain such delinquent Annual Installments of Assessments.

March 20

48/49

Issuer and/or Administrator to notify Dissemination Agent of any delinquencies to be included in the Annual Report.

If any property owner with ownership of property responsible for more than \$10,000 of the Annual Installments of Assessments is delinquent or if a total of delinquencies is over 5%, or if it is expected that Reserve Fund moneys will need to be utilized for either the March or September bond payments, the Disclosure Representative shall work with City Attorney's office, or the appropriate designee, to satisfy payment of all delinquent Annual Installments of Assessments.

April 15

74/75

Preliminary Foreclosure activity commences, and Issuer to notify Trustee and Dissemination Agent of the commencement of preliminary foreclosure activity.

		If Trustee has not received Foreclosure Schedule and Plan of Collections, Trustee to request same from the Issuer.
May 1	90/91	If the Issuer has not provided the Trustee with Foreclosure Schedule and Plan of Collections, and if instructed by the bondholders to begin foreclosure under Section 7.2 of the Indenture, Trustee requests that the Issuer commence foreclosure or provide plan for collection.
May 15	104/105	The designated lawyers or law firm will be preparing the formal foreclosure documents and will provide periodic updates to the Dissemination Agent for dissemination through the MSRB. The goal for the foreclosure actions is a filing by no later than June 1 (day 121/122).
June 1	121/122	Foreclosure action to be filed with the court.
June 15	135/136	Issuer notifies Trustee and Dissemination Agent of Foreclosure filing status in writing. Dissemination Agent notifies bondholders.
July 1	151/152	If bondholders and Dissemination Agent have not been notified of a foreclosure action, Dissemination Agent will notify the Issuer that it is appropriate to file action.

A committee of not less than twenty-five (25%) of the Owners may request a meeting with the Mayor, City Manager, or other responsible official of the City to discuss the Issuer's actions in pursuing the repayment of any delinquencies. This would also occur after day 30 if it is apparent that a Reserve Fund draw is required. Further, if delinquencies exceed five percent (5%) Owners may also request a meeting with the Issuer at any time to discuss the Issuer's plan and progress on collection and foreclosure activity. If the Issuer is not diligently proceeding with the foreclosure process, the Owners may seek an action for mandamus or specific performance to direct the Issuer to pursue the collections of delinquent Annual Installments of Assessments.

EXHIBIT D
SERVICE AND ASSESSMENT PLAN

Attachment: Celina Sutton Fields II PID NIA #2-3 Bonds 2019 - Bond Ordinance (Ordinance approving Sutton Fields II PID Bond sale)

SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT

CITY OF CELINA, TEXAS

AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN UPDATED FOR NEIGHBORHOOD IMPROVEMENT AREA #2 & NEIGHBORHOOD IMPROVEMENT AREA #3

August 28, 2018

As Updated for NIA #3 on June 11, 2019

&

as Updated collectively for NIA #2 & NIA #3 on August
28, 2019

PREPARED BY:

MUNICAP, INC.
— PUBLIC FINANCE —

SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT

AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN UPDATED FOR NEIGHBORHOOD IMPROVEMENT AREA #2 & NEIGHBORHOOD IMPROVEMENT AREA #3

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RECITALS

WHEREAS, this Service and Assessment Plan amends and restates that particular Sutton Fields PID II Service and Assessment Plan approved by the City Council on November 10, 2015 (the “Original SAP”); and

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

WHEREAS, on September 3, 2015, CADG Sutton Fields, LLC, a Texas limited liability company; owner of a majority of the real property petitioned the City for creation of a PID; and

WHEREAS, by Resolution 2015-51R adopted on October 13, 2015, after notice and a public hearing in the manner required by law, the City Council of the City of Celina, Texas approved a resolution authorizing the creation of the Sutton Fields II Public Improvement District (the “District”) of the City of Celina; and

WHEREAS, on November 10, 2015, after notice and a public hearing conducted in the manner required by law, the City Council adopted Ordinance Nos. 2015-54 and 2015-56 approving the Sutton Fields II Public Improvement District Original SAP and Assessment Roll and the levy of assessments on property in the District; and

WHEREAS, the original plan of development contemplated the City to provide retail water and sewer service, the Developer had agreed to secure the water and wastewater certificates of convenience and necessity (“CCNs”) from Mustang Special Utility District for an estimated cost of \$3,300,000 as shown in the Major Improvements budget in the Original SAP and in connection with the securing of the CCN Certificate in order to provide water and wastewater services for the City, the Developer had agreed to purchase capacity for such services from Upper Trinity Regional Water District (“UTRWD”) for an estimated cost of \$800,000; and

WHEREAS, Mustang Special Utility District (“MSUD”) held the certificates of convenience and necessity (the “CCNs”) to provide retail water and sewer service to Tract A; and

WHEREAS, Aqua Texas (“Aqua”) held the CCNs to provide retail water and sewer service to Tract B; and

WHEREAS, MSUD CCNs were decertified on July 16, 2015 and Aqua CCNs were decertified on March 22, 2016, in order to allow the City to provide retail water and sewer service to the Property; and

WHEREAS, the Developer and the City have agreed that the Property will receive water and sewer service from MSUD; and

WHEREAS, the MSUD, the City, and the Developer entered into that certain Facilities Agreement (the “Facilities_Agreement”) anticipated to be effective on or about June 13, 2017,

wherein MSUD has agreed to provide retail water and sewer service to the Assessed Property and, therefore, the CCNs and the UTRWD capacity included in the Original SAP are no longer required; and

WHEREAS, the City Council decided to amend and restate the Original SAP to, among other things, allow MSUD to provide retail water and sewer service to the Assessed Property; and

WHEREAS, the City and the Developer entered that certain Sutton Fields II Public Improvement District Neighborhood Improvement Area #1 Reimbursement Agreement, effective November 10, 2015 (the “Reimbursement Agreement”), to pay and reimburse the Developer for cost of Neighborhood Improvement Area #1 Improvements (as defined in the Reimbursement Agreement) plus interest; and

WHEREAS, the City and the Developer determined that due to the change in water and sewer service providers, the Developer will no longer expend the amount of \$2,225,000.00 for the costs incurred in the construction of the Neighborhood Improvement Area #1 Improvements (as defined in the Reimbursement Agreement) for which the City would be obligated to reimburse the Developer; and

WHEREAS, the City Council approved the creation of *Reinvestment Zone Number Four, City of Celina, Texas* (“TIRZ No. 4”), on November 5, 2015; and

WHEREAS, the TIRZ Credit related to TIRZ No. 4 was amended to reduce the City’s participation rate; and

WHEREAS, the City agrees to create a TIRZ to encompass the Neighborhood Improvement Areas #2-5 Assessed Property; and

WHEREAS, the Original SAP was amended and restated on August 28, 2018:

NOW THEREFORE, the Service and Assessment Plan is updated as follows:

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I. PLAN DESCRIPTION AND DEFINED TERMS

A. INTRODUCTION

On October 13, 2015, (the “Creation Date”) the City Council of the city of Celina, Texas (the “City”) passed and approved Resolution No. 2015-51R approving and authorizing the creation of the Sutton Fields II Public Improvement District (the “PID”) to finance the costs of certain public improvements for the benefit of property within the PID (the “Authorized Improvements”), which is located within the City of Celina, and within the Extraterritorial Jurisdiction (the “ETJ”) of the City of Celina, Texas.

Certain development standards have been established for the property within the PID pursuant to the terms and conditions of that certain Amended and Restated Sutton Fields Facilities and Development Agreement dated June 13, 2017 (“the Development Agreement”). The property in the PID is proposed to be developed in approximately five phases, and the PID will finance Authorized Improvements for each phase as each phase is developed. Assessments will be imposed on all property in each phase for the Authorized Improvements to be provided for that phase.

Chapter 372 of the Texas Local Government Code, the “Public Improvement District Assessment Act” (as amended, the “PID Act”), governs the creation of public improvement districts within the State of Texas. The Sutton Fields II Service and Assessment Plan was prepared pursuant to the PID Act and specifically Sections 372.013, 372.014, 372.015 and 372.016, which address the requirements of a service and assessment plan and the Assessment Roll. According to Section 372.013 of the PID Act, a service plan “must cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements. The plan shall be reviewed and updated annually for the purpose of determining the annual budget for improvements.” The service plan for the PID is described in more detail in Section VI.

Section 372.014 of the PID Act requires that “an assessment plan must be included in the annual service plan.” The assessment plan is described in Section V.

Section 372.015 of the PID Act requires that the “governing body of the municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district.” The method of assessing the Authorized Improvement Costs and apportionment of such costs to the property in the PID is included in Section V.

Section 372.016 of the PID Act requires that “after the total cost of an improvement is determined, the governing body of the municipality or county shall prepare a proposed Assessment Roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality or county under this subchapter.” The proposed Assessment Rolls for the PID is included as Appendix A-2, Appendix B-2, Appendix B-3 and Appendix B-4 of this Service and Assessment Plan. The Assessments as shown on the proposed

Assessment Rolls are based on the method of assessment and apportionment of costs described in Section V of this Service and Assessment Plan.

B. DEFINITIONS

Capitalized terms shall have the meanings ascribed to them as follows:

“Actual Cost(s)” means, with respect to an Authorized Improvement, the demonstrated, reasonable, allocable, and allowable costs of constructing such Authorized Improvement, as specified in a certification for payment, as defined in the Construction, Funding and Acquisition Agreement, that has been reviewed and approved by the City. Actual Cost may include (a) the costs for the design, planning, financing, administration, management, acquisition, installation, construction and/or implementation of such Authorized Improvement, (b) the costs of preparing the construction plans for such Authorized Improvement, (c) the fees paid for obtaining permits, licenses or other governmental approvals for such Authorized Improvement, (d) the costs for external professional costs associated with such Authorized Improvement, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, taxes (property and franchise) (e) the costs of all labor, bonds and materials, including equipment and fixtures, incurred by contractors, builders and material men in connection with the acquisition, construction or implementation of the Authorized Improvements, (f) all related permitting, zoning and public approval expenses, architectural, engineering, legal, and consulting fees, financing charges, taxes, governmental fees and charges (including inspection fees, County permit fees, development fees), insurance premiums, miscellaneous expenses, and all advances and payments for Administrative Expenses. Actual Costs include general contractor’s fees in an amount up to a percentage equal to the percentage of work completed and accepted by the City or construction management fees in an amount up to five percent of the eligible Actual Costs described in a certification for payment, as defined in the Construction, Funding and Acquisition Agreement, that has been reviewed and approved by the City. The amounts expended on legal costs, taxes, governmental fees, insurance premiums, permits, financing costs, and appraisals shall be excluded from the base upon which the general contractor and construction management fees are calculated.

“Administrative Expenses” means the administrative, organization, maintenance and operation costs and expenses associated with, or incident to, the administration, organization, maintenance and operation of the PID, including, but not limited to, the costs of: (i) creating and organizing the PID, including conducting hearings, preparing notices and petitions, and all costs incident thereto, including engineering fees, legal fees and consultant fees, (ii) the annual administrative, organization, maintenance, and operation costs and expenses associated with, or incident and allocable to, the administration, organization, and operation of the PID, (iii) computing, levying, billing and collecting Assessments or the Annual Installments thereof, (iv) maintaining the record of installments of the Assessments and the system of registration and transfer of the PID Bonds, (v) issuing, paying and redeeming the PID Bonds (vii) investing or depositing of monies, (viii) complying with the PID Act and codes with respect to the PID Bonds, (ix) the Trustee fees and expenses relating to the PID Bonds, including other reasonable fees (x) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors (xi)

administering the construction of the Authorized Improvements. Administrative Expenses do not include payment of the actual principal of, redemption premium, if any, and interest on the PID Bonds. Administrative Expenses collected and not expended for actual Administrative Expenses shall be carried forward and applied to reduce Administrative Expenses in subsequent years to avoid the over-collection of amounts to pay Administrative Expenses.

“Administrator” means the employee or designee of the City, identified in any indenture of trust relating to the PID Bonds or identified in any agreement approved by City Council, who shall have the responsibilities provided for herein and in the Service and Assessment Plan.

“Annual Installment” means, with respect to each Assessed Property, each annual payment of the: (i) Assessments (including the principal of and interest on), as shown on the Assessment Rolls attached hereto as Appendix A-2, Appendix B-2, Appendix B-3 and Appendix B-4 or in an Annual Service Plan Update, and calculated as provided in **Section VII** of this Service and Assessment Plan, (ii) Administrative Expenses, (iii) Prepayment reserve described in **Section V** of this Service and Assessment Plan, and (iv) Delinquency reserve described in **Section V** of this Service and Assessment Plan.

“Annual Service Plan Update” has the meaning set forth in **Section VI** of this Service and Assessment Plan.

“As-Built Assessed Value” means the estimated future assessed value of a parcel after construction.

“Assessed Property” means a Parcel, other than Non-Benefitted Property, of land located within the PID, described by metes and bounds, by lot and block number in a final subdivision plat recorded in the Official Public Records of the County, or by any other means determined by the County, against which an Assessment is levied by the Assessment Order in accordance with the Service and Assessment Plan.

“Assessment” means an assessment levied against a Parcel imposed pursuant to an Assessment Ordinance and the provisions herein, as shown on any Assessment Roll, subject to reallocation upon the subdivision of such Parcel or reduction according to the provisions herein and the PID Act. An Assessment for a Parcel consists of the Annual Installments to be collected in all years and includes Administrative Expenses and interest on all Assessments.

“Assessment Ordinance” means each ordinance adopted by the City Council approving the Service and Assessment Plan (including amendments or supplements to the Service and Assessment Plan) and levying the Assessments.

“Assessment Roll(s)” means the document(s) included in this Service and Assessment Plan as Appendix A-2, Appendix B-2, Appendix B-3 and Appendix B-4 as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including updates prepared in connection with the issuance of PID Bonds or in connection with

any Annual Service Plan Update or any other Assessment Roll in an amendment or supplement to this Service and Assessment Plan.

“Authorized Improvements” means the public improvements identified in **Section III** herein and authorized under Section 372.003 of the PID Act, acquired, constructed and installed in accordance with this Service and Assessment Plan, and any future updates and/or amendments.

“Authorized Improvement Costs” mean the actual or budgeted costs, as applicable, of all or any portion of the Authorized Improvements.

“City” means City of Celina, Texas.

“City Council” means the duly elected governing body of the City.

“Construction, Funding and Acquisition Agreement” means the (i) “Neighborhood Improvement Areas #2-5 Construction, Funding and Acquisition Agreement” between the City and the Developer relating to the Neighborhood Improvement Areas #2-5 Major Improvement Bonds, dated as of November 10, 2015, which provides for the appointment, levying and collection of Assessments, the construction of the Neighborhood Improvement Areas #2-5 Major Improvements, the maintenance of the Neighborhood Improvement Areas #2-5 Major Improvements, the issuance of bonds and other matters related thereto, (ii) the "Neighborhood Improvement Area #1 Construction, Funding and Acquisition Agreement" between the City and the Developer relating to the Neighborhood Improvement Area #1 Bonds, dated as of November 10, 2015, which provides for the appointment, levying and collection of Assessments, the construction of the Neighborhood Improvement Area #1 Improvements, the maintenance of the Neighborhood Improvement Area #1 Improvements, the issuance of bonds and other matters related thereto, (iii) the “Neighborhood Improvement Area #2 Construction, Funding and Acquisition Agreement” between the City and the Developer dated as of August 28, 2018 and (iv) the “Neighborhood Improvement Area #3 Construction, Funding and Acquisition Agreement” between the City and the Developer dated as of June 11, 2019.

“County” means Denton County, Texas.

“Delinquent Collection Costs” mean interest, penalties and expenses incurred or imposed with respect to any delinquent installment of an Assessment in accordance with the PID Act and the costs related to pursuing collection of a delinquent Assessment and foreclosing the lien against the Assessed Property, including attorney’s fees.

“Developer” means CADG Sutton Fields, LLC, a Texas limited liability corporation.

“Future Neighborhood Improvement Area” means Neighborhood Improvement Areas that may be fully developed after Neighborhood Improvement Area #1, as such areas are generally depicted in **Table II-C**. The Future Neighborhood Improvement Areas are subject to adjustment and are shown for example only.

“Future Neighborhood Improvement Area Improvements” means those Authorized Improvements associated with any Future Neighborhood Improvement Area.

“Future Neighborhood Improvement Area Bonds” mean bonds issued to fund Authorized Improvements (or a portion thereof) in a Future Neighborhood Improvement Area. In connection with the Future Neighborhood Improvement Area Bonds, Assessments will be levied only on Parcels located within the Future Neighborhood Improvement Area in question.

“Homeowner Association Property” means property within the boundaries of the PID that is owned by or irrevocably offered for dedication to, whether in fee simple or through an exclusive use easement, a Homeowner’s Association established for the benefit of property owners within the PID.

“Indenture” means an indenture of trust, trust agreement, ordinance or similar document between the City and Trustee setting forth the terms and other provisions relating to a series of one or more PID Bonds, as modified, amended, and/or supplemented from time to time.

“Lot” means a tract of land described as a “lot” in a subdivision plat recorded in the Official Public Records of Denton County, Texas.

“Lot Type” means a classification of final building lots with similar characteristics (e.g. commercial, light industrial, multifamily residential, single family residential, etc.), as determined by the Administrator and confirmed by the City Council. In the case of single family residential Lots, the Lot Type shall be further defined by classifying the residential lots by the estimated Lot size and Lot width.

“Major Improvements” means both on-site and off-site Authorized Improvements which benefit all Assessed Property within the PID and described in **Section III**.

“Neighborhood Improvement Area #1” means the initial area to be developed within the PID as generally shown on the map on **Table II-B** consisting of approximately 130 acres.

“Neighborhood Improvement Area #1 Assessed Property” means any and all Parcels within Neighborhood Improvement Area #1 other than Non-Benefited Property and as shown in the Neighborhood Improvement Area #1 Assessment Roll against which an Assessment relating to the Neighborhood Improvement Area #1 Improvements is levied.

“Neighborhood Improvement Area #1 Assessment Roll” means the Assessment Roll covering the Neighborhood Improvement Area #1 included in this SAP as **Appendix A-2**, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Updates.

“Neighborhood Improvement Area #1 Bonds” means those certain “City of Celina, Texas, Special Assessment Revenue Bonds, Series, 2015 (Sutton Fields II Public Improvement District

Neighborhood Improvement Area #1 Project)” that are secured by actual revenues received by or on behalf of the City from the collection of Assessments levied against Neighborhood Improvement Area #1 Assessed Property, or the Annual Installments thereof, for the Neighborhood Improvement Area #1 Improvements.

“**Neighborhood Improvement Area #1 Improvements**” means (i) the pro rata portion of the Major Improvements that benefit the entire PID allocable to the Neighborhood Improvement Area #1, and (ii) the Authorized Improvements which only benefit the Neighborhood Improvement Area #1 Assessed Property and are described in **Section III.B** hereto, and which are to be financed with Neighborhood Improvement Area #1 Bonds.

“**Neighborhood Improvement Area #1 Initial Parcel**” means the portion of all Parcels located within Neighborhood Improvement Area #1, which as of May 1, 2017 includes the following tax map identification numbers assigned by the Denton County Appraisal District: 52680, 52751, 52810, 52744, 52760, 52721.

“**Neighborhood Improvement Area #2**” or “**NIA #2**” means the property within the PID, being developed as Phase 1C, as depicted on the map in **Appendix D** consisting of approximately 45.4 acres within the PID.

“**Neighborhood Improvement Area #2 Assessed Property**” means, for any year, any and all Parcels within Neighborhood Improvement Areas #2 other than Non-Benefited Property.

“**Neighborhood Improvement Area #2 Assessment Roll**” means the Assessment Roll covering Neighborhood Improvement Areas #2 Improvements included in this SAP as **Appendix B-3**, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including any updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Update.

“**Neighborhood Improvement Area #2 Initial Parcel**” means the portion of all Parcels located within Neighborhood Improvement Areas #2, which as of July 1, 2018 includes the following tax map identification numbers assigned by the Denton County Appraisal District: 134236.

“**Neighborhood Improvement Area #2 Improvements**” means those Authorized Improvements that benefit the Neighborhood Improvement Areas #2, as described in **Section III.C** hereto, and which are to be financed with the Neighborhood Improvement Areas #2 Reimbursement Agreement.

“**Neighborhood Improvement Area #2 Reimbursement Agreement**” means reimbursement agreement by and between the City and the Developer in which the Developer agrees to fund the Actual Costs of certain Neighborhood Improvement Area #2 Improvements and the City agrees to reimburse the Developer for the Actual Costs of those Neighborhood Improvement Area #2 Improvements funded by the Developer with interest as permitted by the Act.

“Neighborhood Improvement Area #2-3 Improvement Bonds” means those certain City of Celina, Texas Special Assessment Revenue Bonds, Series 2019 (Sutton Fields II Public Improvement District Neighborhood Improvement Area #2 and Neighborhood Improvement Area #3 Projects) that are secured by actual revenues received by or on behalf of the City from the collection of Assessments levied against Neighborhood Improvement Area #2 Assessed Property and Neighborhood Improvement Area #3 Assessed Property, or the Annual Installments thereof, for the Neighborhood Improvement Area #2 Improvements and Neighborhood Improvement Area #3 Improvements.

“Neighborhood Improvement Area #3” or “NIA #3” means the property within the PID, being developed as Phases 2A and 2B, as depicted on the map in **Appendix D** consisting of approximately 77.4 acres within the PID.

“Neighborhood Improvement Area #3 Assessed Property” means, for any year, any and all Parcels within Neighborhood Improvement Areas #3 other than Non-Benefited Property.

“Neighborhood Improvement Area #3 Assessment Roll” means the Assessment Roll covering Neighborhood Improvement Areas #3 Improvements included in this SAP as **Appendix B-4**, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including any updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Update.

“Neighborhood Improvement Area #3 Initial Parcel” means the portion of all Parcels located within Neighborhood Improvement Areas #3, which as of June 11, 2019 includes the following tax map identification numbers assigned by the Denton County Appraisal District:

“Neighborhood Improvement Area #3 Improvements” means those Authorized Improvements that benefit the Neighborhood Improvement Areas #3, as described in **Section III.C** hereto, and which are to be financed with the Neighborhood Improvement Areas #3 Reimbursement Agreement.

“Neighborhood Improvement Area #3 Reimbursement Agreement” means reimbursement agreement by and between the City and the Developer in which the Developer agrees to fund the Actual Costs of certain Neighborhood Improvement Area #3 Improvements and the City agrees to reimburse the Developer for the Actual Costs of those Neighborhood Improvement Area #3 Improvements funded by the Developer with interest as permitted by the Act.

“Neighborhood Improvement Areas #2-5” means the property within the PID, excluding the Neighborhood Improvement Area #1, as depicted on the map on **Table II-C** consisting of approximately 493 acres within the PID.

“Neighborhood Improvement Areas #2-5 Assessed Property” means, for any year, any and all Parcels within Neighborhood Improvement Areas #2-5 other than Non-Benefited Property.

“Neighborhood Improvement Areas #2-5 Assessment Roll” means the Assessment Roll

covering Neighborhood Improvement Areas #2-5 Major Improvements included in this SAP as **Appendix B-2**, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including any updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Update.

“Neighborhood Improvement Areas #2-5 Initial Parcel” means the portion of all Parcels located within Neighborhood Improvement Areas #2-5, which as of May 1, 2017 includes the following tax map identification numbers assigned by the Denton County Appraisal District: 52680, 122875, 52751, 52810, 52744, 52760, 52721, 660188, 134236.

“Neighborhood Improvement Areas #2-5 Major Improvements” means those Major Improvements that benefit the entire PID that are allocable to Neighborhood Improvement Areas #2-5, as described in **Section III.C** hereto, and which are to be financed with the Neighborhood Improvement Areas #2-5 Major Improvement Bonds.

“Neighborhood Improvement Areas #2-5 Major Improvement Bonds” means those certain City of Celina, Texas Special Assessment Revenue Bonds, Series 2015 (Sutton Fields II Public Improvement District Neighborhood Improvement Areas #2-5 Major Improvement Project) that are secured by Assessments levied on Neighborhood Improvement Areas #2-5 Assessed Property.

“Non-Benefited Property” means Parcels that accrue no special benefit from the Authorized Improvements, including Homeowner Association Property, Public Property and easements that create an exclusive use for a public utility provider. Property identified as Non-Benefited Property is not assessed at the time the Assessments (i) are imposed or (ii) are reallocated pursuant to a subdivision of a Parcel. For Assessed Property that is converted to Non-Benefited Property, if the Assessments may not be reallocated pursuant to the provisions herein, such property remains subject to the Assessments and the Assessments must be prepaid as provided for in **Section VII.E.2**.

“Parcel” or “Parcels” means a specific property within the PID identified by either a tax map identification number assigned by the Denton County Appraisal District for real property tax purpose, by metes and bounds description, or by lot and block number in a final subdivision plat recorded in the Official Public Records of Denton County, or by any other means determined by the County.

“PID” means the Sutton Fields II Public Improvement District created by the City pursuant to Resolution 2015-51R on October 13, 2015.

“PID Act” means Texas Local Government Code Chapter 372, Public Improvement District Assessment Act, Subchapter A, Public Improvement Districts, as amended.

“PID Bonds” means the bonds to be issued by the City, in one or more series, to finance the Authorized Improvements that confer special benefit on the property within the PID, which may include funds for any required reserves and amounts necessary to pay the PID Bond issuance costs, and to be secured by a pledge of the Assessments pursuant to the authority granted in the PID Act,

for the purposes of (i) financing the costs of Authorized Improvements and related costs, and (ii) reimbursement for Actual Costs paid prior to the issuance of and payment for the PID Bonds. This term is used to collectively refer to the Neighborhood Improvement Area #1 Bonds, the Neighborhood Improvement Areas #2-5 Major Improvement Bonds, and the Future Improvement Area Bonds throughout this SAP.

“Prepayment Costs” mean interest and expenses to the date of prepayment, plus any additional amounts due pursuant to the Indenture related to the PID Bonds and allowed by law, if any, reasonably expected to be incurred by or imposed upon the City as a result of any prepayment of an Assessment and the PID Bonds secured by such Assessment.

“Public Property” means property, real property, right of way and easements located within the boundaries of the PID that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, Denton County, the City, a school district, a public utility provider or any other political subdivision or public agency, whether in fee simple, through an exclusive use easement, or through a public utility easement.

“Service and Assessment Plan” or “SAP” means this Sutton Fields II Public Improvement District Service and Assessment Plan (as such plan is amended from time to time), to be initially adopted by the City Council in the Assessment Ordinance for the purpose of assessing allocated costs against property located within the boundaries of the PID.

“Sutton Fields II” or “Project” means the approximately 622 acres of land located in this City and the ETJ of Celina, Texas. The project is contained within the area depicted on **Table II-A**.

“TIRZ No. 4” means the Tax Increment Reinvestment Zone No. 4, City of Celina, Texas.

“TIRZ No. 8” means the Tax Increment Reinvestment Zone No. 8, City of Celina, Texas.

“TIRZ Credit” means, for each Parcel, the prorated amount of TIRZ Revenues calculated pursuant to **Section V.N** of this Service and Assessment Plan.

“TIRZ Ordinances” means the ordinances adopted by the City Council authorizing the use of TIRZ Revenues for project costs under the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, relating to the Authorized Improvements as provided for in the Tax Increment Reinvestment Zone No. 4 Project Plan and Financing Plan (including amendments or supplements thereto) and the Tax Increment Reinvestment Zone No. 8 Project Plan and Financing Plan (including amendments or supplements thereto)..

“TIRZ Revenues” mean, for each year, the amounts paid by the City from the TIRZ No. 4 tax increment fund and TIRZ No 8 tax increment fund pursuant to the TIRZ Ordinance to reduce an Annual Installment, as calculated each year by the Administrator in collaboration with the City, in accordance with **Section V.M** of this Service and Assessment Plan.

“Trustee” means the fiscal agent or trustee as specified in the Indenture, including a substitute fiscal agent or trustee.

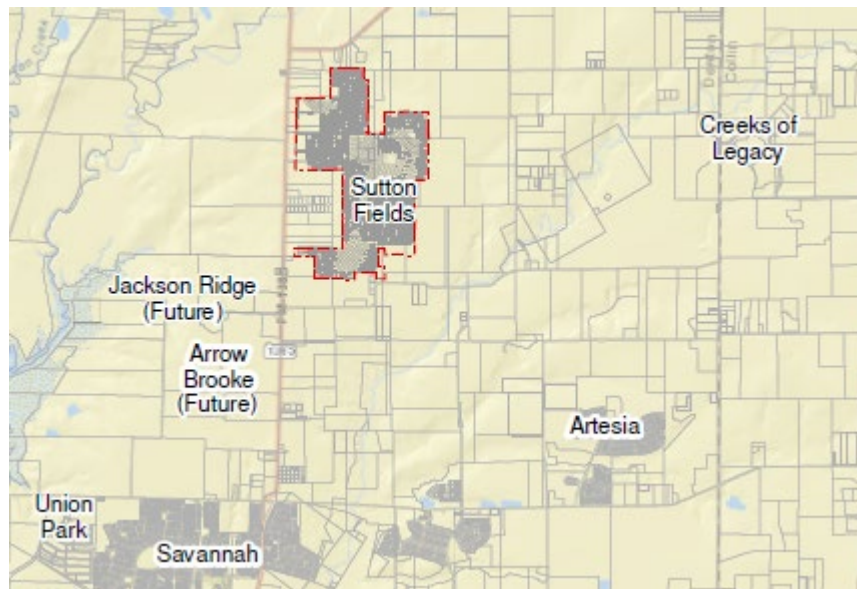
II. PROPERTY INCLUDED IN THE PID

A. PROPERTY INCLUDED IN THE PID

The PID is comprised of the property depicted and described by metes and bounds on Exhibit A to Resolution 2015-51R, as adopted by the City Council. The PID is located within the City's corporate limits and within the extraterritorial jurisdiction of the City and contains approximately 622 acres planned for the development of approximately 2,294 single family residential lots and includes the associated rights-of-way, landscaping, and infrastructure necessary to provide roadways, drainage, and utilities to the PID.

A map of the property within the PID is shown in Table II-A. Legal descriptions for all Parcels within the PID are included in Appendix C.

**TABLE II-A
PID Boundary Map**

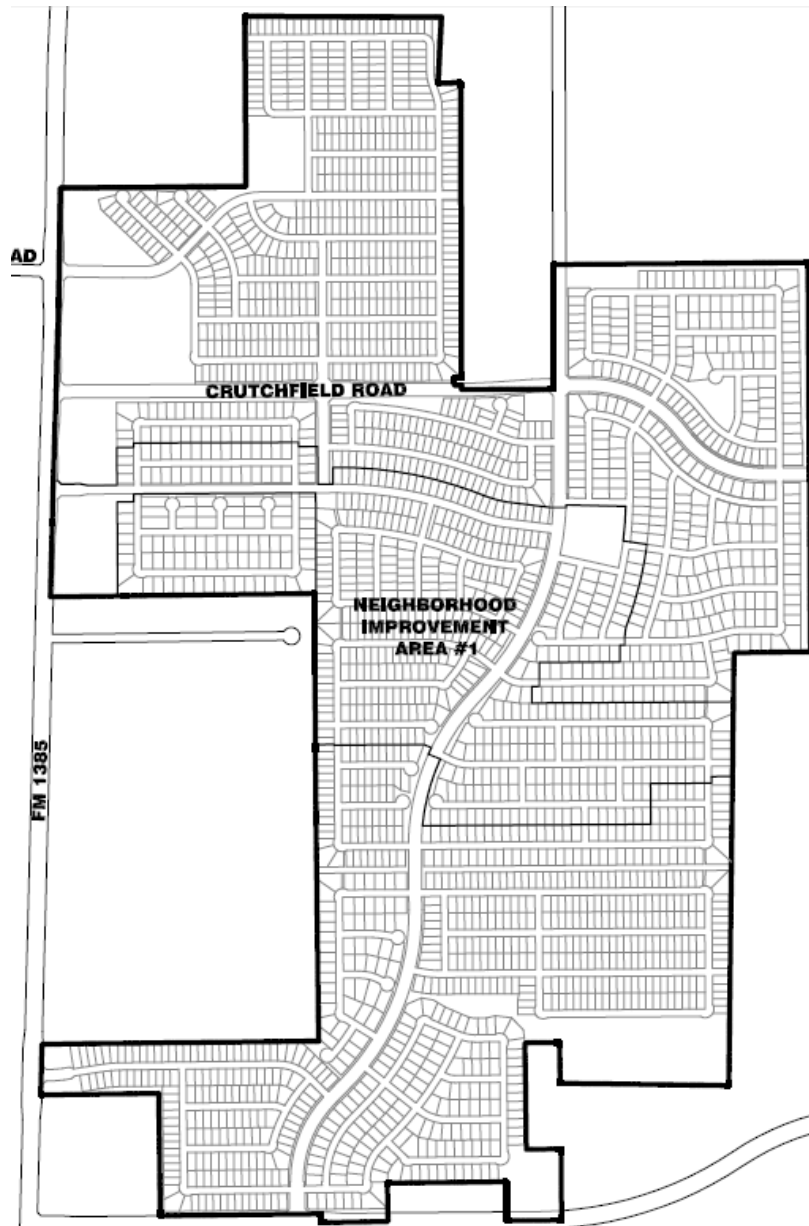


B. PROPERTY LOCATED IN NEIGHBORHOOD IMPROVEMENT AREA #1

The Neighborhood Improvement Area #1 contains approximately 130 acres. Neighborhood Improvement Area #1 is expected to be developed into approximately 515 single family residential lots.

A map of the property within the PID and Neighborhood Improvement Area #1 is shown in Table II-B.

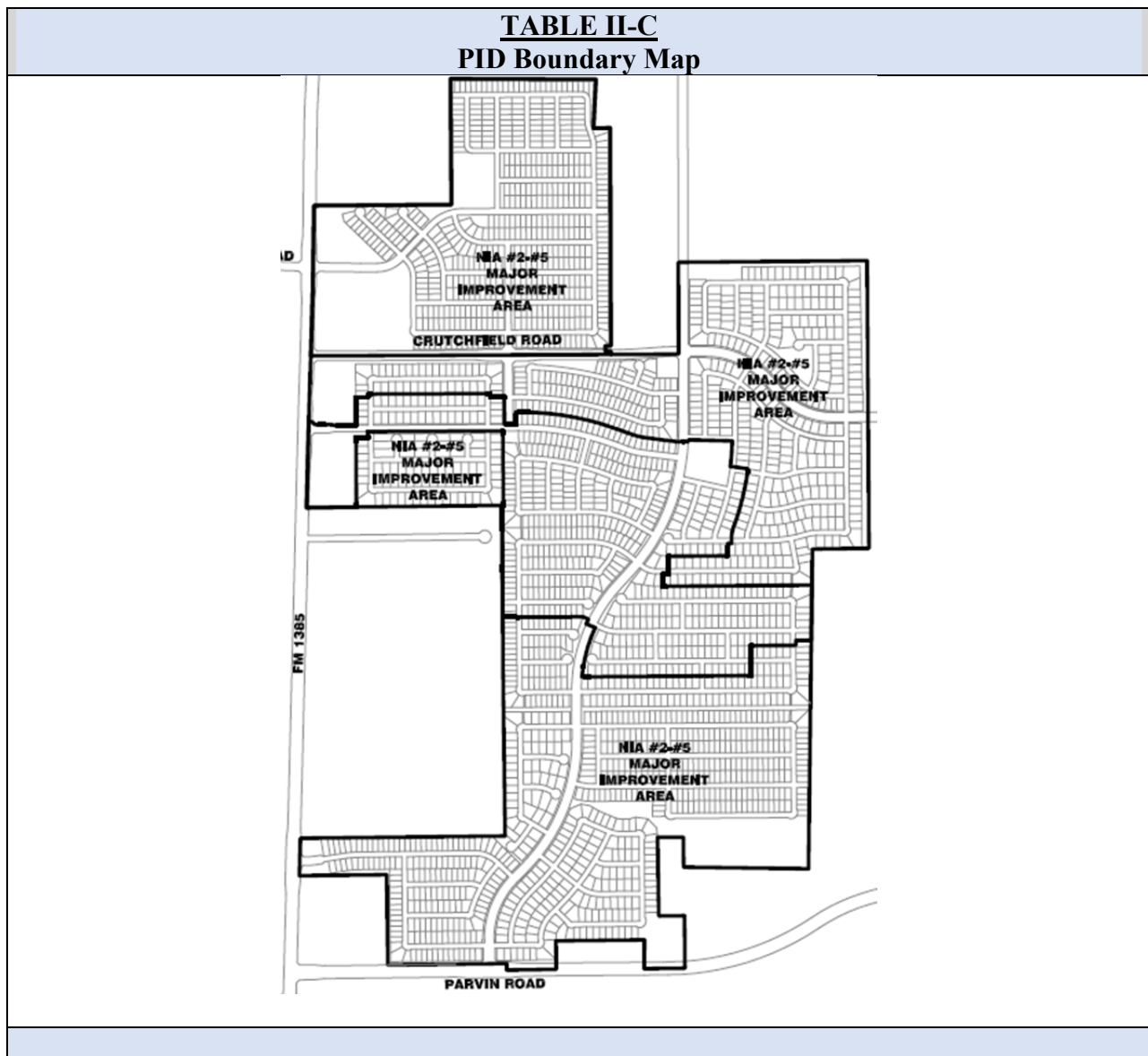
TABLE II-B
PID Boundary Map



C. PROPERTY LOCATED IN NEIGHBORHOOD IMPROVEMENT AREAS #2-5

Neighborhood Improvement Areas #2-5 contain approximately 493 acres. Neighborhood Improvement Areas #2-5 are expected to be developed in separate Future Neighborhood Improvement Areas containing, in total, approximately 1,730 single family residential lots. As Future Neighborhood Improvement Areas continue to be developed and Future Neighborhood Improvement Area Bonds are issued, the Assessment Plan will be amended to incorporate any applicable new information and a new table that depicts the impact of the applicable Future Neighborhood Improvement Area being developed.

A map of the property within the Neighborhood Improvement Areas #2-5 is shown in Table II-C.



Neighborhood Improvement Area #2 contain approximately 45.4 acres. Neighborhood Improvement Area #2 is expected to be developed into approximately 162 single family residential lots.

Neighborhood Improvement Area #3 contain approximately 77.4 acres. Neighborhood Improvement Area #3 is expected to be developed into approximately 368 single family residential lots.

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III. DESCRIPTION OF THE PUBLIC IMPROVEMENTS

A. AUTHORIZED IMPROVEMENT OVERVIEW

Section 372.003 of the PID Act defines the improvements that may be undertaken by a municipality or county through the establishment of a public improvement district, as follows:

372.003. Authorized Improvements

- (a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.
- (b) A public improvement may include:
 - (i) landscaping;
 - (ii) erection of fountains, distinctive lighting, and signs;
 - (iii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;
 - (iv) construction or improvement of pedestrian malls;
 - (v) acquisition and installation of pieces of art;
 - (vi) acquisition, construction, or improvement of libraries;
 - (vii) acquisition, construction, or improvement of off-street parking facilities;
 - (viii) acquisition, construction, improvement, or rerouting of mass transportation facilities;
 - (ix) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;
 - (x) the establishment or improvement of parks;
 - (xi) projects similar to those listed in Subdivisions (i)-(x);

- (xii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (xiii) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and
- (xiv) payment of expenses incurred in the establishment, administration, and operation of the district; and
- (xv) the development, rehabilitation, or expansion of affordable housing.

After analyzing the public improvements authorized by the PID Act, the City has determined that of the improvements authorized under the PID Act, it will undertake the Authorized Improvements more particularly described in Section III.B, Section III.C, Section III.D, Section III.E, and Section III.F herein for the benefit of the Property within the PID.

B. DESCRIPTIONS AND COSTS OF THE AUTHORIZED IMPROVEMENTS THAT ONLY BENEFIT NEIGHBORHOOD IMPROVEMENT AREA #1

The Authorized Improvements that only benefit Improvement Area #1 are described below:

Neighborhood Improvement Area #1 Water Distribution System

This water portion of the Neighborhood Improvement Area #1 waterline improvements consists of constructing 8-inch water line, including associated and 8-inch gate valves. One-inch diameter water services will be provided to each of the 515 lots within Neighborhood Improvement Area #1. All associated waterline testing, trench safety and erosion protection during construction are included. These lines will be designed and constructed in accordance with Mustang Special Utility District (MSUD) standards and specifications and will be owned and operated by MSUD. These lines will include the necessary appurtenances to be fully operational transmission lines extending water service to the limits of Neighborhood Improvement Area #1 and all 515 lots within Neighborhood Improvement Area #1.

Neighborhood Improvement Area #1 Sanitary Sewer

Neighborhood Improvement Area #1 wastewater improvements also include construction of 8" gravity sanitary sewer line that connects to the 10" gravity sewer main line. Construction includes connection at multiple points through concrete manholes. Services to individual lots are by 4" gravity sewer services. All lines will be designed and constructed in accordance with MSUD standards and specifications and will be owned and operated by MSUD. These lines will include the necessary appurtenances to be fully operational extending wastewater service to the limits of Neighborhood Improvement Area #1 and each of the 515 lots within Neighborhood Improvement Area #1.

Neighborhood Improvement Area #1 Storm Drainage

The drainage portion of the Neighborhood Improvement Area #1 Improvements shall consist round concrete pipes, reinforced concrete boxes, inlets and rock riprap protection at outfalls. The main means of conveyance of storm drainage within Neighborhood Improvement Area #1 is within underground storm drain pipes. The roadway pavement section incorporates the use of curbs with integrated drainage inlets to control runoff and conveyance of storm-water throughout the drainage basins associated with Neighborhood Improvement Area #1. The system includes underground reinforced concrete pipe (RCP) with associated headwalls, safety end treatments, manholes and storm sewer energy dissipaters at the points of discharge. This project will be constructed to City standards and specifications and will be owned and operated by the City.

Neighborhood Improvement Area #1 Residential Streets

Roadway improvements within Neighborhood Improvement Area #1 include construction of concrete pavement and pavement subgrade. Intersections, signage, lighting and re-vegetation of all disturbed areas within the right of way are included. These roadway improvements include streets that will provide street access to each lot within Neighborhood Improvement Area #1. All roadway projects will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City. These projects will provide access to community roadways and state highways.

C. DESCRIPTIONS AND COSTS OF THE AUTHORIZED IMPROVEMENTS

The original plan for the PID anticipated the City as a customer of Upper Trinity Regional Water District (UTRWD) providing water to the properties in the PID. This plan has since changed and currently, the PID is being developed with Mustang Special Utility District (“MSUD”) as its retail provider of water. The Major Improvements originally anticipated to be constructed and updates to the Major Improvements because of the change are described below:

The Neighborhood Improvement Areas #2-5 Major Improvements are described below and their Actual Costs are shown in Table III-A. The Neighborhood Improvement Areas #2-5 Major Improvement Bonds will only pay for Neighborhood Improvement Areas #2-5’s share of the Major Improvements (approximately 79% except for the Offsite Sewer Improvements which are approximately 74%) as shown within Table III-A. The Actual Costs to construct the Major Improvements including the Off-Site Major Improvements is \$11,520,649. The Actual Costs to construct the Neighborhood Improvement Areas #2-5 Major Improvements minus the Off-Site Sewer Major Improvements allocated to Neighborhood Improvement Areas #2-5 and as shown in Table V-B, is \$10,611,272. The Actual Costs shown in Table III-A may be revised through Annual Service Plan Updates.

The Actual Costs for the Neighborhood Improvement Areas #2-5 Major Improvements are to be funded both from the proceeds of the Neighborhood Improvement Areas #2-5 Major Improvement Bonds as described herein and from funds contributed by the Developer.

1. Detention Ponds

Drainage System

Project shall consist of the construction of one (1) retention/detention pond, including excavation to a depth of 15-feet and the associated drainage improvements for each pond. Underground reinforced concrete storm sewer pipes, inlets and rock riprap protection at outfalls will also be installed at each pond. This project will be constructed according to City standards and specifications and will be owned and operated by the City. The portion of these costs allocated to Neighborhood Improvement Areas #2-5 is \$215,582.

Updates to the Drainage System Improvements:

According to Pettit Barazza, LLC (the “Project Engineer”), final design incorporated additional detention ponds, which are new projects. Storm drainage system associated with the detention ponds are included with these improvements and generally consists of reinforced concrete pipes and reinforced concrete boxes, along with headwalls and safety end treatments, erosion control such as riprap protection, and soil stabilization. The improvements were designed according to City and the Texas Department of Transportation (TxDOT). The City will maintain and operate the underground storm drainage system and a Homeowners’ Association will maintain and operate the detention ponds.

2. Paving

A. Road “A” Improvements

The Roadway ‘A’ portion of the project consists of the construction of approximately 240 linear feet of 6-inch thick, 36-foot wide, concrete pavement with curb and gutter and 3,280 linear feet of 6-inch thick, 44-foot wide, concrete pavement with curb and gutter. The concrete will be 3,600 pounds per square inch (psi) strength. 17,978 square yards (sy) of pavement sub-grade will be lime stabilized and compacted. Intersections, signage, lighting and re-vegetation of all disturbed areas within the right of way are included. This will provide access from FM 1385 into the Sutton Fields Amenity Center and rest of the development.

B. Updates to the Roadway “A” Improvements:

According to the Project Engineer, Roadway “A” was renamed as Fenwick Trail. In addition, the final design includes 6-inch lime stabilization and 5-foot wide sidewalk and round concrete pipes are also included in the contracted quantities for Fenwick Trail improvements.

C. Road “F” Improvements

The Roadway ‘F’ portion of the project consists of the construction of 4 lanes divided concrete pavement with curb and gutter. The pavement sub-grade will be lime stabilized and compacted.

Intersections, signage, lighting and re-vegetation of all disturbed areas within the right of way are included. This section is located within the project and provides north-south access to the entire development. The roadway improvements will be constructed according to City standards.

D. Updates to the Roadway “F” Improvements:

The Project Engineer provided the following updates to the Roadway “F” Improvements:

The City required a second point of access for the current phases, which required the extension of Sutton Fields Boulevard to the north and partial construction of the intersection at Crutchfield Road. The southern end of Sutton Fields Boulevard was also extended to the end of the lots developed and platted with the current phases. 4-lane divided concrete pavement and 6-inch stabilized subgrade are currently under contract. The north and south extension of Sutton Fields Boulevard is a new project, not included in the initial list of Authorized Improvements for the PID and will be constructed according to City standards.

E. Road C1 – Crutchfield Road

The improvement of one-half (1/2) of Crutchfield Road (Road C1), from FM 1385 east to the intersection of Sutton Fields Boulevard, was required by the City as a second point of access to the development through Sutton Fields Boulevard. The Roadway ‘C1’ portion of the project consists of the construction 4 lanes divided concrete pavement with curb and gutter. The pavement sub-grade will be lime stabilized and compacted. Intersections, signage, lighting and re-vegetation of all disturbed areas within the right of way are included. This section is located within the project and provides east-west access to the entire development. The improvement of Crutchfield Road is a new project that was not included in the initial list of Authorized Improvements for the PID and will be constructed according to City standards.

F. Road B – Boleyn Avenue

The City required the additional improvement of Boleyn Avenue as a condition of approval. The Roadway ‘B’ portion of the project consists of the construction of, 4 lanes divided concrete pavement with curb and gutter. The pavement sub-grade will be lime stabilized and compacted. Intersections, signage, lighting and re-vegetation of all disturbed areas within the right of way are included. This section is located within the project and provides a north access to the entire development. The construction of Boleyn Avenue is a new project that was not included in the initial list of Authorized Improvements for the PID and will be constructed according to City standards.

G. FM 1385

The FM 1385 roadway portion of the project consists of the construction left and right turn lanes within FM 1385 to enhance traffic turning movement in and out of the development. These improvements will be constructed to TX DOT, Denton County and City standards. These Improvements will benefit the entire project.

H. Updates to the FM 1385 Improvements:

With the additional new project of Crutchfield Road (Road C1) Improvements by the City, an additional right turn lane was required. One (1) northbound right turn lane is being constructed at Fenwick Trail (Road A) and an additional one (1) northbound right turn lane at Crutchfield Road (Road C1) with the current phases. Both turn lanes consist of hot mix asphaltic concrete. The additional right turn lane is a new project that was not included in the initial list of Authorized Improvements for the PID.

As described above, MSUD will continue to provide water and wastewater services to the properties in the PID, as a result, CCNs are no longer required for the PID.

3. Offsite Water

A. Water Distribution System

The City is a customer of the Upper Trinity Regional Water District (UTRWD) and will receive wholesale treated water through a major transmission line from the UTRWD Tom Harpool water treatment plant. Therefore, there are no water treatment plant upgrades required.

There is an existing 36-inch water transmission line located along the Western boundary of the project. The proposed off-site improvements will consist of constructing a new delivery point/meter station, a 0.25 MG Ground Storage Tank, a 1.0 MG Elevated Storage Tank and a Pump Station with the required pumps to provide adequate pressure to the system. The combination of the Elevated and Ground Storage Tanks will provide the adequate storage capacity required by TCEQ and will also provide the required pressures for the entire system. Approximately 11,000 linear feet of 12-inch water line will also be constructed as part of the water distribution system. All of the proposed improvements will benefit the Development. Additional waterline improvements will include connection to the existing water-main, installation of associated 12-inch valves, fire hydrants, ductile iron fittings, erosion control, trench safety and testing. All water improvements will be constructed to City standards and specifications and all improvements will be owned and operated by the City. These Improvements will benefit Neighborhood Improvement Areas #1-4.

B. Updates to the Offsite Water Distribution System Improvements:

The original plan for the PID anticipated the City as a customer of Upper Trinity Regional Water District (UTRWD) providing water to the properties in the PID. This plan has since changed and currently, the PID is being developed with MSUD as its retail provider of water. The transition from UTRWD to MSUD resulted in the addition of 12-inch water lines along the future Tudor Place, and downsizing the proposed 12-inch water line along Fenwick Trail to an 8-inch water line. Also, a 12-inch water line was extended along the additional length of Sutton Fields Boulevard required by the City in conjunction with the current phase. The additional 12-inch water lines are new projects that were not included in the initial list of Authorized Improvements

for the PID.

C. Elevated Storage Tank Engineering

Engineering for the Elevated Storage Tank will start with NIA #1 to secure all necessary approvals, including TCEQ and the City. These Improvements will benefit the entire project.

D. Updates to the Elevated Storage Tank:

The elevated storage tank is no longer required because of the transition from UTRWD to MSUD. As a result, the water distribution system was redesigned to accommodate the new points of connection and the elevated storage tank is no longer required for the PID.

4. Offsite Sewer

A. Sanitary Sewer

The City is a customer city of the Upper Trinity Regional Water District (UTRWD) and will receive wastewater collection services by constructing a wastewater interceptor line and wastewater treatment services from the UTRWD collection point located at Parvin Road & Good Hope. UTRWD operates the Riverbend and Doe Creek wastewater treatment plants. The UTRWD treatment plant permit with the TCEQ has excess capacity to serve the Sutton Fields development. UTRWD is in the process of expanding both wastewater treatment plants.

This project consists of constructing 6-inch force main, associated lift station, 6,050 linear feet of 15-inch sanitary sewer gravity line, 1,250 linear feet of 12-inch sanitary sewer gravity line and 800 linear feet of 10-inch sanitary sewer gravity line generally flowing southeasterly along Parvin Road and connecting to the UTRWD collection point and Doe Creek/ Riverbend Wastewater Treatment Plants. Cutoff valves, air release valves will be constructed in accordance with City of Celina and TCEQ regulations. The gravity interceptor line will be designed to maintain the 3.0 fps minimum velocity. The line will be designed and constructed in accordance with the City's standards and specifications and will be owned and operated by the City. The portion of the acquisition of this and other related costs of the CCN allocated to Neighborhood Improvement Areas #2-4 is \$909,377.

B. Updates to the Offsite Sanitary Sewer System Improvements:

The original plan for the PID anticipated the City as a customer of UTRWD providing wastewater collection services to the PID. This plan has since changed and currently, The PID is being developed with MSUD as its retail provider of wastewater collection services. As a result of this the transition from UTRWD to MSUD, the metering station at the UTRWD delivery point is no longer required because the offsite gravity sewer will connect into an existing MSUD gravity line. The contracted quantities for the offsite sewer also includes gravity sanitary sewer mains from 8-inch to 24-inch diameters, along with a concrete encasement for crossing under Doe Creek, and removal and replacement of existing MSUD gravity lines to facilitate outfall. It also includes

removal and replacement of existing fences.

5. Right of Way, Open Space and Civic Site Land

Upon closing of the PID Bonds corresponding to the development of a certain number of lots, the City shall pay a certain amount for the acquisition of the right-of-way, open space and civic site land comprising approximately 71.3 acres.

TABLE III-A
Estimated Costs of Major Improvements and Neighborhood Area #1 Improvements

	Hard Costs	Soft Costs	Total Costs
Major Improvements			
Detention Ponds	\$1,451,898	\$261,342	\$1,713,240
Paving Road A - Fenwick	\$1,489,264	\$268,068	\$1,757,332
Paving Road F - Sutton Fields	\$1,126,284	\$202,731	\$1,329,016
Paving - FM 1385	\$401,140	\$72,205	\$473,345
Crutchfield Road	\$861,119	\$155,001	\$1,016,121
Boleyn Paving - Road B	\$222,703	\$40,087	\$262,789
ROW, open space land acquisition and park contribution	\$6,500,000	\$0	\$6,500,000
Offsite water improvements	\$860,759	\$154,937	\$1,015,695
Offsite sewer improvements	\$2,378,990	\$428,218	\$2,807,208
Professional consulting, legal fees and additional debt service reserve funding	\$0	\$620,000	\$620,000
<i>Subtotal Major Improvements</i>	<i>\$15,292,158</i>	<i>\$2,202,588</i>	<i>\$17,494,746</i>
Neighborhood Improvement Area #1 Improvements			
Water distribution improvements	\$1,321,380	\$162,699	\$1,484,079
Sewer collection improvements	\$1,152,965	\$174,878	\$1,327,844
Storm sewer collection improvements	\$2,280,820	\$282,781	\$2,563,601
Roadway improvements including site preparation	\$3,205,063	\$422,853	\$3,627,916
<i>Subtotal NIA #1 Improvements</i>	<i>\$7,960,229</i>	<i>\$1,043,211</i>	<i>\$9,003,440</i>
Total Authorized Improvements	\$23,252,386	\$3,245,800	\$26,498,186

Note: Costs provided by Pettitt Barraza, LLC. The amounts shown may be revised in Annual Service Plan Updates.

D. DESCRIPTIONS AND COSTS OF THE AUTHORIZED IMPROVEMENTS THAT ONLY BENEFIT NEIGHBORHOOD IMPROVEMENT AREA #2

The descriptions of the Neighborhood Improvement Area #2 Improvements are presented below and the estimated costs of the Neighborhood Improvement Area #2 Improvements are shown in Table III-B. The estimated costs shown in Table III-B may be revised in an Annual Service Plan Update as needed.

Roadway improvements:

The roadway improvements within the PID include construction of perimeter road and thoroughfare improvements, including related paving, drainage, curbs, gutters, sidewalks, retaining walls, signage, and traffic control devices. All roadway projects will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.

Water distribution system improvements:

The water distribution system improvements within the PID consist of construction and installation of water lines, mains, pipes, valves and appurtenances necessary for the water distribution system, as well as related testing, trench safety and erosion protection, necessary to service the Assessed Property. The water distribution system improvements will be designed and constructed in accordance with MSUD standards and specifications and will be owned and operated by MSUD.

Sanitary sewer collection system improvements:

The sanitary sewer collection system improvements within the PID consist of construction and installation of pipes, service lines, manholes, encasements and appurtenances necessary to provide sanitary sewer service to the Assessed Property. The sanitary sewer improvements will be designed and constructed in accordance with MSUD standards and specifications and will be owned and operated by MSUD.

Storm drainage collection system improvements:

The storm drainage collection system improvements consist of reinforced concrete pipes, reinforced concrete boxes, and multi-reinforced box culverts. The storm drainage collection system improvements will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.

TABLE III-B
Estimated Costs Neighborhood Improvement Area #2 Improvements

Authorized Improvements	Total Costs
Roadway improvements	\$1,312,024
Water distribution improvements	\$1,203,966
Sewer collection improvements	\$413,815
Storm sewer collection improvements	\$765,336
Other soft and miscellaneous costs	\$328,594
Total Estimated Costs	\$4,023,734

Note: The amounts shown may be revised in Annual Service Plan Updates.

E. DESCRIPTIONS AND COSTS OF THE AUTHORIZED IMPROVEMENTS THAT ONLY BENEFIT NEIGHBORHOOD IMPROVEMENT AREA #3

The descriptions of the Neighborhood Improvement Area #3 Improvements are presented below and the estimated costs of the Neighborhood Improvement Area #3 Improvements are shown in Table III-C. The estimated costs shown in Table III-C may be revised in an Annual Service Plan Update as needed.

Roadway improvements:

The roadway improvements within the PID include construction of perimeter road and thoroughfare improvements, including related paving, drainage, curbs, gutters, sidewalks, retaining walls, signage, and traffic control devices. All roadway projects will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.

Water distribution system improvements:

The water distribution system improvements within the PID consist of construction and installation of water lines, mains, pipes, valves and appurtenances necessary for the water distribution system, as well as related testing, trench safety and erosion protection, necessary to service the Assessed Property. The water distribution system improvements will be designed and constructed in accordance with MSUD standards and specifications and will be owned and operated by MSUD.

Sanitary sewer collection system improvements:

The sanitary sewer collection system improvements within the PID consist of construction and installation of pipes, service lines, manholes, encasements and appurtenances necessary to provide sanitary sewer service to the Assessed Property. The sanitary sewer improvements will be designed and constructed in accordance with MSUD standards and specifications and will be owned and operated by MSUD.

Storm drainage collection system improvements:

The storm drainage collection system improvements consist of reinforced concrete pipes, reinforced concrete boxes, and multi-reinforced box culverts. The storm drainage collection system improvements will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.

TABLE III-C
Estimated Costs Neighborhood Improvement Area #3 Improvements

Authorized Improvements	Total Costs
Roadway improvements	\$2,215,224
Water distribution improvements	\$825,120
Sewer collection improvements	\$679,260
Storm sewer collection improvements	\$1,786,223
Other soft and miscellaneous costs	\$931,336
Total Estimated Costs	\$6,437,163

Note: The amounts shown may be revised in Annual Service Plan Updates.

The costs of the Authorized improvements shown above are estimates and may be updated in Annual Service Plan Updates. Savings from one line item may be applied to other line items or other Authorized Improvements specified in an Annual Service Plan Update or as otherwise approved by the City Council.

F. DESCRIPTIONS AND COSTS OF FUTURE NEIGHBORHOOD IMPROVEMENT AREA IMPROVEMENTS

Future Neighborhood Improvement Area Bonds may be issued in the future to fund Future Neighborhood Improvement Area Improvements, subject to the approval of the City Council. Should that occur, then in association with issuing Future Neighborhood Improvement Area Bonds, this Service and Assessment Plan will be amended to identify the Future Neighborhood Improvement Area Improvements as well as revising Table III-A.

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IV. FUTURE PID BONDS TEST

A. FUTURE NEIGHBORHOOD IMPROVEMENT AREA BONDS

The City has reserved the right to issue Future Neighborhood Improvement Area Bonds for any purpose permitted by the Act, including those described above, and in accordance with the conditions set forth below:

1. At least seventy five percent (75%) of the residential lots within the particular Future Neighborhood Improvement Area of the PID for which Authorized Improvements are financed by the Future Neighborhood Improvement Area Bonds must be under contract with merchant builders unaffiliated with the Developer.
2. The ratio of the appraised value of all of the land in the particular Future Neighborhood Improvement Area of the PID, based on an independent appraisal and assuming completion of the improvements within such phase to be financed with the proceeds of the Future Neighborhood Improvement Area Bonds to be issued, to the principal amount of the Future Neighborhood Improvement Area Bonds to be issued must be at least 3.0:1;
3. Construction contracts for at least 50% of the costs of the Authorized Improvements in such Future Neighborhood Improvement Area to be paid with proceeds of the applicable series of Future Neighborhood Improvement Area Bonds must be executed and ready to proceed; and
4. Construction of residences in all previously financed Neighborhood Improvement Areas taken as a whole must be at least twenty five percent (25%) complete or underway.

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V. ASSESSMENT PLAN

A. INTRODUCTION

The PID Act requires the City Council to apportion the cost of the Authorized Improvements based on the special benefits conferred to each Parcel resulting from the Authorized Improvements. The PID Act provides that the costs of certain Authorized Improvements may be assessed: (i) equally per front foot or square foot; (ii) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or (iii) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The PID Act further provides that the governing body may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed and the methods of assessing the special benefits for various classes of improvements.

The proposed bond issuance program entails a series of PID Bond financings that are intended to finance the Authorized Improvements required for the Project. This financing will necessarily be undertaken in phases to coincide with the private investment and development of the Authorized Improvements. Following the initial Neighborhood Improvement Area #1 Area Bonds and the Neighborhood Improvement Areas #2-5 Major Improvement Bonds issued in 2015 and the Additional Neighborhood Improvement Area #1 Bonds, if issued, Future Neighborhood Improvement Area Bonds are to be issued over the upcoming decade as the four subsequent phases (phases #2, #3, #4 and #5, each corresponding to a Future Neighborhood Improvement Area) of the development are gradually constructed.

The purpose of this gradual issuance of PID Bonds as the Future Neighborhood Improvement Areas are developed is to mirror the actual private development of the Authorized Improvements. The PID Bonds to be issued are most prudently and efficiently utilized when directly coinciding with construction of public infrastructure needed for private development that is to occur once the infrastructure is completed; it is most effective to issue the PID Bonds when the infrastructure is needed, not before. Furthermore, there is no economic advantage, and several disadvantages to issuing debt and encumbering property within the PID prior to the need for the Authorized Improvements.

Additionally, phased issuance of debt will maintain a prudent value to lien ("VtL") within the financing program. In order to maintain a prudent VtL, the initial issuance of PID Bonds for a specific set of Authorized Improvements may not fund the entire desired level of public infrastructure because the property value is not high enough to support the entire debt load at the VtL chosen for the development. In that case, the Developer will need to fund the additional infrastructure costs with cash at closing. This cash investment by the Developer for certain Authorized Improvements can be reimbursed by a subsequent parity lien bond financing, secured by the same assessments, once the assessed property is partially or fully developed and the value has increased sufficiently to permit the issuance of the additional bonds in a prudent fashion.

It is impossible to determine with absolute certainty the amount of special benefit each Parcel within Future Neighborhood Improvement Areas will receive from internal subdivision Authorized Improvements that will benefit each individual Future Neighborhood Improvement Area and that are to be financed with Future Neighborhood Improvement Area Bonds. Therefore, Parcels within Neighborhood Improvement Areas #2-5 were initially assessed for the special benefits conferred upon the Parcel because of the Major Improvements.

In connection with the levying of additional Assessments on Future Neighborhood Improvement Area Assessed Property, this Service and Assessment Plan will be updated to reflect the special benefit each Parcel within a Future Neighborhood Improvement Area receives from the specific Authorized Improvements. Prior to Levying an additional Assessment on a Parcel located within Future Neighborhood Improvement Areas, each owner of the Parcels to be assessed must acknowledge that the Authorized Improvements to be financed confer a special benefit on their Parcel and must consent to the imposition of the Assessments to pay for the Actual Costs of such Authorized Improvements.

This section of this Service and Assessment Plan currently (i) describes the special benefit received by each Parcel within the PID as a result of the Major Improvements, Neighborhood Improvement Area #1 Improvements, Neighborhood Improvement Area #2 Improvements and Neighborhood Improvement Area #3 Improvements, (ii) provides the basis and justification for the determination that this special benefit exceeds the amount of the Assessments to be levied on the Neighborhood Improvement Area #1 Assessed Property, the Neighborhood Improvement Area #2 Assessed Property, the Neighborhood Improvement Area #3 Assessed Property and the Neighborhood Improvement Areas #2-5 Assessed Property for such Authorized Improvements, and (iii) establishes the methodologies by which the City Council allocates and reallocates the special benefit of the Major Improvements, Neighborhood Improvement Area #1 Improvements, Neighborhood Improvement Area #2 Improvements and Neighborhood Improvement Area #3 Improvements to Parcels in a manner that results in equal shares of the Actual Costs of such Authorized Improvements being apportioned to Parcels similarly benefited. The determination by the City Council of the assessment methodologies set forth below is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners and developers of the Assessed Property.

B. ALLOCATION OF COSTS OF AUTHORIZED IMPROVEMENTS ONLY BENEFITING NEIGHBORHOOD IMPROVEMENT AREA #1

Some Authorized Improvements only provide special benefit to Parcels within Neighborhood Improvement Area #1, and these costs are allocated 100% to Neighborhood Improvement Area #1. The Actual Costs of the Authorized Improvements that only provide a benefit to Neighborhood Improvement Area #1 are shown in Table V-A-1. The costs detailed in Table V-A-1 are subject to revision through the Annual Service Plan Updates.

C. ALLOCATION OF COSTS OF AUTHORIZED IMPROVEMENTS ONLY BENEFITING NEIGHBORHOOD IMPROVEMENT AREA #2 AND NEIGHBORHOOD IMPROVEMENT AREA #3

Some Authorized Improvements only provide special benefit to Parcels within Neighborhood Improvement Area #2, and these costs are allocated 100% to Neighborhood Improvement Area #2. The estimated costs of the Authorized Improvements that only provide a benefit to Neighborhood Improvement Area #2 are shown in Table V-A-2. The costs detailed in Table V-A-2 are subject to revision through the Annual Service Plan Updates.

Some Authorized Improvements only provide special benefit to Parcels within Neighborhood Improvement Area #3, and these costs are allocated 100% to Neighborhood Improvement Area #3. The estimated costs of the Authorized Improvements that only provide a benefit to Neighborhood Improvement Area #3 are shown in Table V-A-3. The costs detailed in Table V-A-3 are subject to revision through the Annual Service Plan Updates.

D. ALLOCATION OF COSTS OF MAJOR IMPROVEMENTS

The Major Improvements provide special benefit to all Assessed Property within the PID, and these costs are allocated between Neighborhood Area #1 and Neighborhood Improvement Areas #2-5 based on the estimated As-Built Assessed Value. The estimated costs of the Major Improvements are shown in Table V-A-1. The costs detailed in Table V-A-1 are subject to revision through the Annual Service Plan Updates.

E. ALLOCATION OF COSTS RELATING TO ISSUANCE OF PID BONDS

The costs relating to the issuance of the Neighborhood Improvement Area #1 Bonds are allocated 100% to Neighborhood Improvement Area #1 Assessed Property. The costs relating to issuing Neighborhood Improvement Area #2-5 Major Improvement Bonds is allocated 100% to Neighborhood Improvement Areas 2-5. The costs relating to the issuance of the Neighborhood Improvement Areas #2-3 Bonds are allocated 100% to Neighborhood Improvement Area #2 Assessed Property and the Neighborhood Improvement Area #2 Assessed Property. Any costs associated with a Future Neighborhood Improvement Area Bond will be allocated 100% to that Future Neighborhood Improvement Area.

F. ALLOCATION OF ACTUAL COSTS OF FUTURE NEIGHBORHOOD IMPROVEMENT AREA IMPROVEMENTS

As Future Neighborhood Improvement Areas continue to be developed and Future Neighborhood Improvement Area Bonds are issued, the Assessment Plan will be amended to reflect allocation of the cost of Authorized Improvements benefitting the Future Neighborhood Improvement Area.

G. INCORPORATION BY REFERENCE

The Recitals to this amended and restated Service and Assessment Plan are hereby incorporated by reference as if set forth in the body of this amended and restated Service and Assessment Plan

and are made a part hereof for all purposes.

TABLE V-A-1
Allocation of Authorized Improvement Costs

	Total Costs (a)	Neighborhood Improvement Area #1		Neighborhood Improvement Areas #2-5	
		% Allocation	Share of Costs	% Allocation	Share of Costs
MAJOR IMPROVEMENTS					
Detention Ponds (b)	\$1,713,240	20.81%	\$356,525	79.19%	\$1,356,714
Paving Road A - Fenwick (b)	\$1,757,332	20.81%	\$365,701	79.19%	\$1,391,631
Paving Road F - Sutton Fields (b)	\$1,329,016	20.81%	\$276,568	79.19%	\$1,052,447
Paving - FM 1385	\$473,345	20.81%	\$98,503	79.19%	\$374,842
1/2 Crutchfield Road (b)	\$1,016,121	20.81%	\$211,455	79.19%	\$804,666
ROW and Open Space Acquisition	\$6,500,000	20.81%	\$1,352,650	79.19%	\$5,147,350
Boleyn Paving - Road B (b)	\$262,789	20.81%	\$54,686	79.19%	\$208,103
Offsite Water	\$1,015,695	20.81%	\$211,366	79.19%	\$804,329
Offsite Sewer (b)	\$2,807,208	20.81%	\$584,180	79.19%	\$2,223,028
Professional consulting and legal fees	\$620,000	20.81%	\$129,022	79.19%	\$490,978
A	\$17,494,746		\$3,640,657		\$13,854,089
AUTHORIZED IMPROVEMENTS ONLY BENEFITTING NEIGHBORHOOD IMPROVEMENT AREA #1					
Water	\$1,484,079	100%	\$1,484,079	0%	\$0
Sewer	\$1,327,844	100%	\$1,327,844	0%	\$0
Storm Sewer	\$2,563,601	100%	\$2,563,601	0%	\$0
Roadway Improvements	\$3,627,916	100%	\$3,627,916	0%	\$0
B	\$9,003,440		\$9,003,440		\$0
Subtotal - Major Improvements + Neighborhood Area #1 Improvements	C=A+B	\$26,078,186	\$12,644,097		\$13,854,089
NEIGHBORHOOD IMPROVEMENT AREAS #2-5 BOND COSTS					
Debt Service Reserve Fund	\$1,430,125	0%	\$0	100%	\$1,430,125
Capitalized Interest	\$2,398,125	0%	\$0	100%	\$2,398,125
Cost of Issuance	\$1,179,750	0%	\$0	100%	\$1,179,750
Underwriter's Discount	\$437,266	0%	\$0	100%	\$437,266
D	\$5,445,266		\$0		\$5,445,266
NEIGHBORHOOD IMPROVEMENT AREA #1 BOND COSTS					
Debt Service Reserve Fund	\$978,100	100%	\$978,100	0%	\$0
Capitalized Interest	\$1,448,051	100%	\$1,448,051	0%	\$0
Cost of Issuance	\$871,556	100%	\$871,556	0%	\$0
Underwriter's Discount	\$300,434	100%	\$300,434	0%	\$0
E	\$3,598,141		\$3,598,141		\$0
Subtotal – Neighborhood Improvement Areas #2-5 Bond Cost + Neighborhood Improvement Area #1 Bond Cost	F=D+E	\$9,043,546	\$3,598,141		\$5,445,405
TOTAL AUTHORIZED IMPROVEMENTS	G=C+F	\$35,541,732	\$16,242,238		\$19,299,494

(a) See also Table III-A.

(b) The costs shown are updated from what was presented in the original SAP. City Council has allowed the cost overruns to be included in the NIAs #2-5 Actual Cost, but the cost overruns are not permitted in the NIA #1 Actual Cost and will be covered by the Developer.

The estimated costs of the Neighborhood Improvement Area #2 Improvements that only provide a benefit to Neighborhood Improvement Area #2 are shown in Table V-A-2.

TABLE V-A-2
Allocation of Authorized Improvement Costs

		Neighborhood Improvement Area #2	
	Total Costs (a)	% Allocation	Share of Costs
AUTHORIZED IMPROVEMENTS ONLY BENEFITTING NEIGHBORHOOD IMPROVEMENT AREA #2			
Roadway improvements	\$1,312,024	100%	\$1,312,024
Water distribution improvements	\$1,203,966	100%	\$1,203,966
Sewer collection improvements	\$413,815	100%	\$413,815
Storm Sewer collection improvements	\$765,336	100%	\$765,336
Other soft and miscellaneous costs	\$328,594	100%	\$328,594
Total Authorized Improvements	\$4,023,734		\$4,023,734

The estimated costs of the Neighborhood Improvement Area #3 Improvements that only provide a benefit to Neighborhood Improvement Area #3 are shown in Table V-A-3.

TABLE V-A-3
Allocation of Authorized Improvement Costs

			Neighborhood Improvement Area #3
	Total Costs (a)	% Allocation	Share of Costs
AUTHORIZED IMPROVEMENTS ONLY BENEFITTING NEIGHBORHOOD IMPROVEMENT AREA #2			
Roadway improvements	\$2,215,224	100%	\$2,215,224
Water distribution improvements	\$825,120	100%	\$825,120
Sewer collection improvements	\$679,260	100%	\$679,260
Storm Sewer collection improvements	\$1,786,223	100%	\$1,786,223
Other soft and miscellaneous costs	\$931,336	100%	\$931,336
Total Authorized Improvements	\$6,437,163		\$6,437,163

H. DETERMINATION OF SPECIAL BENEFIT AND ASSESSMENTS

Assessed Property must receive a direct and special benefit from the Authorized Improvements,

and this benefit must be equal to or greater than the amount of the Assessments. The Authorized Improvements are provided specifically for the benefit of the Assessed Property. The Town Council, acting in its legislative capacity based on information provided by the Owner and its engineer and reviewed by the Town staff and by third-party consultants retained by the Town, has found and determined:

Neighborhood Improvement Area #1

- a) The Neighborhood Improvement Area #1 Improvement costs allocated to Neighborhood Improvement Area #1 equals \$16,242,238; and
- b) The Neighborhood Improvement Area #1 Assessed Property receives special benefit from the Neighborhood Improvement Area #1 Improvements; and
- c) The Neighborhood Improvement Area #1 Initial Parcel consists of all property in Neighborhood Improvement Area #1, therefore the Neighborhood Improvement Area #1 Initial Parcel will be allocated 100% of the Neighborhood Improvement Area #1 Assessments, which equal \$11,560,000 as shown on the Neighborhood Improvement Area #1 Assessment Roll attached hereto as Appendix A-2. The Assessment per Unit for each Lot Type within Neighborhood Improvement Area #1 is shown in Appendix A-1 as calculated pursuant to the Assessment allocation methodology using estimated buildout values as described in the Original SAP; and
- d) The Assessed Property receives a direct and special benefit from the Authorized improvements, and this benefit is equal to or greater than the amount of the Assessments, as shown on Table V-B.

TABLE V-B
Neighborhood Improvement Area #1 Special Benefit and Assessment

Special Benefit	
Neighborhood Improvement Area #1 Improvements (a)	\$12,644,097
Reserve Fund	\$978,100
Capitalized Interest	\$1,448,051
Cost of Issuance (b)	\$871,556
Underwriter's Discount/Underwriter Counsel	\$300,434
<i>Subtotal Special Benefit</i>	<i>\$16,242,238</i>
Assessments	
Assessments securing Neighborhood Improvement Area #1 Bonds	\$11,560,000
Excess Benefits	\$4,682,238

(a) See Table V-A-1 for details

(b) Includes cost of issuance plus developer's counsel, SAP consultant, and appraisal costs.

Neighborhood Improvement Areas #2-5

- a) The Neighborhood Improvement Areas #2-5 Improvement costs allocated to Neighborhood Improvement Areas #2-5 equals \$19,299,494; and
- b) The Neighborhood Improvement Area #2-5 Assessed Property receives special benefit from the Neighborhood Improvement Areas #2-5 Improvements; and
- c) The Neighborhood Improvement Areas #2-5 Initial Parcel consists of all property in Neighborhood Improvement Areas #2-5, therefore the Neighborhood Improvement Areas #2-5 Initial Parcel will be allocated 100% of the Neighborhood Improvement Areas #2-5 Assessments, which equal \$16,825,000 as shown on the Neighborhood Improvement Areas #2-5 Assessment Roll attached hereto as Appendix B-2; and
- d) The Assessed Property receives a direct and special benefit from the Authorized improvements, and this benefit is equal to or greater than the amount of the Assessments, as shown on Table V-C.

TABLE V-C
Neighborhood Improvement Areas #2-5 Special Benefit and Assessment

Special Benefit	
Neighborhood Improvement Area #2-5 Improvements (a)	\$13,854,089
Reserve Fund	\$1,430,125
Capitalized Interest	\$1,179,750
Cost of Issuance (b)	\$437,266
Underwriter's Discount/Underwriter Counsel	\$437,266
<i>Subtotal Special Benefit</i>	<i>\$19,299,494</i>
Assessments	
Assessments securing Neighborhood Improvement Area #2-5 Bonds	\$16,825,000
Excess Benefits	\$2,474,494

(a) See Table V-A-1 for details

(b) Includes cost of issuance plus developer's counsel, SAP consultant, and appraisal costs.

Neighborhood Improvement Area #2 and Neighborhood Improvement Area #3

- a) The Neighborhood Improvement Area #2 Improvement costs allocated to Neighborhood Improvement Area #2 equals \$4,023,734; and
- b) The Neighborhood Improvement Area #2 Assessed Property receives special benefit from the Neighborhood Improvement Area #2 Improvements; and

- c) The Neighborhood Improvement Area #2 Initial Parcel consists of all property in Neighborhood Improvement Area #2, therefore the Neighborhood Improvement Area #2 Initial Parcel (or Parcel or Parcels subsequently subdivided from it) will be allocated 100% of the Neighborhood Improvement Area #2 Assessments, which equal \$1,905,000 as shown on the Neighborhood Improvement Area #2 Assessment Roll attached hereto as Appendix B-3. The Assessment per Unit for each Lot Type within Neighborhood Improvement Area #2 is shown in Appendix B-1 as calculated pursuant to the Assessment allocation methodology using estimated buildout values as described in the Original SAP; and
- d) The Assessed Property receives a direct and special benefit from the Authorized improvements, and this benefit is equal to or greater than the amount of the Assessments, as shown on Table V-D.

TABLE V-D
Neighborhood Improvement Area #2 Special Benefit and Assessment

Special Benefit	
Neighborhood Improvement Area #2 Improvements (a)	\$4,023,734
Reserve Fund	\$176,832
Capitalized Interest	\$0
Cost of Issuance (b)	\$114,300
Underwriter's Discount/Underwriter Counsel	\$57,150
<i>Subtotal Special Benefit</i>	<i>\$4,372,016</i>
Assessments	
Assessments securing Neighborhood Improvement Area #2 Bonds	\$1,905,000
Excess Benefits	\$2,467,016

(a) See Table V-A-2 for details

(b) Includes cost of issuance plus developer's counsel, SAP consultant, and appraisal costs.

- e) The Neighborhood Improvement Area #3 Improvement costs allocated to Neighborhood Improvement Area #3 equals \$6,437,163; and
- f) The Neighborhood Improvement Area #3 Assessed Property receives special benefit from the Neighborhood Improvement Area #3 Improvements; and
- g) The Neighborhood Improvement Area #3 Initial Parcel consists of all property in Neighborhood Improvement Area #3, therefore the Neighborhood Improvement Area #3 Initial Parcel (or Parcel or Parcels subsequently subdivided from it) will be allocated 100% of the Neighborhood Improvement Area #3 Assessments, which equal \$4,450,000 as shown on the Neighborhood Improvement Area #3 Assessment Roll attached hereto as Appendix B-4. The Assessment per Unit for each Lot Type within Neighborhood Improvement Area #3 is shown in Appendix B-1 as calculated pursuant to the Assessment

allocation methodology using estimated buildout values as described in the Original SAP; and

- h) The Assessed Property receives a direct and special benefit from the Authorized improvements, and this benefit is equal to or greater than the amount of the Assessments, as shown on Table V-E.

TABLE V-E

Neighborhood Improvement Area #3 Special Benefit and Assessment

Special Benefit	
Neighborhood Improvement Area #3 Improvements (a)	\$6,437,163
Reserve Fund	\$413,071
Capitalized Interest	\$388,108
Cost of Issuance (b)	\$267,000
Underwriter's Discount/Underwriter Counsel	\$133,500
<i>Subtotal Special Benefit</i>	<i>\$7,638,842</i>
Assessments	
Assessments securing Neighborhood Improvement Area #3 Bonds	\$4,450,000
Excess Benefits	\$3,188,842

(a) See Table V-A-3 for details

(b) Includes cost of issuance plus developer's counsel, SAP consultant, and appraisal costs.

At the time the City Council approved the SAP, the Developer owned 100% of the Assessed Property. The Developer has acknowledged that the Authorized Improvements confer a special benefit on the Assessed Property and consented to the imposition of the Assessments to pay for the Actual Costs associated therewith. The Developer has ratified, confirmed, accepted, agreed to and approved: (i) the determinations and findings by the City Council as to the special benefits described herein and the Assessment Ordinance; (ii) the SAP and the Assessment Ordinance, and (iii) the levying of Assessments on the Assessed Property.

The City Council has determined that funding the Actual Costs through the PID is beneficial to the City. The Authorized Improvements result in a special benefit to the Assessed Property, and such special benefit exceeds the amount of the Assessment. This conclusion is supported by the information provided to the City Council regarding the PID.

I. ANNUAL ASSESSMENT ROLL UPDATES

The Administrator shall prepare, and shall submit to the City Council for approval, updates to the Assessment Roll and the Annual Service Plan Update to reflect changes such as (i) the identification of each Parcel or Lot (ii) the Assessment for each Assessed Property, including any adjustments authorized by this Service and Assessment Plan or in the PID Act; (iii) the Annual Installment for the Assessed Property for the year (if the Assessment is payable in installments);

and (iv) payments of the Assessment, if any, as provided by **Section VII.G** of this Service and Assessment Plan.

The Service and Assessment Plan Update shall reflect the actual interest on the PID Bonds on which the Annual Installments shall be paid, any reduction in the Assessments, and any revisions in the Actual Costs to be funded by the PID Bonds and Developer funds.

J. FUTURE NEIGHBORHOOD IMPROVEMENT AREA ASSESSMENT ROLL

As Future Neighborhood Improvement Areas are developed, this Service and Assessment Plan will be updated to determine the Assessment for each Parcel located within Future Neighborhood Improvement Areas (e.g., an Appendix will be added as the Assessment Roll for Neighborhood Improvement Area #4, etc.).

K. ASSESSMENTS AND ANNUAL INSTALLMENTS

The Assessments for the PID Bonds will be levied on each Parcel or Lot according to the Assessment Roll. The Annual Installments for the PID Bonds will be collected on the dates and in the amounts shown on the Assessment Roll, subject to any revisions made during an Annual Service Plan Update.

L. ADMINISTRATIVE EXPENSES

The cost of administering the PID and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel or Lot based on the amount of outstanding Assessment remaining on the Parcel or Lot. The Administrative Expenses shall be collected as part of and in the same manner as Annual Installments in the amounts shown on the Assessment Roll, which will be revised based on actual costs incurred in Annual Service Plan Updates. Administrative Expenses collected and not expended for actual Administrative Expenses shall be carried forward and applied to reduce Administrative Expenses in subsequent years to avoid the over-collection of Administration Expenses.

M. EXCESS INTEREST RATE

Pursuant to the PID Act, the interest rate for Assessments may exceed the actual interest rate per annum paid on the PID Bonds by no more than one half of one percent (0.50%), (the “Excess Interest Rate”). To the extent funds are available under the applicable Indenture, forty percent (40.0%) of the funds generated by the Excess Interest Rate (0.20%) will initially fund the Prepayment Reserve. To the extent funds are available under the applicable Indenture, the remaining sixty percent (60.0%) balance of the funds generated by the Excess Interest Rate (0.30%) will initially fund the Delinquency Reserve.

N. PREPAYMENT RESERVE

As stated, a portion of the funds generated by the Excess Interest Rate will be allocated to fund the associated interest charged between the date of prepayment of an Assessment and the date on which PID Bonds are actually redeemed (“the **Prepayment Reserve**”). To the extent funds are available under the applicable Indenture, the Prepayment Reserve shall be funded each year until it reaches 1.5% of the par amount of the PID Bonds, but in no event will the annual collections be more than 0.20% higher than the actual interest rate paid on the PID Bonds. If the PID Act is subsequently amended to allow prepayment of an Assessment to include all applicable interest from the date of prepayment through and including the date of the regularly scheduled PID Bond payments to be charged upon the prepayment of the Assessment, the 0.20% allocated to fund the associated interest charged between the date of prepayment of the Assessment and the date on which PID Bonds are actually prepaid may be eliminated. If in a given year the additional reserve is fully funded at 1.5% of the par amount of the PID Bonds, the City and the Developer can allocate the Prepayment Reserve Component of the Excess Interest Rate collected during that year to the Delinquency Reserve or to pay Administrative Expenses as set forth in the Indenture.

O. DELINQUENCY RESERVE

A portion of the funds generated by the Excess Interest Rate will be allocated to offset any possible delinquent payments. To the extent funds are available under the applicable Trust Indenture, this additional reserve (the “**Delinquency Reserve**”) shall be funded each year up to 4.0% of the par amount of the PID Bonds, but in no event will the annual collection of the Delinquency Reserve be more than 0.30% higher than the actual interest rate paid on the PID Bonds. If in a given year the additional reserve is fully funded at 4.0% of the par amount of the PID Bonds, the City and the Developer shall allocate the Delinquency Reserve component of the Excess Interest Rate collected to the redemption of PID Bonds as set forth in the Indenture.

P. TIRZ CREDIT

The City has agreed to use TIRZ Revenues from TIRZ No. 4 generated from property within Neighborhood Improvement Area #1 Assessed Property to offset a portion of the Annual Installment on the Neighborhood Improvement Area #1 Assessed Property and has agreed to use TIRZ Revenues from TIRZ No. 8 generated from property within Neighborhood Improvement Areas #2-5 Assessed Property to offset a portion of the Annual Installment on the Neighborhood Improvement Areas #2-5 Assessed Property, respectively, (the "TIRZ Credit"). The Annual Installment for each Parcel shall be calculated by taking into consideration any TIRZ Credit applicable to the Parcel.

VI. SERVICE PLAN

The PID Act requires the service plan to cover a period of at least five years. The service plan is required to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within the PID during the five-year period. It is anticipated that it will take approximately 12 months for the Neighborhood Improvement Area #1 Improvements to be constructed and approximately 12 months for the Neighborhood Improvement Areas #2-5 Improvements to be constructed. The service plan shall be reviewed and updated at least annually for the purpose of determining the annual budget for Administrative Expenses, updating the estimated Authorized Improvement costs, and updating the Assessment Roll(s). Any update to this Service and Assessment Plan is herein referred as an “Annual Service Plan Update.”

The projected Annual Installments for the Neighborhood Improvement Area #1 Bonds , the Neighborhood Improvement Areas #2-5 Major Improvement Bonds, the Neighborhood Improvement Area #2 Reimbursement Agreement and the Neighborhood Improvement Area #3 Reimbursement Agreement are shown on Appendix A-2, Appendix B-2, Appendix B-3, and Appendix B-4 respectively. The projected annual installments are subject to revision and shall be updated in the Annual Service Plan Update as necessary.

The estimated costs for Neighborhood Improvement Area #1 Improvements plus the costs related to the issuance of the Neighborhood Improvement Area #1 Bonds and payment of expenses incurred in the establishment, administration and operation of the PID is \$16,242,238 as shown in Table VI-A-1. The estimated costs for Neighborhood Improvement Areas #2-5 Major Improvements plus costs related to the issuance of the Neighborhood Improvement Areas #2-5 Bonds, and payment of expenses incurred in the establishment, administration and operation of the PID is \$19,299,494 as shown in Table VI-A on the following page.

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TABLE VI-A
Sources and Uses of Funds – NIA #1 and NIA #2-5

	Neighborhood Improvement Area #1	Neighborhood Improvement Area #2-5
SOURCES OF FUNDS		
Gross Bond Amount	\$11,560,000	\$16,825,000
Developer's Advance (a)	\$2,581,645	\$437,266
Other funding sources (b)	\$2,100,592	\$2,037,228
	\$16,242,238	\$19,299,494
USES OF FUNDS		
Authorized Improvements (c)	\$12,644,097	\$13,854,089
Debt Service Reserve Fund	\$978,100	\$1,430,125
Capitalized Interest	\$1,448,051	\$2,398,264
Costs of Issuance (d)	\$871,556	\$1,179,750
Underwriter's Discount	\$300,434	\$437,266
	\$16,242,238	\$19,299,494

(a) The amounts represent the Developer deposits at the time of bond issuance.

(b) The other funding sources represent projected costs of Authorized Improvements to be paid by the Developer in excess of the bond proceeds and Developer deposits at bond closing.

(c) See Table V-A for details.

(d) Includes cost of issuance plus developer's counsel, SAP consultant, and appraisal costs.

The estimated costs for Neighborhood Improvement Area #2 Improvements and the Neighborhood Improvement Area #3 Improvements plus the costs related to the issuance of the Neighborhood Improvement Area #2-3 Bonds is \$12,010,858 as shown in Table VI-B on the following page.

(remainder of this page is intentionally left blank)

TABLE VI-B
Sources and Uses of Funds – NIA #2 and NIA #3

	Neighborhood Improvement Area #2	Neighborhood Improvement Area #3	Total
SOURCES OF FUNDS			
Gross Bond Amount	\$1,905,000	\$4,450,000	\$6,355,000
Other funding sources (a)	\$2,467,016	\$3,188,842	\$5,655,858
	\$4,372,016	\$7,638,842	\$12,010,858
USES OF FUNDS			
Authorized Improvements (b)	\$4,023,734	\$6,437,163	\$10,460,897
Debt Service Reserve Fund	\$176,832	\$413,071	\$589,903
Capitalized Interest	\$0	\$388,108	\$388,108
Costs of Issuance (c)	\$114,300	\$267,000	\$381,300
Underwriter's Discount	\$57,150	\$133,500	\$190,650
	\$4,372,016	\$7,638,842	\$12,010,858

(a) The other funding sources represent projected costs of Authorized Improvements to be paid by the Developer in excess of the bond proceeds and Developer deposits at bond closing.

(b) See Table V-D and Table V-E for details.

(c) Includes cost of issuance plus developer's counsel, SAP consultant, and appraisal costs.

The annual projected costs and annual projected indebtedness is shown by Table IV-C. The annual projected costs and indebtedness is subject to revision and each shall be updated in the Annual Service Plan Update to reflect any changes in the costs or indebtedness expected for each year.

TABLE VI-C
Annual Projected Costs and Annual Projected Indebtedness

Year	Annual Projected Costs	Annual Projected Indebtedness	Other Funding Sources
2015	\$35,541,732	\$28,385,000	\$7,156,732
2016	\$0	\$0	\$0
2017	\$0	\$0	\$0
2018	\$0	\$0	\$0
2019	\$12,010,858	\$6,355,000	\$5,655,858
2020	\$0	\$0	\$0
2021	\$0	\$0	\$0
2022	\$0	\$0	\$0
Total	\$47,552,590	\$34,740,000	\$12,812,590

The annual projected costs shown in Table VI-D are the annual expenditures relating to the Authorized Improvements shown in Tables III-A, III-B and III-C, the costs associated with creating the PID and costs of issuing the Series 2018 Bonds, including reserves shown in Table IV-A. The difference between the annual projected cost and the annual projected indebtedness represents an amount funded by the Developer, which may be reimbursed with the proceeds of Future Neighborhood Improvement Area Bonds to the extent available.

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VII. TERMS OF THE ASSESSMENTS

A. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN THE NEIGHBORHOOD IMPROVEMENT AREA #1

The Assessment and Annual Installments for each Assessed Property located within Neighborhood Improvement Area #1 is shown on the Neighborhood Improvement Area #1 Assessment Roll, attached as Appendix A-2, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

The Annual Installments shall be collected in an amount sufficient to pay principal and interest on the Neighborhood Improvement Area #1 Bonds, to fund the prepayment reserve and delinquency reserve described in Section VI, and to cover Administrative Expenses of Neighborhood Improvement Area #1. The Annual Installment for each Parcel shall be calculated by taking into consideration any TIRZ Credit applicable to such Parcel in Neighborhood Improvement Area #1. The TIRZ Credit for each Parcel shall be as described in Section V.N, and shall be as provided for in Section VII.C below:

B. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN THE NEIGHBORHOOD IMPROVEMENT AREAS #2-5

The Assessment and Annual Installments for each Assessed Property located within Neighborhood Improvement Areas #2-5 are shown on the Neighborhood Improvement Areas #2-5 Assessment Roll, attached as Appendix B-2, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

The Annual Installments shall be collected in an amount sufficient to pay principal and interest on the Neighborhood Improvement Areas #2-5 Major Improvement Bonds, to fund the prepayment reserve and delinquency reserve described in Section VI, to cover Administrative Expenses of Neighborhood Improvement Areas #2-5.

C. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN THE NEIGHBORHOOD IMPROVEMENT AREA #2 AND NEIGHBORHOOD IMPROVEMENT AREA #3

The Assessment and Annual Installments for each Assessed Property located within Neighborhood Improvement Area #2 are shown on the Neighborhood Improvement Area #2 Assessment Roll, attached as **Appendix B-3**, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

The Annual Installments shall be collected in an amount sufficient to pay the debt obligations under the Neighborhood Improvement Area #2 Reimbursement Agreement, and to cover Administrative Expenses of Neighborhood Improvement Area #2.

The Assessment and Annual Installments for each Assessed Property located within Neighborhood Improvement Area #3 are shown on the Neighborhood Improvement Area #3 Assessment Roll, attached as **Appendix B-4**, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

The Annual Installments shall be collected in an amount sufficient to pay the debt obligations under the Neighborhood Improvement Area #3 Reimbursement Agreement, and to cover Administrative Expenses of Neighborhood Improvement Area #3.

D. TIRZ CREDIT FOR PARCELS LOCATED IN NEIGHBORHOOD IMPROVEMENT AREA #1

The Annual Installment for each Parcel in Neighborhood Improvement Area #1 shall be calculated by taking into consideration any TIRZ Credit applicable to such Parcel.

The TIRZ Credit for each Parcel in Neighborhood Improvement Area #1 in any given year shall be determined by the TIRZ Revenues collected within TIRZ No. 4 in the preceding year (i.e., TIRZ Revenues collected in 2016 shall be used to calculate the TIRZ Credit applicable to Annual Installments to be collected in 2017).

E. TIRZ CREDIT FOR PARCELS LOCATED IN NEIGHBORHOOD IMPROVEMENT AREAS #2-5

The Annual Installment for each Parcel in Neighborhood Improvement Areas #2-5 shall be calculated by taking into consideration any TIRZ Credit applicable to such Parcel.

The TIRZ Credit for each Parcel in Neighborhood Improvement Areas #2-5 in any given year shall be determined by the TIRZ Revenues collected within TIRZ No. 8 in the preceding year (i.e., TIRZ Revenues collected in 2017 shall be used to calculate the TIRZ Credit applicable to Annual Installments to be collected in 2018).

F. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN FUTURE NEIGHBORHOOD IMPROVEMENT AREAS

As Future Neighborhood Improvement Areas are developed, this Service and Assessment Plan will be amended to determine the Assessment and Annual Installments for each Assessed Property located within Future Neighborhood Improvement Areas (e.g., an Appendix will be added as the Assessment Roll for Neighborhood Improvement Areas #4, etc.). The Assessments shall not exceed the benefit received by the Assessed Property.

G. REALLOCATION OF ASSESSMENTS FOR PARCELS LOCATED WITHIN THE PID

1. Upon Division Prior to Recording of Subdivision Plat

Upon the division of any Assessed Property (without the recording of subdivision plat), the Administrator shall reallocate the Assessment for the Assessed Property prior to the division among the newly divided Assessed Properties according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

A = the Assessment for the new divided Assessed Property

B = the Assessment for the Assessed Property prior to division

C = the estimated As-Built Assessed Value of the new divided Assessed Property

D = the sum of the As-Built Assessed Value for all of the new divided Assessed Properties

The calculation of the As-Built Assessed Value of an Assessed Property shall be performed by the Administrator based on information from the City, the Developer, third party consultants, the Official Public Records of Denton County, Texas, and any other relevant source of information regarding the Assessed Property. The calculation as confirmed by the City Council shall be conclusive.

The sum of the Assessments for all newly divided Assessed Properties shall equal the Assessment for the Assessed Property prior to subdivision. The calculation shall be made separately for each newly divided Assessed Property. The reallocation of an Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Assessment prior to the reallocation. Any reallocation pursuant to this section shall be reflected in an update to this Service and Assessment Plan approved by the City Council.

2. Upon Subdivision by a Recorded Subdivision Plat

Upon the subdivision of any Assessed Property based on a recorded Subdivision Plat, the Administrator shall reallocate the Assessment for the Assessed Property prior to the subdivision among the new subdivided Lots according to the following formula:

$$A = [B \times (C \div D)]/E$$

Where the terms have the following meanings:

A = the Assessment for the new subdivided Lot

B = the Assessment for the Parcel prior to subdivision

C = the sum of the estimated As-Built Assessed Value of all new subdivided Lots with same Lot Type

D = the sum of the estimated As-Built Assessed Value for all of the new subdivided Lots excluding Non-Benefitted Property

E = the number of Lots with same Lot Type

Prior to the recording of a subdivision plat, the Developer shall provide the City an estimated As-Built Assessed Value as of the date of the recorded subdivision plat for each Lot created by the recorded subdivision plat considering factors such as density, lot size, proximity to

amenities, view premiums, location, market conditions, historical sales, discussions with homebuilders, and any other factors that may impact future as-built Lot value and any other information available to the Developer. The calculation of the estimated As-Built Lot value for a Lot shall be performed by the Administrator and confirmed by the City Council based on information provided by the Developer, homebuilders, third party consultants, and/or the Official Public Records of Denton County, Texas regarding the Lot.

The sum of the Assessments for all newly subdivided Lots shall not exceed the Assessment for the portion of the Assessed Property subdivided prior to subdivision. The calculation shall be made separately for each newly subdivided Assessed Property. The reallocation of an Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Assessment prior to the reallocation. Any reallocation pursuant to this section shall be reflected in an update to this Service and Assessment Plan approved by the City Council.

3. Upon Consolidation

Upon the consolidation of two or more Parcels, the Assessment for the consolidated Parcel shall be the sum of the Assessments for the Parcels prior to consolidation. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the consolidation of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the City Council.

H. MANDATORY PREPAYMENT OF ASSESSMENTS

1. If a Parcel subject to Assessments is transferred to a party that is exempt from the payment of the Assessment under applicable law, or if an owner causes a Parcel subject to Assessments to become Non-Benefited Property, the owner of such Parcel shall pay to the City the full amount of the principal portion of the Assessment on such Parcel, plus all Prepayment Costs, prior to any such transfer or act.
2. The payments required above shall be treated the same as any Assessment that is due and owing under the Act, the Assessment Ordinance, and this Service and Assessment Plan, including the same lien priority, penalties, procedures, and foreclosure specified by the Act.

I. REDUCTION OF ASSESSMENTS

1. If after all Authorized Improvements to be funded with a series of PID Bonds have been completed and Actual Costs for such Authorized Improvements are less than the Actual Costs used to calculate the Assessments securing such series of PID Bonds, resulting in excess Bond proceeds being available to redeem Bonds of such series, then the Assessment securing such series of PID Bonds for each Parcel of Assessed Property shall be reduced by the City Council pro rata such that the sum of the resulting

- reduced Assessments for all Assessed Properties equals the actual reduced Actual Costs and such excess Bond proceeds shall applied to redeem Bonds of such series. The Assessments shall not be reduced to an amount less than the related outstanding series of PID Bonds. If all of the Authorized Improvements are not completed, the City may reduce the Assessments in another method if it determines such method would better reflect the benefit received by the Parcels from the Authorized Improvements completed.
2. If all the Authorized Improvements are not undertaken, resulting in excess PID Bond proceeds being available to redeem PID Bonds, then the Assessments and Annual Installments for each Parcel shall be appropriately reduced by the City Council to reflect only the amounts required to repay the PID Bonds, including interest on the PID Bonds and Collection Costs, and such excess Bond proceeds shall be applied to redeem Bonds. The City Council may reduce the Assessments and the Annual Installments for each Parcel (i) in an amount that represents the Authorized Improvements provided for each Parcel or (ii) by an equal percentage calculated based on estimated build out value of each Parcel or Lot, if determined by the City Council to be the most fair and practical means of reducing the Assessments for each Parcel, such that the sum of the resulting reduced Assessments equals the amount required to repay the PID Bonds, including interest on the PID Bonds and Collection Costs. The Principal Portion of the Assessment for each Parcel shall be reduced pro rata to the reduction in the Assessments for each Parcel such that the sum of the resulting reduced Principal Portion of the PID Bonds is equal to the outstanding principal amount of the PID Bonds.
 3. If after all Authorized Improvements to be funded with a series of PID Bonds have been completed and the Actual Costs for the Authorized Improvements are less than the Budgeted Costs used to calculate the Assessments securing the PID Bonds, resulting in excess Bond proceeds, then the City Council may reduce the Assessment securing the PID Bonds for each Assessed Property on a pro rata basis such that the sum of the resulting reduced Assessments for all Assessed Properties equals the reduced Actual Costs. The Assessments shall not be reduced to an amount less than the related outstanding series of PID Bonds.
 4. Similarly, if the City does not undertake some of the Authorized Improvements with the PID Bonds then the City Council may reduce the Assessment securing the PID Bonds for each Assessed Property pro-rata to reflect only the Actual Costs that were expended. The Assessments shall not be reduced to an amount less than the related outstanding series of PID Bonds.
 5. The City Council may apply excess PID Bond proceeds to the redemption of the respective PID Bonds.

J. PAYMENT OF ASSESSMENTS

1. Payment in Full

- (a) The Assessment for any Parcel may be paid in full at any time in accordance the PID Act. The Payment shall include all Prepayment Costs. If prepayment in full will result in redemption of PID Bonds, the payment amount shall be reduced from any proceeds from the Debt Service Reserve Fund applied to the redemption pursuant to the Indenture, net of any other costs applicable to the redemption of PID Bonds.
- (b) If an Annual Installment has been billed prior to payment in full of an Assessment, the Annual Installment shall be due and payable and shall be credited against the payment-in-full amount upon payment.
- (c) Upon payment in full of an Assessment and all Prepayment Costs, the City shall deposit the payment in accordance with the related Indenture; whereupon, the Assessment shall be reduced to zero, and the owner's obligation to pay the Assessment and Annual Installments thereof shall automatically terminate. The City shall provide the owner of the affected Assessed Property a recordable "Notice of PID Assessment Termination."
- (d) At the option of the Parcel owner, the Assessment on any Parcel may be paid in part in an amount equal to the amount of prepaid Assessments plus Prepayment Costs with respect thereto. Upon the payment of such amount for a Parcel, the Assessment for the Parcel shall be reduced, the Assessment Roll shall be updated to reflect such partial payment, and the obligation to pay the Annual Installment for such Parcel shall be reduced to the extent the partial payment is made. The partial Assessment payment will be used to redeem the bonds.

2. Payment of Annual Installments

The Act provides that an Assessment for a Parcel may be paid in full at any time. If not paid in full, the Act authorizes the City to collect interest and collection costs on the outstanding Assessment. An Annual Installment for a Parcel that is not paid in full will be collected in Annual Installments each year in the amounts shown in the Assessment Roll, which includes interest on the outstanding Assessment and Administrative Expenses.

The Annual Installments as listed on the Assessment Rolls for Neighborhood Improvement Area #1 in Appendix A-2 and Neighborhood Improvement Areas #2-5 in Appendix B-2 have been calculated using an interest rate on the Neighborhood Improvement Area #1 Bonds of 7.25% and an interest rate on the Neighborhood Improvement Areas #2-5 Major Improvement Bonds of 8.25%, respectively.

The Annual Installments as listed on the Assessment Roll for Neighborhood Improvement Area #2 in Appendix B-3 are calculated using 6.25% interest rate. Each Neighborhood Improvement Area #2 Assessment shall be paid with interest based on an interest rate of 6.25% per annum for years 1 through 5 and 6.25% per annum following the fifth Annual Installment. Each Assessment shall be paid at a rate not to exceed five hundred basis points above the highest average index rate for tax-exempt bond reported in a daily or weekly bond index approved by the City and reported in the month prior to the establishment of the Neighborhood Improvement Area #2 Assessments and continuing for a period of five years from such date. Such rate shall then adjust and shall not exceed two hundred basis points above the bond index rate described above and shall continue until the Neighborhood Improvement Area #2 Assessments are paid in full. The index approved by the City is the Bond Buyer Index for which the highest average rate during August 2018 was 4.48%. The City has determined that the Neighborhood Improvement Area #2 Assessments shall bear interest at the interest rate of 6.25% per annum for years 1 through 5 and 6.25% per annum following the fifth Annual Installment, which rates are equal to or less than the initial maximum allowable rate of interest of 9.48% for years 1 through 5 and equal to the maximum allowable rate of interest following the fifth Annual Installment, which would be 6.48%. Furthermore, the principal and interest component of the Annual Installments may not exceed the amounts shown on the Neighborhood Improvement Area #2 Assessment Roll, which is updated with the applicable interest rate on the Neighborhood Improvement Area #2 Reimbursement Agreement as shown in Appendix B-3. The Annual Installments may not exceed the amounts shown on the Assessment Rolls except pursuant to any amendment or update to the SAP.

The Annual Installments as listed on the Assessment Roll for Neighborhood Improvement Area #3 in Appendix B-4 are calculated using an estimated 6.05% interest rate. Each Neighborhood Improvement Area #3 Assessment shall be paid with interest based on an estimated interest rate of 6.05% per annum for years 1 through 5 and 6.05% per annum following the fifth Annual Installment. Each Assessment shall be paid at a rate not to exceed five hundred basis points above the highest average index rate for tax-exempt bond reported in a daily or weekly bond index approved by the City and reported in the month prior to the establishment of the Neighborhood Improvement Area #3 Assessments and continuing for a period of five years from such date. Such rate shall then adjust and shall not exceed two hundred basis points above the bond index rate described above and shall continue until the Neighborhood Improvement Area #3 Assessments are paid in full. The index approved by the City is the Bond Buyer Index for which the highest average rate during May 2019 was 4.05%. The City has determined that the Neighborhood Improvement Area #3 Assessments shall bear interest at an estimated interest rate of 6.05% per annum for years 1 through 5 and 6.05% per annum following the fifth Annual Installment, which rates are equal to or less than the initial maximum allowable rate of interest of 9.05% for years 1 through 5 and equal to the maximum allowable rate of interest following the fifth Annual Installment, which would be 6.05%. Furthermore, the principal and interest component of the Annual Installments may not exceed the amounts shown on the Neighborhood Improvement Area #3 Assessment Roll, which is updated with the applicable interest rate on the Neighborhood Improvement Area #3 Reimbursement Agreement as shown in Appendix B-4. The Annual Installments may not exceed the amounts shown on the Assessment Rolls except pursuant to any amendment or update to the SAP.

The Annual Installments shall be reduced to equal the actual costs of repaying the PID Bonds and actual Administrative Expenses (as provided for in the definition of such term), taking into consideration any other available funds for these costs, such as interest income on account balances. If additional Assessments are levied on the Project by the City, the Annual Installments will be adjusted to reflect the changes.

The City reserves and shall have the right and option to refund the PID Bonds in accordance with Section 372.027 of the PID Act. In the event of such refunding, the Administrator shall recalculate the Annual Installments, and if necessary, may adjust, or decrease, the amount of the Annual Installment so that total Annual Installments of Assessments will be produced in annual amounts that are required to pay the refunding PID Bonds when due and payable as required by and established in the ordinance and/or the indenture authorizing and securing the refunding PID Bonds, and such refunding PID Bonds shall constitute "PID Bonds" for purposes of this Service and Assessment Plan.

K. COLLECTION OF ANNUAL INSTALLMENTS

The Administrator shall, no less frequently than annually, prepare and submit to the City Council for its approval, an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and a calculation of the Annual Installment for each Assessed Property. Administrative Expenses shall be allocated among Assessed Properties in proportion to the amount of the Annual Installments for the Assessed Property. Each Annual Installment shall be reduced by any credits applied under the Indenture, such as capitalized interest, interest earnings on any account balances, and any other funds available to the Trustee for such purpose, and existing deposits for a prepayment reserve. Annual Installments may be collected by the City (or such entity to whom the City directs) in the same manner and at the same time as ad valorem taxes. Annual Installments shall be subject to the penalties, procedures, and foreclosure sale in case of delinquencies in the same manner and at the same time as ad valorem taxes. The City Council may provide for other means of collecting the Annual Installments to the extent permitted under the PID Act. The Assessments shall have lien priority as specified in the PID Act.

Any sale of Assessed Property for nonpayment of the delinquent Annual Installments shall be subject to the lien established for the remaining unpaid Annual Installments against such Assessed Property and such Assessed Property may again be sold at a judicial foreclosure sale if the purchaser thereof fails to make timely payment of the non-delinquent Annual Installments against such Assessed Property as they become due and payable.

Each Annual Installment, including the interest on the unpaid amount of an Assessment, shall be assessed annually. Each Annual Installment together with interest thereon shall be delinquent if not paid prior to February 1 of the following year.

Each Annual Installment for the Neighborhood Improvement Area #2 Assessments, including the interest on the unpaid amount of an Assessment, shall begin at the earlier of (i) Future Neighborhood Improvement Area Bonds issued for Neighborhood Improvement Area #2

Improvements, or (ii) September 1, 2019, and be assessed annually thereafter. Each Annual Installment together with interest thereon shall be delinquent if not paid prior to February 1 of each year following the commencement of collection of the Neighborhood Improvement Area #2 Annual Installments.

Each Annual Installment for the Neighborhood Improvement Area #3 Assessments, including the interest on the unpaid amount of an Assessment, shall begin at the earlier of (i) Future Neighborhood Improvement Area Bonds issued for Neighborhood Improvement Area #3 Improvements, or (ii) September 1, 2020, and be assessed annually thereafter. Each Annual Installment together with interest thereon shall be delinquent if not paid prior to February 1 of each year following the commencement of collection of the Neighborhood Improvement Area #3 Annual Installments.

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VIII. MISCELLANEOUS PROVISIONS

A. ADMINISTRATIVE REVIEW

The City may elect to designate a third party to serve as Administrator of the PID. The City shall notify Developer in writing at least thirty (30) days in advance before appointing a third party Administrator.

To the extent consistent with the PID Act, an owner of an Assessed Property claiming that a calculation error has been made in the Assessment Roll, including the calculation of the Annual Installment, must send a written notice describing the error to the City no later than thirty (30) days after the date any amount which is alleged to be incorrect is due prior to seeking any other remedy. If an owner fails to give such notice, such owner shall be deemed to have accepted the calculation of the Assessment Roll (including the Annual Installments) and to have waived any objection to the calculation. The Administrator shall promptly review the notice, and if necessary, meet with the Assessed Property owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred.

If the Administrator determines that a calculation error has been made and the Assessment Roll should be modified or changed in favor of the Assessed Property owner, such change or modification shall be presented to the City Council for approval, to the extent permitted by the PID Act. A cash refund may not be made for any amount previously paid by the Assessed Property owner (except for the final year during which the Annual Installment shall be collected), but an adjustment may be made in the amount of the Annual Installment to be paid in the following year. The decision of the Administrator regarding a calculation error relating to the Assessment Roll may be appealed to the City Council. Any amendments made to the Assessment Roll pursuant to calculation errors shall be made pursuant to the PID Act.

B. TERMINATION OF ASSESSMENTS

Each Assessment shall terminate on the date the Assessment is paid in full, including payment of any unpaid Annual Installments and Delinquent Collection Costs, if any. After the termination of the Assessment, and the collection of any delinquent Annual Installments and Delinquent Collection Costs, the City shall provide the owner of the affected Parcel a recordable "Notice of the PID Assessment Termination."

C. AMENDMENTS

Amendments to the Service and Assessment Plan can be made as permitted or required by the PID Act and under Texas law.

D. ADMINISTRATION AND INTERPRETATION OF PROVISIONS

The City Council shall administer (or cause the administration of) the PID, this SAP, and all Annual Service Plan Updates consistent with the PID Act, unless stated otherwise herein or in the Indenture, such determination shall be conclusive.

E. SEVERABILITY

If any provision, section, subsection, sentence, clause or phrase of this Service and Assessment Plan, or the application of same to an Assessed Property or any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Service and Assessment Plan or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Service and Assessment Plan that no part thereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other part hereof, and all provisions of this Service and Assessment Plan are declared to be severable for that purpose. In addition, the amendment and restatement to the Original SAP does not in any way affect the Assessment lien placed on the Assessed Property as part of the initial levy of Assessments on November 10, 2015.

If any provision of this Service and Assessment Plan is determined by a court to be unenforceable, the unenforceable provision shall be deleted from this Service and Assessment Plan and the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the City.

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APPENDIX A
NEIGHBORHOOD IMPROVEMENT AREA #1 ASSESSMENT ROLL

APPENDIX A-1
Assessment Per Unit – NIA #1

The Assessment per Unit for NIA #1, as calculated using the estimated buildout values described in the Original SAP are shown in the table below.

Lot Type	Lot Size	No. of Units	Total Estimated Buildout Value (Per Original SAP)	% of Total Buildout Value	Total Assessments Allocated	Assessment per Unit
A	70	40	\$14,700,000	9.05%	\$1,046,634	\$26,166
B	60	195	\$63,940,500	39.38%	\$4,552,537	\$23,346
C	50	280	\$83,720,000	51.56%	\$5,960,829	\$21,289
Total		515	\$162,360,500		\$11,560,000	

APPENDIX A-2
Neighborhood Improvement Area #1 Assessment Roll

Parcel	Special Assessment
Neighborhood Improvement Area #1 Initial Parcel	\$11,560,000

APPENDIX A-2
Neighborhood Improvement Area #1 Initial Parcel Annual Installments

Year (a)	Principal	Interest (b)	Total Debt Service	Administrative Expenses (c)	Prepayment Reserve	Delinquency Reserve	Debt Service Reserve Fund	Capitalized Interest	Annual Installment (e)
9/1/2016	\$0	\$609,951	\$609,951	\$30,000	\$23,120	\$34,680	\$0	(\$609,951)	\$87,8
9/1/2017	\$0	\$838,100	\$838,100	\$30,600	\$23,120	\$34,680	\$0	(\$838,100)	\$88,4
9/1/2018	\$140,000	\$838,100	\$978,100	\$61,212	\$23,120	\$34,680	\$0	\$0	\$1,097,1
9/1/2019	\$150,000	\$827,950	\$977,950	\$62,436	\$22,840	\$34,260	\$0	\$0	\$1,097,4
9/1/2020	\$160,000	\$817,075	\$977,075	\$63,685	\$22,540	\$33,810	\$0	\$0	\$1,097,1
9/1/2021	\$170,000	\$805,475	\$975,475	\$64,959	\$22,220	\$33,330	\$0	\$0	\$1,095,9
9/1/2022	\$180,000	\$793,150	\$973,150	\$66,258	\$21,880	\$32,820	\$0	\$0	\$1,094,1
9/1/2023	\$195,000	\$780,100	\$975,100	\$67,583	\$2,560	\$51,240	\$0	\$0	\$1,096,4
9/1/2024	\$210,000	\$765,963	\$975,963	\$68,935	\$0	\$52,825	\$0	\$0	\$1,097,7
9/1/2025	\$225,000	\$750,738	\$975,738	\$70,313	\$0	\$51,775	\$0	\$0	\$1,097,8
9/1/2026	\$240,000	\$734,425	\$974,425	\$71,720	\$0	\$11,100	\$0	\$0	\$1,057,2
9/1/2027	\$260,000	\$717,025	\$977,025	\$73,154	\$0	\$0	\$0	\$0	\$1,050,1
9/1/2028	\$275,000	\$698,175	\$973,175	\$74,617	\$0	\$0	\$0	\$0	\$1,047,7
9/1/2029	\$295,000	\$678,238	\$973,238	\$76,109	\$0	\$0	\$0	\$0	\$1,049,3
9/1/2030	\$320,000	\$656,850	\$976,850	\$77,632	\$0	\$0	\$0	\$0	\$1,054,4
9/1/2031	\$340,000	\$633,650	\$973,650	\$79,184	\$0	\$0	\$0	\$0	\$1,052,8
9/1/2032	\$365,000	\$609,000	\$974,000	\$80,768	\$0	\$0	\$0	\$0	\$1,054,7
9/1/2033	\$395,000	\$582,538	\$977,538	\$82,383	\$0	\$0	\$0	\$0	\$1,059,9
9/1/2034	\$420,000	\$553,900	\$973,900	\$84,031	\$0	\$0	\$0	\$0	\$1,057,9
9/1/2035	\$450,000	\$523,450	\$973,450	\$85,712	\$0	\$0	\$0	\$0	\$1,059,1
9/1/2036	\$485,000	\$490,825	\$975,825	\$87,426	\$0	\$0	\$0	\$0	\$1,063,2
9/1/2037	\$520,000	\$455,663	\$975,663	\$89,174	\$0	\$0	\$0	\$0	\$1,064,8
9/1/2038	\$555,000	\$417,963	\$972,963	\$90,958	\$0	\$0	\$0	\$0	\$1,063,9
9/1/2039	\$600,000	\$377,725	\$977,725	\$92,777	\$0	\$0	\$0	\$0	\$1,070,5
9/1/2040	\$640,000	\$334,225	\$974,225	\$94,633	\$0	\$0	\$0	\$0	\$1,068,8
9/1/2041	\$685,000	\$287,825	\$972,825	\$96,525	\$0	\$0	\$0	\$0	\$1,069,3
9/1/2042	\$735,000	\$238,163	\$973,163	\$98,456	\$0	\$0	\$0	\$0	\$1,071,6
9/1/2043	\$790,000	\$184,875	\$974,875	\$100,425	\$0	\$0	\$0	\$0	\$1,075,3
9/1/2044	\$850,000	\$127,600	\$977,600	\$102,433	\$0	\$0	\$0	\$0	\$1,080,0
9/1/2045	\$910,000	\$65,975	\$975,975	\$104,482	\$0	\$0	(\$978,100)	\$0	\$102,3
Totals	\$11,560,000	\$17,194,688	\$28,754,688	\$2,328,580	\$161,400	\$405,200	(\$978,100)	(\$1,448,051)	\$29,223,7

(a) The 9/1/XX dates represent the fiscal year end for the bonds, and the installments are due on the immediately prior January 31st

(b) Interest rate is 7.25%

(c) Preliminary estimate, will be updated in Annual Service Plan Updates.

APPENDIX B
ESTIMATED COSTS OF AUTHORIZED IMPROVEMENTS

APPENDIX B-1**Assessment Per Unit – NIA #2 & NIA #3**

The Assessment per Unit for NIA #2, as calculated using the estimated buildout values described in the Original SAP are shown in the table below.

NIA #2

Lot Type	Lot Size	No. of Units	Total Estimated Buildout Value (per Original SAP)	% of Total Buildout Value	Total Assessments Allocated	Assessment per Unit - NIA #2	Assessment per Unit - NIA #2-5 ^(a)	Combined Assessment per Unit - NIA #2-5 ^(a)
A	70	0	\$0	0.00%	\$0	\$0	\$0	\$0
B	60	55	\$18,034,500	36.05%	\$686,737	\$12,486	\$9,929	\$22,415
C	50	107	\$31,993,000	63.95%	\$1,218,263	\$11,386	\$9,929	\$21,315
Total		162	\$50,027,500		\$1,905,000			

^(a) Represents initial Assessment per Unit per the Original SAP.

The Assessment per Unit for NIA #3, as calculated using the estimated buildout values described in the Original SAP are shown in the table below.

NIA #3

Lot Type	Lot Size	No. of Units	Total Estimated Buildout Value (per Original SAP)	% of Total Buildout Value	Total Assessments Allocated	Assessment per Unit - NIA #2	Assessment per Unit - NIA #2-5 ^(a)	Combined Assessment per Unit - NIA #2-5 ^(a)
A	70	37	\$13,597,500	11.82%	\$526,059	\$14,218	\$9,929	\$24,147
B	60	85	\$27,871,500	24.23%	\$1,078,290	\$12,686	\$9,929	\$22,615
C	50	246	\$73,554,000	63.95%	\$2,845,651	\$11,568	\$9,929	\$21,497
Total		368	\$115,023,000		\$4,450,000			

^(a) Represents initial Assessment per Unit per the Original SAP.

APPENDIX B-2
Neighborhood Improvement Areas #2-5 Assessment Roll

Parcel	Special Assessment
Neighborhood Improvement Areas #2-5 Initial Parcel	\$16,825,000

APPENDIX B-2**Neighborhood Improvement Areas #2-5 Initial Parcel Annual Installments**

Year (a)	Principal	Interest (b)	Total Debt Service	Admin Expenses (c)	Prepayment Reserve	Delinquency Reserve	Transfer to DSRF	Less: DSRF Credit	Less: Capitalized Interest	Ann Install (e)
9/1/2016	\$0	\$1,010,201	\$1,010,201	\$30,000	\$0	\$0	\$84,125	\$0	(\$1,010,201)	\$11,500
9/1/2017	\$0	\$1,388,063	\$1,388,063	\$30,600	\$0	\$0	\$84,125	\$0	(\$1,388,063)	\$11,500
9/1/2018	\$0	\$1,388,063	\$1,388,063	\$31,212	\$0	\$0	\$84,125	\$0	\$0	\$1,500
9/1/2019	\$295,000	\$1,388,063	\$1,683,063	\$31,836	\$33,650	\$50,475	\$0	\$0	\$0	\$1,794
9/1/2020	\$320,000	\$1,363,725	\$1,683,725	\$32,473	\$33,060	\$49,590	\$0	\$0	\$0	\$1,798
9/1/2021	\$345,000	\$1,337,325	\$1,682,325	\$33,122	\$32,420	\$48,630	\$0	\$0	\$0	\$1,797
9/1/2022	\$375,000	\$1,308,863	\$1,683,863	\$33,785	\$31,730	\$47,595	\$0	\$0	\$0	\$1,793
9/1/2023	\$405,000	\$1,277,925	\$1,682,925	\$34,461	\$30,980	\$46,470	\$0	\$0	\$0	\$1,796
9/1/2024	\$435,000	\$1,244,513	\$1,679,513	\$35,150	\$30,170	\$45,255	\$0	\$0	\$0	\$1,798
9/1/2025	\$475,000	\$1,208,625	\$1,683,625	\$35,853	\$29,300	\$43,950	\$0	\$0	\$0	\$1,798
9/1/2026	\$510,000	\$1,169,438	\$1,679,438	\$36,570	\$28,350	\$42,525	\$0	\$0	\$0	\$1,783
9/1/2027	\$555,000	\$1,127,363	\$1,682,363	\$37,301	\$2,715	\$65,610	\$0	\$0	\$0	\$1,789
9/1/2028	\$600,000	\$1,081,575	\$1,681,575	\$38,047	\$0	\$65,550	\$0	\$0	\$0	\$1,782
9/1/2029	\$650,000	\$1,032,075	\$1,682,075	\$38,808	\$0	\$62,550	\$0	\$0	\$0	\$1,783
9/1/2030	\$705,000	\$978,450	\$1,683,450	\$39,584	\$0	\$59,300	\$0	\$0	\$0	\$1,784
9/1/2031	\$760,000	\$920,288	\$1,680,288	\$40,376	\$0	\$45,500	\$0	\$0	\$0	\$1,764
9/1/2032	\$825,000	\$857,588	\$1,682,588	\$41,184	\$0	\$0	\$0	\$0	\$0	\$1,722
9/1/2033	\$890,000	\$789,525	\$1,679,525	\$42,007	\$0	\$0	\$0	\$0	\$0	\$1,722
9/1/2034	\$965,000	\$716,100	\$1,681,100	\$42,847	\$0	\$0	\$0	\$0	\$0	\$1,727
9/1/2035	\$1,045,000	\$636,488	\$1,681,488	\$43,704	\$0	\$0	\$0	\$0	\$0	\$1,722
9/1/2036	\$1,130,000	\$550,275	\$1,680,275	\$44,578	\$0	\$0	\$0	\$0	\$0	\$1,723
9/1/2037	\$1,225,000	\$457,050	\$1,682,050	\$45,470	\$0	\$0	\$0	\$0	\$0	\$1,720
9/1/2038	\$1,325,000	\$355,988	\$1,680,988	\$46,379	\$0	\$0	\$0	\$0	\$0	\$1,727
9/1/2039	\$1,435,000	\$246,675	\$1,681,675	\$47,307	\$0	\$0	\$0	\$0	\$0	\$1,722
9/1/2040	\$1,555,000	\$128,288	\$1,683,288	\$48,253	\$0	\$0	\$0	(\$1,683,863)	\$0	\$4,800
Total	\$16,825,000	\$23,962,526	\$40,787,526	\$960,909	\$252,375	\$673,000	\$252,375	(\$1,683,863)	(\$2,398,264)	\$38,848

(a) The 9/1/XX dates represent the fiscal year end for the bonds, and the installments are due on the immediately prior January 31st

(b) Interest rate is 8.25%

(c) Preliminary estimate, will be updated in Annual Service Plan Updates.

APPENDIX B-3
Neighborhood Improvement Area #2 Assessment Roll

Parcel	Special Assessment
Neighborhood Improvement Area #2 Initial Parcel (134236)	\$1,905,000

APPENDIX B-3
Neighborhood Improvement Area #2 Initial Parcel Annual Installments

Year (a)	Principal	Interest (b)	Total Debt Service	Administrative Expenses (c)	Annual Installment (e)
9/1/2019	\$0	\$119,063	\$119,063	\$19,702	\$138,764
9/1/2020	\$0	\$75,658	\$75,658	\$20,096	\$95,754
9/1/2021	\$0	\$90,488	\$90,488	\$20,498	\$110,985
9/1/2022	\$0	\$90,488	\$90,488	\$20,908	\$111,395
9/1/2023	\$0	\$90,488	\$90,488	\$21,326	\$111,813
9/1/2024	\$0	\$90,488	\$90,488	\$21,752	\$112,240
9/1/2025	\$0	\$90,488	\$90,488	\$22,187	\$112,675
9/1/2026	\$0	\$90,488	\$90,488	\$22,631	\$113,119
9/1/2027	\$0	\$90,488	\$90,488	\$23,084	\$113,571
9/1/2028	\$0	\$90,488	\$90,488	\$23,545	\$114,033
9/1/2029	\$0	\$90,488	\$90,488	\$24,016	\$114,504
9/1/2030	\$0	\$90,488	\$90,488	\$24,497	\$114,984
9/1/2031	\$10,000	\$90,488	\$100,488	\$24,987	\$125,474
9/1/2032	\$10,000	\$90,013	\$100,013	\$25,486	\$125,499
9/1/2033	\$10,000	\$89,538	\$99,538	\$25,996	\$125,534
9/1/2034	\$10,000	\$89,063	\$99,063	\$26,516	\$125,578
9/1/2035	\$10,000	\$88,588	\$98,588	\$27,046	\$125,634
9/1/2036	\$10,000	\$88,113	\$98,113	\$27,587	\$125,700
9/1/2037	\$10,000	\$87,638	\$97,638	\$28,139	\$125,776
9/1/2038	\$10,000	\$87,163	\$97,163	\$28,702	\$125,864
9/1/2039	\$10,000	\$86,688	\$96,688	\$29,276	\$125,963
9/1/2040	\$5,000	\$86,213	\$91,213	\$29,861	\$121,074
9/1/2041	\$170,000	\$85,975	\$255,975	\$30,459	\$286,434
9/1/2042	\$175,000	\$77,900	\$252,900	\$31,068	\$283,968
9/1/2043	\$185,000	\$69,588	\$254,588	\$31,689	\$286,277
9/1/2044	\$190,000	\$60,800	\$250,800	\$32,323	\$283,123
9/1/2045	\$200,000	\$51,775	\$251,775	\$32,969	\$284,744
9/1/2046	\$210,000	\$42,275	\$252,275	\$33,629	\$285,904
9/1/2047	\$220,000	\$32,300	\$252,300	\$34,301	\$286,601
9/1/2048	\$225,000	\$21,850	\$246,850	\$34,987	\$281,837
9/1/2049	\$235,000	\$11,163	\$246,163	\$35,687	\$281,850
Total	\$1,905,000	\$2,436,721	\$4,341,721	\$834,950	\$5,176,671

(a) The 9/1/XX dates represent the fiscal year end for the bonds, and the installments are due on the immediately prior January 31st

(b) Interest rate is 4.75%

(c) Preliminary estimate, will be updated in Annual Service Plan Updates.

APPENDIX B-4
Neighborhood Improvement Area #3 Assessment Roll

Parcel	Special Assessment
Neighborhood Improvement Area #3 Initial Parcel ()	\$4,450,000

APPENDIX B-4
Neighborhood Improvement Area #3 Initial Parcel Annual Installments

Year (a)	Principal	Interest (b)	Total Debt Service	Administrative Expenses (c)	Annual Installment (e)
9/1/2020	\$0	\$176,733	\$176,733	\$45,298	\$222,031
9/1/2021	\$0	\$211,375	\$211,375	\$46,204	\$257,579
9/1/2022	\$0	\$211,375	\$211,375	\$47,128	\$258,503
9/1/2023	\$0	\$211,375	\$211,375	\$48,071	\$259,446
9/1/2024	\$0	\$211,375	\$211,375	\$49,032	\$260,407
9/1/2025	\$0	\$211,375	\$211,375	\$50,013	\$261,388
9/1/2026	\$0	\$211,375	\$211,375	\$51,013	\$262,388
9/1/2027	\$0	\$211,375	\$211,375	\$52,033	\$263,408
9/1/2028	\$0	\$211,375	\$211,375	\$53,074	\$264,449
9/1/2029	\$5,000	\$211,375	\$216,375	\$54,136	\$270,511
9/1/2030	\$0	\$211,138	\$211,138	\$55,218	\$266,356
9/1/2031	\$20,000	\$211,138	\$231,138	\$56,323	\$287,460
9/1/2032	\$25,000	\$210,188	\$235,188	\$57,449	\$292,637
9/1/2033	\$25,000	\$209,000	\$234,000	\$58,598	\$292,598
9/1/2034	\$25,000	\$207,813	\$232,813	\$59,770	\$292,583
9/1/2035	\$25,000	\$206,625	\$231,625	\$60,965	\$292,590
9/1/2036	\$25,000	\$205,438	\$230,438	\$62,185	\$292,622
9/1/2037	\$25,000	\$204,250	\$229,250	\$63,428	\$292,678
9/1/2038	\$25,000	\$203,063	\$228,063	\$64,697	\$292,760
9/1/2039	\$25,000	\$201,875	\$226,875	\$65,991	\$292,866
9/1/2040	\$20,000	\$200,688	\$220,688	\$67,311	\$287,998
9/1/2041	\$390,000	\$199,738	\$589,738	\$68,657	\$658,394
9/1/2042	\$405,000	\$181,213	\$586,213	\$70,030	\$656,243
9/1/2043	\$425,000	\$161,975	\$586,975	\$71,431	\$658,406
9/1/2044	\$445,000	\$141,788	\$586,788	\$72,859	\$659,647
9/1/2045	\$465,000	\$120,650	\$585,650	\$74,317	\$659,967
9/1/2046	\$485,000	\$98,563	\$583,563	\$75,803	\$659,365
9/1/2047	\$505,000	\$75,525	\$580,525	\$77,319	\$657,844
9/1/2048	\$530,000	\$51,538	\$581,538	\$78,865	\$660,403
9/1/2049	\$555,000	\$26,363	\$581,363	\$80,443	\$661,805
Total	\$4,450,000	\$5,407,671	\$9,857,671	\$45,298	\$222,031

(a) The 9/1/XX dates represent the fiscal year end for the bonds, and the installments are due on the immediately prior January 31st

(b) Interest rate is 4.75%

(c) Preliminary estimate, will be updated in Annual Service Plan Updates.

APPENDIX C
LEGAL DESCRIPTIONS OF PARCELS

APPENDIX C

Legal Description of Parcels

622.779 ACRE TRACT

BEING that certain tract of land situated in the Freeman Wilkerson Survey, Abstract No. 1411, the Thomas H. McIntyre Survey, Abstract No. 903, the Thomas B. Cox Survey, Abstract No. 309, the Carrol Jackson Survey, Abstract No. 1546, the Jacob Rue Survey, Abstract No. 1109, and the Hiram Rue Survey, Abstract No. 1111, in Denton County, Texas, and being all of that certain tract of land described in deed to Denton County 128 Development LLC recorded in Document No. 2013-135475, of the Real Property Records of Denton County, Texas (RPRDCT), all of that certain tract of land described in deed to Tarsan Corporation recorded in Document No. 2002-108524, RPRDCT, all of those certain tracts of land described in deeds to Mike A. Myers Investment Holdings, L.P. recorded in Document No. 2005-33384, RPRDCT, Document No. 2007-53939 RPRDCT, and Document No. 2005-93340, RPRDCT, all of that certain tract of land described in deed to The Amanda S. Myers Irrevocable Asset Trust recorded in Document No. 2011-125051, RPRDCT, all of that certain tract of land described in deed to Ok Kyun and Youngmoo Kim, Trustees of the Kim Family Living Trust recorded in Document No. 2005-86220, RPRDCT, and part of that certain tract of land described in deed to Frisco Industrial Partners recorded in Document NO. 2008-66233, RPRDCT, and being more particularly described as follows;

BEGINNING at a 1/2 inch capped iron rod found, said iron rod being located on the east right-of-way line of Farm to Market (FM) Road No. 1385 (variable width R.O.W.), and also being the northwest corner of Countryview Addition, an addition to Denton County according to Final Plat recorded in Cabinet F, Page 267, of the Plat Records of Denton County, Texas;

THENCE North 01°28'19" East, with said east right-of-way line of FM No. 1385, a distance of 310.72 feet to a ½ inch iron rod found for corner, said iron rod being the northwest corner of the aforementioned Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2007-53939 RPRDCT, and a southwest corner of the aforementioned Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005-93340 RPRDCT;

THENCE North 01°22'30" East, continuing with the east right-of-way line of FM No. 1385, a distance of 204.07 feet to a 1/2 inch iron rod found for corner, said iron rod being the northwest corner of said Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005-93340 RPRDCT, and the southwest corner of the aforementioned tract of land described in deed to Tarsan Corporation recorded in Document No. 2002-108524, RPRDCT;

THENCE North 01°32'20" East, continuing with the east right-of-way line of FM No. 1385, a distance of 455.39 feet to a 1/2 inch iron rod found for corner;

THENCE North 01°55'54" East, continuing with the east right-of-way line of FM No. 1385, a distance of 446.59 feet to a 1/2 inch iron rod found for corner at the intersection of the east right-of-way line of FM No. 1385, and the approximate center of Crutchfield Road (undedicated public road), the northwest corner of said Tarsan Corporation tract, and the southwest corner of said Denton County 128 Development LLC tract;

THENCE North 89°43'38" East, continuing with the east right-of-way line of FM No. 1385, a distance of 2.88 feet to a 1/2 inch iron rod found for corner;

THENCE North 01°41'28" East, continuing with the east right-of-way line of FM No. 1385, a distance of 606.35 feet to a point for corner;

THENCE North 00°48'41" East, continuing with the east right-of-way line of FM No. 1385, a distance of 797.78 feet to a 1/2 inch iron rod found for corner at the most westerly northwest corner of said Denton County 128 Development LLC tract;

THENCE North 89°34'28" East, leaving the east right-of-way line of FM No. 1385, and with the north line of said Denton County 128 Development LLC tract, a distance of 1280.69 feet to a 1/2 inch iron rod found for corner;

THENCE North 00°20'50" West, with a west line of said Denton County 128 Development LLC tract, a distance of 546.92 feet to a 5/8 inch iron rod found for corner;

THENCE North 00°25'58" West, with a west line of said Denton County 128 Development LLC tract, a distance of 553.08 feet to a 1/2 inch iron rod found for corner;

THENCE North 00°04'10" East, with a west line of said Denton County 128 Development LLC tract, a distance of 73.78 feet to a 1/2 inch iron rod found for corner at the most northerly northwest corner of said Denton County 128 Development LLC tract, and the most southerly southwest corner of that certain tract of land described in deed to Blue Angus Ranch, LP, recorded in Instrument No. 2007-107216, RPRDCT;

THENCE South 89°46'34" East, with the most northerly north line of said Denton County 128 Development LLC tract, and the most southerly south line of said Blue Angus Ranch, LP tract, a distance of 959.68 feet to a 3/8 inch iron rod found for corner at the most southerly southeasterly corner of said Blue Angus Ranch, LP tract, and a southwest corner of that certain tract of land described in deed to Fashand Farm, Ltd. recorded in Document No. 2004-135532, RPRDCT;

THENCE South 89°47'07" East, continuing with the most northerly north line of said Denton County 128 Development LLC tract, and with a south line of said Fashand Farm, Ltd. tract, a distance of 395.15 feet to a 1/2 inch iron rod found for corner;

THENCE South 02°54'24" West, with an east line of said Denton County 128 Development LLC tract, and a west line of said Fashand Farm, Ltd. tract, a distance of 454.69 feet to a 1/2 inch iron rod found for corner;

THENCE North 89°30'36" East, with a north line of said Denton County 128 Development LLC tract, and a south line of said Fashand Farm, Ltd. tract, a distance of 156.62 feet to 1/2 inch iron rod found for corner located at a northeast corner of said Denton County 128 Development LLC tract, a southwest corner of said Fashand Farm, Ltd. tract, and also being the northwest corner of that certain tract of land described in deed to Fashand Farm, Ltd. recorded in Document No. 2005-21653, RPRDCT;

THENCE South 00°08'58" East, with the most easterly east line of said Denton County 128 Development LLC tract, the west line of said Fashand Farm, Ltd. tract recorded in Document No. 2005-21653, RPRDCT, and the west line of that certain tract of land described in deed to Jan M. Paliwoda and Margaret Paliwoda recorded in Volume 4364, Page 1631, RPRDCT, a distance of 2034.69 feet to a 1/2 inch iron rod found for corner located at the northeast corner of that certain tract of land described in deed to SBA Towers IV, LLC recorded in Document No.

2013-94302, RPRDCT;

THENCE South 89°15'21" West, with the north line of said SBA Towers IV, LLC tract, a distance of 50.31 feet to a 1/2 inch iron rod found for corner;

THENCE South 00°56'04" East, with the west line of said SBA Towers IV, LLC tract, a distance of 50.03 feet to a 1/2 inch iron rod found for corner;

THENCE North 89°12'39" East, with the south line of said SBA Towers IV, LLC tract, a distance of 49.92 feet to a 1/2 inch iron rod found for corner located on said most easterly east line of said

Denton County 128 Development LLC tract, and the west line of said Jan M. Paliwoda and Margaret Paliwoda tract;

THENCE South 01°18'28" East, with said most easterly east line of said Denton County 128 Development LLC tract, and the west line of the Jan M. Paliwoda and Margaret Paliwoda tract, a distance of 31.08 feet to a 1/2 inch iron rod found for corner located on said approximate center of Crutchfield Road, and being the southeast corner of said Denton County 128 Development LLC tract;

THENCE North 89°43'38" East, with said approximate center of Crutchfield Road, the north line of said Tarsan tract, and the aforementioned Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005- 33384, RPRDCT, a distance of 627.96 feet to a railroad spike found for corner at the northeast corner of said Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005-33384, RPRDCT;

THENCE North 00°08'37" West, continuing with the approximate center of Crutchfield Road, and with the west line of the aforementioned Amanda S. Myers Irrevocable Asset Trust tract, a distance of 858.91 feet to a 1/2 inch iron rod found for corner, said iron rod being the northwest corner of said Amanda S. Myers Irrevocable Asset Trust tract, and the southwest corner of said Fashand Farm, Ltd. tract recorded in Document No. 2004-135532, RPRDCT;

THENCE North 89°30'51" East, continuing with the approximate center of Crutchfield Road, and with the north line of the Amanda S. Myers Irrevocable Asset Trust tract, a distance of 1759.29 feet to a 1/2 inch iron rod found for corner;

THENCE South 00°23'19" East, with the east line of the Amanda S. Myers Irrevocable Asset Trust tract, and the west line of that certain tract of land described in deed to Smiley Road, Ltd. recorded in Document No. 2006-2064, RPRDCT, a distance of 2685.16 feet to a 5/8 inch iron rod found for corner;

THENCE South 89°13'31" West, with a line described in Boundary Line Agreement recorded in Instrument No. 2005-122140, RPRDT, a distance of 527.69 feet to a 1/2 inch iron rod found for corner;

THENCE South 00°41'45" West, with a line described in said Boundary Line Agreement recorded in Instrument No. 2005-122140, RPRDT, a distance of 2985.21 feet to a 60d nail found in asphalt for corner, said nail being located in the approximate center of Parvin Road (undedicated public road);

THENCE North 89°11'44" West, with said approximate center of Parvin Road, and with a line described in said Boundary Line Agreement recorded in Instrument No. 2005-122140, RPRDT, a distance of 1163.46 feet to a 3/8 inch iron rod found for corner;

THENCE North 00°42'55" West, leaving the approximate center of Parvin Road and with the west line of the Amanda S. Myers Irrevocable Asset Trust tract, the east line of that certain tract of land described in deed to Donald K. Estep and Sonja K. Estep recorded in Document No. 2011-67774, RPRDCT, and that certain tract of land described in deed to Donald Kenny Estep and Sonja Kay Estep recorded in Document No. 2001-99806, RPRDCT, a distance of 280.30 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner;

THENCE South 89°32'42" West, with a south line of that certain tract of land described in deed to Ok Kyun and Youngmoo Kim, Trustees of the Kim Family Living Trust recorded in Document No. 2005-86220, RPRDCT, a distance of 239.66 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner;

THENCE South 00°49'27" East, with an easterly line of said Kim Family Living Trust tract, the west line of said Estep tracts, and the west line of that certain tract of land described in deed to

Claude Adams and Kathleen Adams recorded in Document No. 2011-67775, RPRDCT, and the west line of that certain tract of land described in deed to David P. Brewer and Carolyn Brewer recorded in Document No. 2012-34990, RPRDCT, a distance of 734.88 feet to a 1/2 inch iron rod found for corner at the southwest corner of said Brewer tract, and an interior "ell" corner of the Kim Family Living Trust tract;

THENCE North 89°20'27" East, a distance of 238.85 feet to a 1/2 inch iron rod found for corner, said iron rod being located at the southeast corner of the Brewer tract, a northeast corner of the Kim Family Living Trust tract, and also being located in the aforementioned approximate center of Parvin Road;

THENCE South 00°32'10" East, with an easterly line of the Kim Family Living Trust tract, and said approximate center of Parvin Road, a distance of 490.79 feet to a 1/2 inch iron rod found for corner at the most southerly southeast corner of the Kim Family Living Trust tract;

THENCE South 89°26'22" West, with the south line of the Kim Family Living Trust tract, and the approximate center of Parvin Road, a distance of 378.96 feet to a nail in asphalt found for corner;

THENCE North 00°17'53" East, leaving the approximate center of Parvin Road, and with a west line of the Kim Family Living Trust tract, and the east line of that certain tract of land described in deed to John M. Cosper and Jackie Cosper recorded in Volume 626, Page 706, RPRDCT, passing at a distance of 27.73 feet a 5/8 inch iron rod in concrete found, continuing in all, a distance of 267.98 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner, from which a 5/8 inch iron rod in concrete found bears South 00°17'53" West, a distance of 2.99 feet;

THENCE South 89°25'59" West, with a south line of the Kim Family Living Trust tract, and the north line of the Cosper tract, a distance of 824.19 feet to a 1/2 inch iron rod found for corner;

THENCE South 00°39'57" East, with the west line of the Cosper tract, and an easterly line of the Kim Family Living Trust tract, passing at a distance of 244.64 feet a 1/2 inch iron rod found, continuing in all, a distance of 265.80 feet to a 1/2 inch iron rod found for corner at a southeast corner of Kim Family Living Trust tract, and also being located in the aforementioned approximate center of Parvin Road;

THENCE South 89°09'41" West, with the south line of the Kim Family Living Trust tract, and the approximate center of Parvin Road, passing at a distance of 411.81 feet a 1/2 inch iron rod found at the northeast corner of that certain tract of land described in deed to Swisher Partners, L.P. recorded in Document No. 2004-7927, RPRDCT, continuing in all, a distance of 462.41 feet to a 1/2 inch iron rod found for corner at the southeast corner of that certain tract of land described in deed to the City of Celina, Texas recorded in Document No. 2008-62468, RPRDCT;

THENCE North 00°41'57" West, with the east line of said City of Celina, Texas tract, a distance of 60.00 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner;

THENCE South 89°18'56" West, with a north line of the City of Celina, Texas tract, and Parvin Road, a distance of 1107.30 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner;

THENCE North 00°41'04" West, leaving said north line of Parvin Road, a distance of 843.46 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner;

THENCE South 89°18'56" West, a distance of 815.06 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner, said iron rod being located on an easterly line of said City of Celina, Texas tract, and the aforementioned east right-of-way line of FM No. 1385;

THENCE North 01°32'26" East, with said east right-of-way line of FM No. 1385 according to City of Celina, Texas tract deed, a distance of 350.05 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner;

THENCE North 89°22'47" East, leaving the east right-of-way line of FM No. 1385, and with the north line of the aforementioned tract of land described in deed to Frisco Industrial Partners recorded in Document No. 2008-66233, RPRDCT, and the south line of that certain tract of land described in deed to Anna Liz Hong recorded in Document No. 2014-15601, RPRDCT, a distance of 1908.52 feet to a 5/8 inch iron rod with plastic cap marked "PETITTRPLS 4087" set for corner;

THENCE North 00°41'47" West, with the east line of said Anna Liz Hong tract, and the most westerly line of the aforementioned Kim Family Living Trust tract, a distance of 1546.84 feet to an old wood corner post found for corner, from which a 5/8 inch iron rod found bears South 16°28'53" West, a distance of 1.57 feet;

THENCE North 00°24'23" West, with the west line of the aforementioned Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005-33384, RPRDCT, passing at a distance of 479.75 feet a 5/8 inch iron rod found at the southeast corner of that certain tract of land described in deed to Lee A. Brown recorded in Document No. 2003-122624, RPRDCT, continuing with said west line of the Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005-33384, RPRDCT, and the east line of said Lee A. Brown tract, in all, a total distance of 951.64 feet to a 5/8 inch iron rod found for corner at the southeast corner of the aforementioned Countryview Addition;

THENCE North 00°07'02" West, continuing with the west line of the Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005-33384, RPRDCT, and the east line of said Countryview Addition, a distance of 588.61 feet to a 5/8 inch iron rod with plastic cap marked "PETITT-RPLS 4087" set for corner, from which a 1/2 inch iron rod found bears South 89°26'31" West, a distance of 1.51 feet;

THENCE South 89°18'14" West, with the south line of the aforementioned Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005-93340, RPRDCT, a distance of 1301.63 feet to a 1/2 inch iron rod found for corner at the most southerly southwest corner of said Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2005-93340 RPRDCT, and the southeast corner of the aforementioned Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2007-53939 RPRDCT;

THENCE South 89°15'45" West, with the south line of said Mike A. Myers Investment Holdings, L.P. tract recorded in Document No. 2007-53939 RPRDCT, a distance of 522.72 feet to the POINT OF BEGINNING of herein described tract of land containing an area of 622.779 acres of land.

Note: 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.

SUTTON FIELDS PHASE 2A
22.782 ACRES

TRACT 1

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE FREEMAN WILKERSON SURVEY, ABSTRACT NUMBER 1411, IN THE CITY OF CELINA, DENTON COUNTY, TEXAS, AND BEING PART OF THAT CERTAIN TRACT OF LAND DESCRIBED AS TRACT 1 IN DEED TO CADG SUTTON FIELDS, LLC RECORDED IN DOCUMENT NO. 2015-15963, OF THE REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS (RPRDCT), AND PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO CADG SUTTON FIELDS, LLC RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE SOUTHWEST CORNER OF LOT 2, BLOCK N, OF SUTTON FIELDS PHASE 1A, AN ADDITION TO THE CITY OF CELINA ACCORDING TO FINAL PLAT RECORDED IN DOCUMENT NUMBER 2017-395, PLAT RECORDS, DENTON COUNTY, TEXAS (PRDCT), SAID IRON ROD ALSO BEING LOCATED IN THE EAST LINE OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO LEE A. BROWN RECORDED IN DOCUMENT NUMBER 2003-122624 RPRDCT, ALSO BEING LOCATED IN THE WEST LINE OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NUMBER 2015-15963 RPRDCT;

THENCE NORTH 89°18'13" EAST WITH THE SOUTH LINE OF SAID SUTTON FIELDS PHASE 1A, A DISTANCE OF 129.75 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD ALSO BEING LOCATED IN THE WEST RIGHT-OF-WAY LINE OF CLEVES AVENUE (CALLED 50-FOOT RIGHT-OF-WAY);

THENCE SOUTH 00°41'47" EAST, CONTINUING WITH THE SOUTH LINE OF SAID SUTTON FIELDS PHASE 1A, AND SAID WEST RIGHT-OF-WAY LINE OF CLEVES AVENUE, A DISTANCE OF 5.00 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER;

THENCE NORTH 89°18'13" EAST, DEPARTING SAID WEST RIGHT-OF-WAY LINE OF CLEVES AVENUE, AND CONTINUING WITH THE SOUTH LINE OF SUTTON FIELDS PHASE 1A, A DISTANCE OF 619.40 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER;

THENCE SOUTH 63°21'49" EAST, CONTINUING WITH SAID SOUTH LINE OF SUTTON FIELDS PHASE 1A, A DISTANCE OF 51.22 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD BEING LOCATED IN THE WESTERLY RIGHT-OF-WAY LINE OF BOTHWELL BOULEVARD, SAID RIGHT-OF-WAY ACCORDING TO THE RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1, AN ADDITION TO THE CITY OF CELINA ACCORDING TO FINAL PLAT

RECORDED IN DOCUMENT NUMBER 2017-398, PRDCT, ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE SOUTHWESTERLY, WITH SAID WEST RIGHT-OF-WAY LINE OF BOTHWELL BOULEVARD, AND WITH SAID CURVE TO THE LEFT WHICH HAS A CENTRAL ANGLE OF $21^{\circ}57'17''$, A RADIUS OF 1445.00 FEET, A CHORD THAT BEARS SOUTH $15^{\circ}39'33''$ WEST, A DISTANCE OF 550.31 FEET, FOR AN ARC DISTANCE OF 553.70 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD ALSO BEING A SOUTHWEST CORNER OF SAID RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1;

THENCE SOUTH $85^{\circ}19'22''$ EAST, WITH THE SOUTH LINE OF THE BOTHWELL BOULEVARD DEDICATION ACCORDING TO SAID RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1, A DISTANCE OF 90.00 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD BEING A SOUTHEAST CORNER OF SAID RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1, THE SOUTHWEST CORNER OF SUTTON FIELDS PHASE 1B, AN ADDITION TO THE CITY OF CELINA ACCORDING TO FINAL PLAT RECORDED IN DOCUMENT NUMBER 2017-478, PRDCT, AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE SOUTHWESTERLY, OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, AND WITH SAID CURVE TO THE LEFT WHICH HAS A CENTRAL ANGLE OF $05^{\circ}22'43''$, A RADIUS OF 1355.00 FEET, A CHORD THAT BEARS SOUTH $01^{\circ}59'34''$ WEST, A DISTANCE OF 127.16 FEET, FOR AN ARC DISTANCE OF 127.20 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER;

THENCE CONTINUING OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, THE FOLLOWING COURSES TO A 5/8-INCH IRON RODS WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER:

SOUTH $00^{\circ}41'47''$ EAST, A DISTANCE OF 177.23 FEET;

SOUTH $89^{\circ}43'30''$ WEST, A DISTANCE OF 90.00 FEET;

NORTH $00^{\circ}41'47''$ WEST, A DISTANCE OF 20.00 FEET;

AND SOUTH $89^{\circ}43'30''$ WEST, A DISTANCE OF 635.87 FEET, SAID IRON ROD BEING LOCATED IN THE WEST LINE OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, AND THE EAST LINE OF THAT CERTAIN TRACT OF LAND DESCRIBED AS TRACT II IN DEED TO TIMOTHY DAN CHESNEY AND MARGIE BETH CHESNEY RECORDED IN DOCUMENT NUMBER 94-R0036277, RPRDCT;

THENCE NORTH 00°41'47" WEST, WITH THE COMMON LINE OF SAID CADG SUTTON FIELDS, LLC AND SAID CHESNEY TRACT RECORDED IN DOCUMENT NUMBER 94-R0036277 RPRDCT, AND THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO TIM CHESNEY AND MARGIE BETH CHESNEY RECORDED IN VOLUME 1209, PAGE 434, RPRDCT, A DISTANCE OF 344.97 FEET TO AN OLD WOOD CORNER POST FOUND FOR CORNER AT THE NORTHWEST CORNER OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, A SOUTHWEST CORNER OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-15963, RPRDCT, AND THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO JENNIFER S. DAHL AND RICHARD A. DAHL, RECORDED IN DOCUMENT NUMBER 2006-1961 RPRDCT, FROM WHICH A 5/8 INCH IRON ROD FOUND BEARS SOUTH 16°28'53" WEST, A DISTANCE OF 1.57 FEET;

THENCE NORTH 00°24'23" WEST, WITH A WEST LINE OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-15963, RPRDCT, AND THE EAST LINE OF SAID DAHL TRACT, A DISTANCE OF 498.94 TO THE POINT OF BEGINNING, AND CONTAINING 13.792 ACRES OF LAND.

TRACT 2

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE FREEMAN WILKERSON SURVEY, ABSTRACT NUMBER 1411, THE CARROL JACKSON SURVEY, ABSTRACT NUMBER 1546, THE JACOB RUE SURVEY, ABSTRACT NUMBER 1109, AND THE THOMAS B. COX SURVEY, ABSTRACT NUMBER 309, IN THE CITY OF CELINA, DENTON COUNTY, TEXAS, AND BEING PART OF THOSE CERTAIN TRACTS OF LAND DESCRIBED AS TRACT 1, AND TRACT 4, IN DEED TO CADG SUTTON FIELDS, LLC RECORDED IN DOCUMENT NO. 2015-15963, OF THE REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS (RPRDCT), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE NORTHEAST CORNER OF LOT 5, BLOCK R, OF SUTTON FIELDS PHASE 1B, AN ADDITION TO THE CITY OF CELINA RECORDED IN DOCUMENT NUMBER 2017-478, OF THE PLAT RECORDS OF DENTON COUNTY, TEXAS (PRDCT), SAID IRON ROD ALSO BEING LOCATED ON A LINE DESCRIBED IN BOUNDARY LINE AGREEMENT RECORDED IN INSTRUMENT NUMBER 2005-122140, RPRDCT;

THENCE SOUTH 89°18'13" WEST, WITH A NORTH LINE OF SAID SUTTON FIELDS PHASE 1B, A DISTANCE OF 1367.16 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD BEING THE SOUTHEAST CORNER OF LOT 55, BLOCK R, OF SAID SUTTON FIELDS PHASE 1B;

THENCE NORTH 00°23'16" WEST, WITH THE EAST LINE OF SAID LOT 55, BLOCK R, A DISTANCE OF 121.55 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE NORTHEAST CORNER OF SAID LOT 55, BLOCK R,

ALSO BEING LOCATED IN THE SOUTH RIGHT-OF-WAY LINE OF HIGHTOWER STREET (CALLED 50-FOOT RIGHT-OF-WAY);

THENCE NORTH 89°36'44" EAST, WITH SAID SOUTH RIGHT-OF-WAY LINE OF HIGHTOWER STREET, A DISTANCE OF 41.70 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER;

THENCE NORTH 00°23'16" WEST, DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 165.00 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE NORTHEAST CORNER OF LOT 11, BLOCK SSSS, OF SAID SUTTON FIELDS PHASE 1B, SAID IRON ROD ALSO BEING LOCATED IN THE SOUTH LINE OF LOT 8, BLOCK SSSS, OF SAID SUTTON FIELDS PHASE 1B;

THENCE NORTH 89°36'44" EAST, WITH THE SOUTH LINE OF SAID BLOCK SSSS, PASSING AT A DISTANCE OF 552.07 FEET A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND AT A SOUTHEAST CORNER OF SAID SUTTON FIELDS PHASE 1B, CONTINUING OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT 4, IN ALL, A TOTAL DISTANCE OF 1001.00 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER;

THENCE CONTINUING OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT 4, THE FOLLOWING COURSES TO A 5/8-INCH IRON RODS WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER:

NORTH 84°18'02" EAST, A DISTANCE OF 152.84 FEET;

NORTH 00°23'16" WEST, A DISTANCE OF 41.64 FEET;

AND NORTH 89°36'44" EAST, A DISTANCE OF 178.60 FEET;

THENCE SOUTH 00°41'45" WEST, CONTINUING OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT 4, PASSING AT A DISTANCE OF 12.21 FEET A 1/2-INCH IRON ROD FOUND AT AN INTERIOR "ELL" CORNER OF SAID TRACT 4, CONTINUING WITH SAID LINE DESCRIBED IN BOUNDARY LINE AGREEMENT, IN ALL, A TOTAL DISTANCE OF 335.04 FEET TO THE POINT OF BEGINNING, AND CONTAINING 8.990 ACRES OF LAND.

CONTAINING IN ALL (TRACT 1 AND TRACT 2), A TOTAL OF 22.782 ACRES OF LAND.

SUTTON FIELDS PHASE 2B
54.573 ACRES

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE FREEMAN WILKERSON SURVEY, ABSTRACT NUMBER 1411, THE CARROL JACKSON SURVEY, ABSTRACT NUMBER 1546, AND THE JACOB RUE SURVEY, ABSTRACT NUMBER 1109, IN DENTON COUNTY, TEXAS, AND BEING PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO CADG SUTTON FIELDS, LLC, RECORDED IN DOCUMENT NUMBER 2015-30387, REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS (RPRDCT), AND PART OF TRACT 1 AND TRACT 4 IN DEED TO CADG SUTTON FIELDS, LLC, RECORDED IN DOCUMENT NUMBER 2015-15963, RPRDCT, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE SOUTHWEST CORNER OF SUTTON FIELDS PHASE 1B, AN ADDITION TO THE CITY OF CELINA ACCORDING TO THE PLAT THEREOF RECORDED IN DOCUMENT NUMBER 2017-478, PLAT RECORDS, DENTON COUNTY, TEXAS (PRDCT), SAID IRON ROD ALSO BEING THE SOUTHEAST CORNER OF A RIGHT-OF-WAY DEDICATION FOR BOTHWELL BOULEVARD ACCORDING TO THE RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1, AN ADDITION TO THE CITY OF CELINA RECORDED IN DOCUMENT NUMBER 2017-398, PRDCT;

THENCE WITH THE SOUTH LINE OF SAID SUTTON FIELDS PHASE 1B, THE FOLLOWING BEARINGS AND DISTANCES TO 5/8-INCH IRON RODS WITH CAPS MARKED "PETITT-RPLS 4087" FOUND FOR CORNER:

NORTH 89°18'14" EAST, A DISTANCE OF 1596.19 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 280.00 FEET;

NORTH 89°18'13" EAST, A DISTANCE OF 420.00 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 105.00 FEET;

NORTH 44°18'13" EAST, A DISTANCE OF 14.14 FEET;

AND NORTH 89°18'13" EAST, A DISTANCE OF 120.62 FEET, SAID IRON ROD BEING LOCATED ON A LINE DESCRIBED IN BOUNDARY LINE AGREEMENT RECORDED IN INSTRUMENT NUMBER 2005-122140, RPRDCT;

THENCE SOUTH 00°41'45" WEST, WITH SAID BOUNDARY AGREEMENT LINE, A DISTANCE OF 1560.41 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER;

THENCE, DEPARTING THE WEST LINE OF SAID BOUNDARY AGREEMENT LINE, AND OVER AND ACROSS SAID CADG SUTTON FIELDS TRACTS, THE FOLLOWING

COURSES AND DISTANCES TO 5/8-INCH IRON RODS WITH CAP MARKED “PETITT-RPLS 4087” SET FOR CORNER:

SOUTH 89°18'13” WEST, A DISTANCE OF 128.64 FEET;

SOUTH 00°41'47” EAST, A DISTANCE OF 25.00 FEET;

SOUTH 89°18'13” WEST, A DISTANCE OF 50.00 FEET;

NORTH 00°41'47” WEST, A DISTANCE OF 20.00 FEET;

SOUTH 89°18'13” WEST, A DISTANCE OF 410.00 FEET;

NORTH 00°41'47” WEST, A DISTANCE OF 280.00 FEET;

SOUTH 89°18'13” WEST, A DISTANCE OF 710.00 FEET;

SOUTH 00°41'47” EAST, A DISTANCE OF 20.00 FEET;

SOUTH 89°18'13” WEST, A DISTANCE OF 50.00 FEET;

NORTH 00°41'47” WEST, A DISTANCE OF 20.00 FEET;

SOUTH 89°18'13” WEST, A DISTANCE OF 570.00 FEET;

SOUTH 00°41'47” EAST, A DISTANCE OF 115.00 FEET;

NORTH 89°18'13” EAST, A DISTANCE OF 20.50 FEET;

SOUTH 00°41'47” EAST, A DISTANCE OF 50.00 FEET;

SOUTH 89°18'13” WEST, A DISTANCE OF 53.99 FEET;

SOUTH 00°41'47” EAST, A DISTANCE OF 115.00 FEET;

SOUTH 89°40'23” WEST, A DISTANCE OF 53.81 FEET;

NORTH 86°04'38” WEST, A DISTANCE OF 61.02 FEET;

NORTH 80°36'44” WEST, A DISTANCE OF 61.02 FEET;

NORTH 76°42'01” WEST, A DISTANCE OF 83.14 FEET;

NORTH 71°56'34" WEST, A DISTANCE OF 90.00 FEET, SAID IRON ROD ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

NORTHEASTERLY, WITH SAID CURVE TO THE LEFT, WHICH HAS A
CENTRL ANGLE
OF 18°45'13", A RADIUS OF 1655.00 FEET, A CHORD THAT BEARS
NORTH 08°40'49" EAST, A DISTANCE OF 539.29 FEET, AND AN ARC
DISTANCE OF 541.70 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 77.93 FEET;

SOUTH 89°18'13" WEST, A DISTANCE OF 28.50 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 50.00 FEET;

NORTH 89°18'13" EAST, A DISTANCE OF 28.50 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 141.37 FEET;

NORTH 89°43'30" EAST, A DISTANCE OF 90.00 FEET;

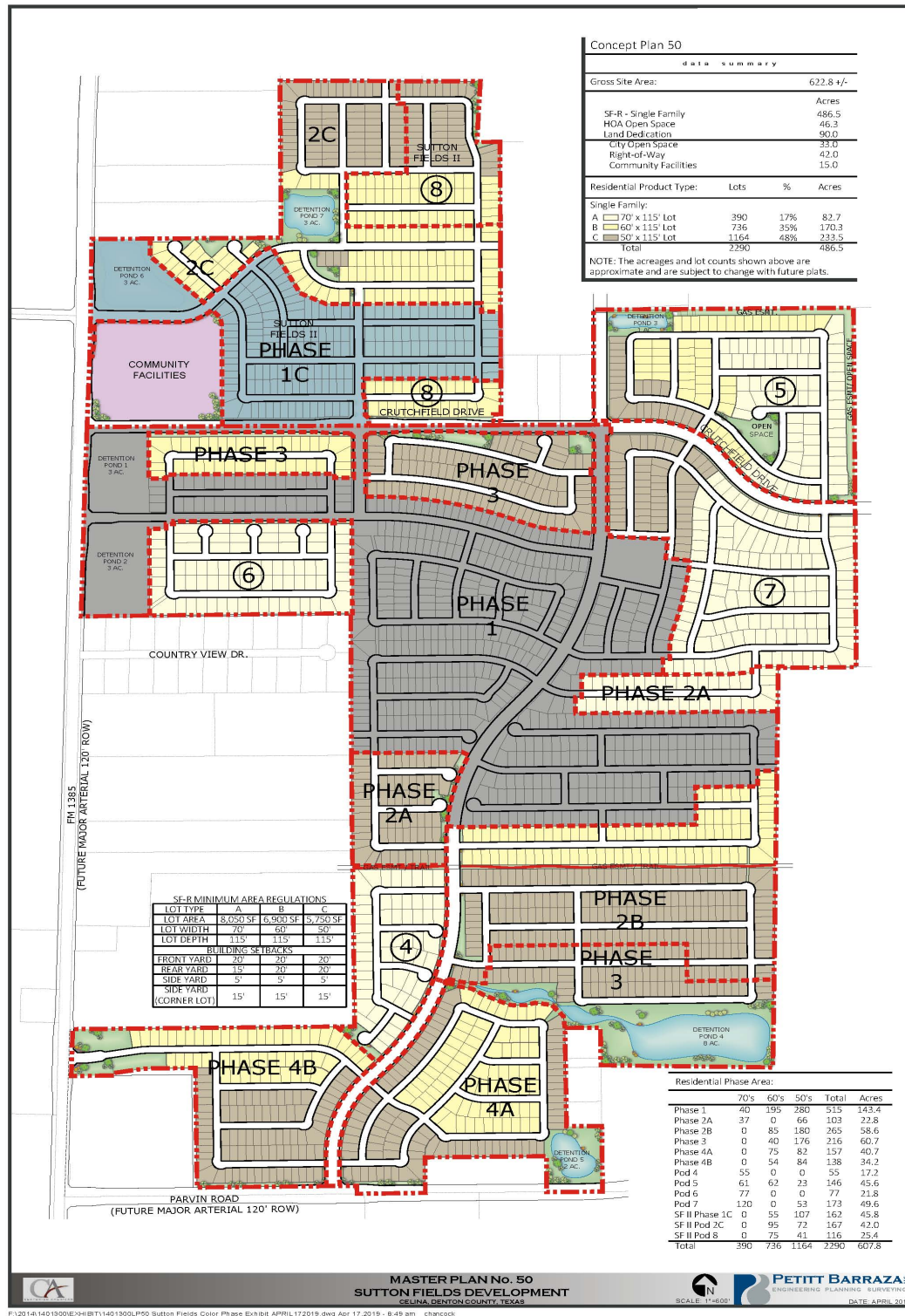
NORTH 00°41'47" WEST, A DISTANCE OF 177.23 FEET, SAID IRON ROD
ALSO
BEING THE BEGINNING OF A TANGENT CURVE TO THE RIGHT;

AND NORTHEASTERLY, WITH SAID CURVE TO THE RIGHT, WHICH
HAS A CENTRAL ANGLE OF 05°22'42", A RADIUS OF 1355.00 FEET, A
CHORD THAT BEARS NORTH 01°59'34" EAST, A DISTANCE OF 127.15
FEET, AND AN ARC DISTANCE OF 127.20 FEET TO THE POINT OF
BEGINNING, AND CONTAINING 54.573 ACRES OF LAND.

APPENDIX D
UPDATED CONCEPT PLAN

APPENDIX D

Updated Concept Plan





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: September 10, 2019
Re: Toasted Walnut Economic Development Agreement

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and Toasted Walnut Table & Market for economic incentive funding under Chapter 380 of the Texas Local Government Code. (DeBuff)

Background Information:

This item provides for an economic development incentive for improvements to the storefront facade and patio.

Board Review/Citizen Input:

This item is supported by the Celina Economic Development Corporation.

Alternatives:

N/A

Financial Considerations:

This agreement requires the City to submit a grant to Toasted Walnut Table & Market in the amount of \$25,000 after the building and facade have all been updated with at least \$100,000 in improvements.

Legal Review:

This item has been reviewed by the City Attorney.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT TOASTED WALNUT

This Economic Development Incentive Agreement ("Agreement") is made by and among the City of Celina, Texas (the "City"), Celina Economic Development Corporation (the "CEDC"), and Toasted Walnut Table & Market (the "Developer") (each a "Party" and collectively the "Parties"), acting by and through their respective authorized representatives.

W I T N E S S E T H:

WHEREAS, Developer is the owner of the real property described in Exhibit "A" (the "Property") which consists of an approximately 0.0832± acre tract of land in Celina, Collin County, Texas, generally located at 303 W. Pecan St., Celina, Texas (the "Premises").

WHEREAS, the Developer intends to construct on the Property, by remodeling an existing structure, a 2,121 square foot sit-down restaurant with outdoor seating, a retail market and other ancillary facilities, such as reasonably required parking and landscaping, more fully described in the submittals filed by Developer with the City, from time to time, in order to obtain one or more building permits (hereinafter defined as the "Facility"); and

WHEREAS, the Developer has advised the City and the CEDC that a contributing factor that would induce the Developer to construct the Facility would be an agreement with the City and the CEDC to participate in the costs of construction of improvements to the Facility consisting of improvements to the façade and building (the "Façade Improvements") and improvements to the patio area (the "Patio Improvements") (collectively defined as the "Facility Improvements") through economic development grants and incentives as set forth herein; and

WHEREAS, the City and CEDC desire to encourage new and expanded business enterprises within the City that will add employment opportunities, property tax base and generate additional sales tax and other revenue for the City; and

WHEREAS, the City intends to contribute an amount not to exceed twenty-five thousand and no/100 dollars (\$25,000.00) toward the cost of the Façade Improvements; and

WHEREAS, CEDC intends to contribute an amount not to exceed twenty-five thousand and no/100 dollars (\$25,000.00) toward the cost of the Patio Improvements; and

WHEREAS, investment by Developer in developing and establishing the Facility at the Premises is estimated to be a minimum of \$100,000.00 into the Façade Improvements and a minimum of \$50,000.00 into the Patio Improvements; and

WHEREAS, Developer must show receipts of a minimum of \$100,000.00 investment in the Façade Improvements and \$50,000.00 in the Patio Improvements to receive the full \$25,000.00 amount from the City and CEDC, respectively; and

WHEREAS, the promotion of new business enterprises and the expansion of existing businesses within the City will promote economic development, stimulate commercial activity,

generate additional sales tax and will enhance the property tax base and economic vitality of the City; and

WHEREAS, the City has adopted programs for promoting economic development, and this Agreement and the economic development incentives set forth herein are given and provided by the City pursuant to and in accordance with those programs; and

WHEREAS, the City is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City has determined that making an economic development grant to the Developer in accordance with this Agreement is in accordance with the City Economic Development Program and will: (i) further the objectives of the City; (ii) benefit the City and the City's inhabitants; and (iii) promote local economic development and stimulate business and commercial activity in the City; and

WHEREAS, the CEDC has adopted programs for promoting economic development; and

WHEREAS, the Development Corporation Act, Title 12, Subtitle C1, Chapter 501-505, Section 501.103 of the Texas Local Government Code (the "Act" or "Development Corporation Act") authorizes the CEDC to fund expenditures of site improvements and related improvements for projects; and

WHEREAS, Developer, as the owner and operator of the Facility, will encourage increased economic development in the City and create and thereafter maintain an annual average of 5 jobs; and

WHEREAS, the CEDC has determined that the Grant (hereinafter defined) for the Patio Improvements to be made hereunder is required or suitable to promote or develop new or expanded business enterprises and constitutes a "project," as that term is defined in the Act; and

WHEREAS, the CEDC has determined that making the grant for the Patio Improvements in accordance with this Agreement will further the objectives of the CEDC, will benefit the City and the City's inhabitants, and will promote or develop new or expanded business enterprises and stimulate business and commercial activity in the City; and

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article I Definitions

For purposes of this Agreement, each of the following words and phrases shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Act” or “Development Corporation Act” shall have the meaning ascribed in the Recitals above.

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

“Capital Investment” shall mean the Developer’s capitalized cost of the Facility, including the costs for the design, construction and equipment of the Facility.

“CEDC” shall have the meaning ascribed in the Recitals above.

“CEDC Grant” shall mean an economic development grant to defray a portion of the final verified costs to design and construct the Patio Improvements not to exceed twenty-five thousand and no/100 dollars (\$25,000.00), to be paid as set forth herein.

“City” shall have the meaning ascribed in the Recitals above.

“City Grant” shall mean an economic development grant to defray a portion of the final verified costs to design and construct the Façade Improvements not to exceed twenty-five thousand and no/100 dollars (\$25,000.00), to be paid as set forth herein.

“Commencement of Construction” shall mean that: (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Facility Improvements, as the case may be; (ii) all necessary permits for the construction of the Facility Improvements, as the case may be, have been issued by the applicable governmental authorities; and (iii) construction on the Facility Improvements has commenced.

“Completion of Construction” shall mean that (i) construction of the Façade Improvements and the Patio Improvements have been substantially completed, (ii) the City has inspected and accepted the Facility Improvements, and (iii) the City has issued a final certificate of occupancy for the Facility.

“Developer” shall have the meaning ascribed in the Recitals above.

“Effective Date” shall mean the date that authorized representatives of all of the Parties have signed this Agreement.

“Expiration Date” shall mean the date that all Parties have fully satisfied their respective obligations herein.

“Façade Improvements” shall have the meaning ascribed in the Recitals above.

“Facility” shall have the meaning ascribed in the Recitals above and is generally depicted in the site plan attached as **Exhibit “B”** (the “Site Plan”).

“Facility Improvements” shall have the meaning ascribed in the Recitals above.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, terrorist act, or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by the intentionally wrongful acts or omissions of the party), fires, earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns or work stoppages.

“Grants” shall collectively mean (i) the CEDC Grant; and (ii) the City Grant.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Developer or any property or any business owned by the developer or any of its affiliates or related entities.

“Patio Improvements” shall have the meaning ascribed in the Recitals above.

“Payment Request” means a complete written request from the Developer to the City and CEDC, respectively, for payment of the Grants, accompanied by copies of invoices, bills, receipts and such other information as may reasonably be requested by the City and CEDC, reflecting the final, actual costs incurred and paid by the Developer for the design and construction of the Facility Improvements.

“Property” shall have the meaning ascribed in the Recitals above.

“Related Agreement” shall mean any agreement (other than this Agreement) by and between the City and/or the CEDC and the Developer.

Article II Term

The term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and continue until the Expiration Date, unless sooner terminated as provided herein.

Article III Projects

3.1 Facility Construction Timeframe. (a) The Developer shall design and construct, or cause the Facility Improvements to be designed and constructed, in accordance with this Agreement. Developer shall, subject to events of Force Majeure, cause Commencement of Construction of the Facility Improvements to occur not later than _____, 2019, and subject to events of Force Majeure, cause Completion of Construction of the Facility Improvements to occur not later than _____ months after the Commencement of Construction.

(b) Development of the Property. The Developer understands and acknowledges that approval of a site plan for the Property by the City is required prior to Commencement of Construction of the Facility Improvements. The Developer shall submit and use diligent, good faith efforts to obtain from the City approval of a site plan, elevations and landscaping plan for the Facility not later than ninety (90) days after the Effective Date. The Facility shall be constructed and operated in accordance with the site plan, building elevations, and landscape plan approved by the City. The development and use of the Property shall comply with the ordinances, policies, standards and regulations of the City, including but not limited to the Celina Comprehensive Zoning and Subdivision Ordinances, as amended.

3.2 Facility Improvements Project. (a) Cost Participation. The City agrees to contribute to the final verified actual costs of the design and construction of the Façade Improvements through the payment of the Grants. The CEDC agrees to contribute to the final verified actual costs of the design and construction of the Patio Improvements through the payment of the Grants. The City Grant and CEDC Grant shall each be paid not later than thirty (30) days after the date the last of the following events to occur for each grant: (i) City and/or CEDC’s receipt of the Payment Request; (ii) Completion of Construction of the Facility, except Patio Improvements, for City Grant, followed by Completion of Construction of the Patio Improvements for CEDC Grant; (iii) the date of issuance of a final certificate of occupancy by the City for the Facility Improvements, excluding the Patio Improvements, and (iv) City verification, on behalf of the City and the CEDC, of the final actual costs incurred and paid by the Developer for the design and construction of the Facility Improvements. Notwithstanding the foregoing, the City Grant shall not be paid prior to October 1, 2019 and the CEDC Grant shall not be paid prior to October 1, 2020.

(b) Facility Improvement Cost Verification. Following Completion of Construction of the Facility Improvements, but not later than thirty (30) days after Completion of Construction of the Facility Improvements, Developer shall submit to the City and the CEDC the Payment Request accompanied by the receipts, records and invoices for the payment of the costs to design

and construction of the Façade Improvements and Patio Improvements, and such other records as the City and CEDC may reasonably request to verify such the final actual costs (“Expenditure Information”). The City and CEDC shall verify the Expenditure Information within thirty (30) days after receipt thereof and if a Payment Request is incomplete or if other information is necessary to approve a Payment Request, City and/or CEDC shall notify Developer, and Developer shall promptly supply any missing or necessary additional information necessary to verify the Expenditure Information. Notwithstanding, Developer may seek the City Grant prior to completion of the Patio Improvements and later follow the procedure in this paragraph for the Patio Improvements to receive the CEDC Grant.

Article IV Conditions to Grant Payments

4.1 The obligation of the CEDC to pay the CEDC Grant and the City to pay the City Grant hereunder shall be conditioned upon the compliance and satisfaction of each of the terms and conditions of this Agreement by the Developer, plus each of the terms and conditions set forth below:

(a) Payment Request. Developer shall have timely provided the City and the CEDC with the Payment Request, which includes the Expenditure Information. The City and CEDC are entitled to verify the Expenditure Information before the Grant is paid.

(b) Good Standing. Developer shall not have an uncured breach of this Agreement or a Related Agreement.

(c) Capital Investment. Developer’s Capital Investment must be at least one hundred thousand and no/100 Dollars (\$100,000.00) in the Façade Improvements to receive the City Grant, plus another fifty thousand and no/100 Dollars (\$50,000.00) in the Patio Improvements to receive the CEDC Grant.

(d) Certificate of Occupancy. Developer shall have received a Certificate of Occupancy for the Facility.

(e) Jobs. Developer shall hire and maintain for the Facility a minimum of 5 jobs within sixty (60) days of the Completion of Construction. Developer shall provide to CEDC and City a monthly payroll reports (social security numbers and rate of pay may be redacted) and upon written request demonstrate compliance with this section.

Article V Termination

5.1 Termination. This Agreement terminates on the Expiration Date, and may, prior to the Expiration Date, be terminated upon any one or more of the following:

- (a) by mutual written agreement of all the Parties;
- (b) by the City and/or the CEDC, if the Developer defaults or breaches any of the terms or conditions of this Agreement or a Related Agreement and

- such default or breach is not cured within thirty (30) days after written notice thereof;
- (c) by the City or the CEDC, if any Impositions owed to the City or the State of Texas by the Developer shall have become delinquent (provided, however, the Developer retains the right to timely and properly protest and contest any such Impositions);
 - (d) by the City or the CEDC, if the Developer suffers an event of Bankruptcy or Insolvency;
 - (e) by any Party if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable;
 - (f) by the City or CEDC immediately if the Developer files any false documentation relating to the Expenditure Information submitted to verify the amount of any Payment Request;
 - (g) by the City or CEDC, if any applicable building permits required for the Facility or the Facility Improvements 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; or
 - (h) by the City or CEDC immediately upon the filing by Developer of any lawsuit against the City or CEDC.

5.2 Offsets. If, and only if, Developer is in default under this Agreement beyond any applicable notice and cure periods, the City and/or the CEDC may, at their option, but upon prior written notice to Developer, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to the City and/or the CEDC from the Developer, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement, or otherwise, and regardless of whether or not the debt due the City and/or the CEDC has been reduced to judgment by a court. If the City and/or the CEDC exercise this right of offset, the City and/or the CEDC (as applicable) shall provide Developer with a detailed accounting of funds setting forth: (i) the amounts due under this Agreement, (ii) what portion of those amounts due under this Agreement were used to pay other debts due and payable to the City and/or the CEDC, and (iii) what other debts were paid and in what amounts.

Article VI Miscellaneous

6.1 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties hereto; provided, however the right of the Developer to receive the Grants shall be personal to the Developer and shall not transfer to the Developer's successors and assigns unless expressly agreed to in writing signed by both the Parties and such successor/assignee.

6.2 Limitation on Liability. Except for the City and CEDC's obligations to pay the Grants 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, Facility Improvements and/or the Premises, 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. 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.

6.3 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties.

6.4 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement. The undersigned officers and/or agents of the Parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

6.5 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing), or on the day actually received if sent by courier or otherwise hand delivered.

If intended for City, to:

Attn: City Manager
City of Celina, Texas
142 N. Ohio Street
Celina, Texas 75009

If intended for CEDC, to:

Attn: Executive Director
Celina Economic Development
Corporation
104 N. Colorado Street
Celina, Texas 75009

If intended for Developer, to:

Attn: Ben Hangartner
Toasted Walnut Table & Market
304 W. Walnut St. #839
Celina, Texas 75009

6.6 Entire Agreement. This Agreement is the entire Agreement among the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement among the Parties that in any manner relates to the subject matter of this Agreement, except a Related Agreement.

6.7 Governing Law. The Agreement shall be governed by the laws of the State of Texas, without giving effect to any conflicts of law rule or principle that might result in the application of the laws of another jurisdiction; and exclusive venue for any action concerning this Agreement shall be in the State District Court of Collin or Denton County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.8 Amendment. This Agreement may only be amended by the mutual written agreement of the Parties.

6.9 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.10 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

6.11 Successors and Assigns. This Agreement may not be assigned by any Party without the prior written consent of all other Parties.

6.12 Recitals. The recitals to this Agreement are incorporated herein.

6.13 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.14 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.15 Consents and Approvals. Unless stated otherwise in this Agreement, whenever a Party is required to consent to or approve of the action of another Party pursuant to Agreement, such consent or approval shall not be unreasonably withheld, denied, or delayed.

6.16 Employment of Undocumented Workers. During the term of this Agreement, the Developer agrees not to knowingly employ any undocumented workers, and if convicted of a violation under 8 U.S.C. Section 1324a (f), the Developer shall repay the Grants herein and any other funds received by the Developer from the City and/or the CEDC as of the date of such

violation within 120 days after the date the Developer is notified by the City and/or the CEDC of such violation, plus interest at the rate of 6% compounded annually from the date of violation until paid. The Developer is not liable for a violation of this Section by a subsidiary, affiliate, or franchisees of the Developer or by a person or entity with whom the Developer contracts.

EXECUTED on this 28th day of AUGUST, 2019.

CITY OF CELINA, TEXAS

By: _____
Jason Laumer, City Manager

CELINA ECONOMIC DEVELOPMENT CORP.

By: _____
_____, President

TOASTED WALNUT TABLE & MARKET

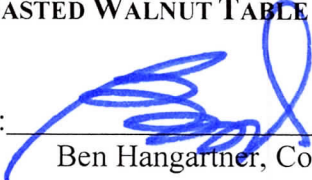
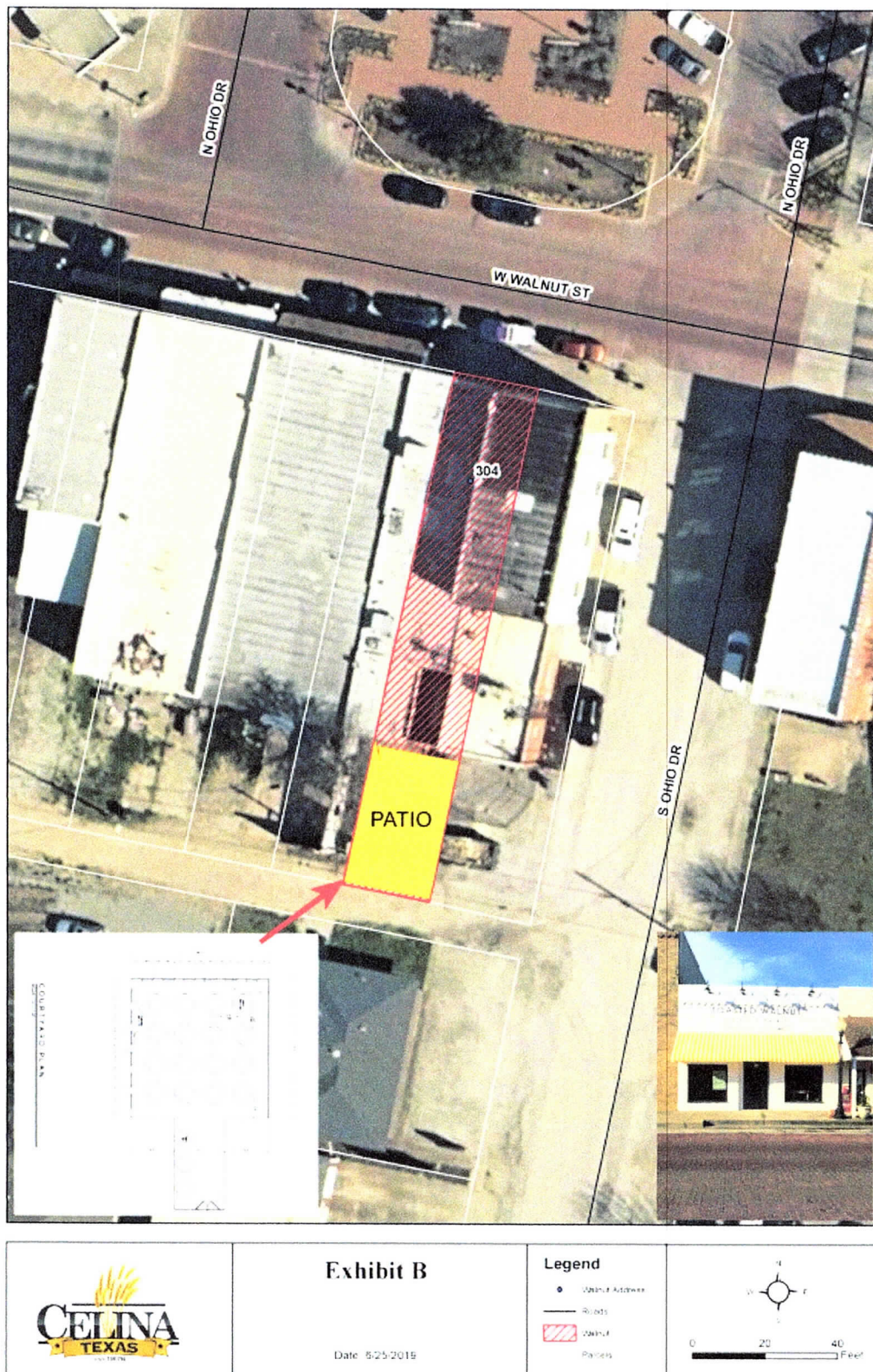
By:  _____
Ben Hangartner, Co-Owner

EXHIBIT "A"
Property Description

**Celina Original Donation (CCL),
Block 14, Lot 17 & 18
CAD Property ID 2622213**

Attachment: TW - Economic Development Incentive Agreement (Toasted Walnut Economic Development Agreement)

EXHIBIT "B" SITE PLAN





Engineering
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Kim Brawner, Director of Engineering
CC: Cody Webb, Director of Parks and Recreation
Date: September 10, 2019
Re: Interlocal Agreement between City of Celina and Celina Community Development Corporation for Old Celina Park Phase 2 Improvements.

Action Requested:

Consider and act upon an Interlocal Cooperation Agreement by and between the City of Celina, Texas, and the Celina Community Development Corporation for the development of Old Celina Park Phase II. (Brawner)

Background Information:

The City of Celina and the Celina Community Development Corporation (CCDC) entered into an agreement to fund Phase 1 improvements to Old Celina Park on September 23, 2004. As part of that agreement, the City, the Economic Development Corporation (EDC), and the CCDC entered into a partnership. The CDC and EDC agreed to fund the annual debt payment for the proposed Phase 1 improvements jointly until such time that the CCDC could pay the \$200,000 debt on the proceeds of the sales tax. The CCDC has been meeting their obligations.

The City of Celina Parks Board and the CCDC have met and reviewed the proposed improvements for Old Celina Park Phase 2. The proposed improvements include the construction of an astroturf 4-plex for baseball and softball, additional soccer fields, the construction of approximately 400 parking spaces, and the construction of lighting for all fields. The proposed construction budget is approximately \$13,500,000.

The City of Celina City Council approved the Old Celina Park Phase 2 improvements as part of the 2019 CO Bond Sale.

Board Review/Citizen Input:

The CCDC and the Celina Parks Boards have been presented the Old Celina Park Phase 2 Expansion Project and have evaluated the merits of the proposed project relative to their goals. Both boards are in support of the proposed agreement.

Alternatives:

Council could chose to not execute the proposed agreement.

Financial Considerations:

The CCDC has a current annual income of \$600,000. Currently, the CCDC has a \$200,000 debt obligation to

pay for Phase 1 improvements. The proposed funding agreement will allocate the remaining available funds to the debt repayment for Phase 2 improvements. The projected annual payment for the debt of Phase 2 Bonds will be approximately \$900,000 annually. The City will supplement the difference in the CDC contribution and the required payment with funding from either the General Fund or Park Fees as appropriate. As the CCDC funding availability increases, the City's liability will decrease until such time that the CCDC is funding 100% of the debt repayment.

Legal Review:

The City's legal team has reviewed and approved the attached agreement.

Supporting Documents:

Interlocal Agreement

Staff Recommendation:

Staff recommends approval

STATE OF TEXAS §
 §
 COUNTY OF COLLIN §

INTERLOCAL COOPERATION AGREEMENT

This Agreement is by and between the City of Celina, Texas (hereinafter referred to as "City"), a home-rule municipal corporation, and the Celina Community Development Corporation, a Type B corporation, (hereinafter referred to as ("CCDC")), collectively (the "Parties" and individually a "Party").

RECITALS

WHEREAS, the CCDC is a tax-supported non-profit corporation created under the Development Corporation Act, Chapter 501 *et. seq.*, Texas Local Government Code (the "Act"), whose primary income is from sales tax collected within the City of Celina and dedicated exclusively to economic development, to include park and recreational facilities; and

WHEREAS, the sales tax supporting the CCDC was authorized at a local option election under the Act and the ballot language, and the Act, allows for the project contemplated herein; and

WHEREAS, the Board of Directors of the CCDC has determined that the funding of park improvements is consistent with the CCDC's mission and will spur economic development through the provision of recreational opportunities for existing and future citizens of Celina; and

WHEREAS, the City is in the process of implementing a long-term goal and plan for the expansion and construction of park facilities to meet the growing needs of the community; and

WHEREAS, the governing bodies of the City and CCDC have determined that the provision of funds to support park improvements will benefit the economic growth and development of the City and further the purposes of the Parties; and

WHEREAS, the Parties agree that the funding mechanism as outlined herein will provide an effective means of financing the park improvements; and

WHEREAS, the City and the CCDC entered into an agreement to fund Phase 1 improvements to Old Celina Park on September 23, 2004; and

WHEREAS, the CCDC has evaluated the proposed expansion of Old Celina Park Phase 2 project and finds that the proposed expansion meets the goals and intents of the CCDC.

NOW, THEREFORE, in consideration of the covenants, conditions, and promises contained herein and other good valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Park Funding. The CCDC shall encourage and promote new and expanded park projects within the City of Celina by providing funds for the payment of debt obligations issued by the City which are utilized to construct local parks and recreational improvements. The City will issue such debt in the form of certificates of obligation, which will be repaid by the City in part with funds secured from the CCDC under the terms of this Agreement and according to the following terms:

a. Currently, the CCDC contributes \$200,000 annually to fund Old Celina Park Phase 1 improvements. The contribution of these funds is expected to continue until 2029 when it is anticipated that the existing debt on Old Celina Park Phase 1 will be paid.

b. The proposed Old Celina Park Phase 2 construction project is estimated to cost approximately \$13,500,000. The proposed debt repayment for the Old Celina Park Phase 2 expansion is approximately \$900,000 annually. The CCDC agrees to pay the annual debt service subject to the limitations set forth in this Section 1.

c. The CCDC currently generates approximately \$600,000 annually that can be utilized to pay current and future obligations. This amount is expected to continue to increase as the City continues to develop.

d. The Parties understand that at present the CDC does not generate the level of sales tax revenue needed to meet the current obligation for Old Celina Park Phase 1 and the proposed obligation for the expansion of Old Celina Park Phase 2. The City agrees to fund the difference between the proposed annual obligation and the anticipated shortfall. The City will have a decreasing responsibility for the debt repayment as the CCDC funds increase until such time that the CCDC revenue can meet the entire obligation.

e. CCDC agrees to contribute their combined total revenue toward retirement of the City's park debt. The total amount of their sales tax revenue minus those funds required to meet their administrative expenses and any commitments made prior to the execution of this Agreement.

f. The CCDC will make such payments until the City's obligation referenced herein is retired in full.

g. Upon written request of the City, the CCDC shall transfer the funds referenced herein to the City within five (5) business days of such request.

- h. The City shall supply the CCDC with written documentation evidencing payment toward the debt obligation.
2. Use of Funds. By execution hereof, the City finds that all funds transferred herein shall be used solely for the public purpose of retiring debt utilized for the construction of Old Celina Park Phase 2.
3. Term. The term of this Agreement shall be from the effective date herein until all of the Parties' obligations are fully performed.
4. Immunity. The Parties agree that neither the City or the CCDC have waived its sovereign immunity by entering into and performing its obligations under this Agreement.
5. Successors and Assigns. The Parties, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.
6. Execution and Consideration. This Agreement is executed by the Parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
7. Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

To City: Celina City Hall
Attn: City Manager
142 North Ohio Street
Celina, Texas 75009
Phone: (972) 382-2682

To CCDC: Celina Community Development Corporation
Attn: City Secretary
142 North Ohio Street
Celina, Texas 75009
Phone: 972-382-2682

8. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law, or by any other provisions of the Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.
9. Waiver of Breach. A waiver by either Party of a breach of the Agreement by the other Party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.
10. Parties Bound. The Agreement shall be binding upon, and inure to the benefit of, the Parties to the Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.
11. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third party beneficiaries by entering into this Agreement.
12. Incorporation of Recitals. The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of the Parties.
13. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified, amended or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto. The subject matter of this Agreement is for park improvements and construction only and not any other matters that may exist between the Parties past, present or future.
14. Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Grayson County, Texas.
15. Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
16. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.
17. Authority to Execute. The individuals executing this Agreement on behalf of the respective Parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

18. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

19. Savings/Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its legal counsel.

Effective the 10th day of September, 2019.

CITY OF CELINA, TEXAS

Jason Laumer
City Manager

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Notary Public, State of Texas

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Finance Department
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: September 10, 2019
Re: FY2019-20 EDC Budget Approval

Action Requested:

Consider and act upon a resolution of the City of Celina, Texas ratifying and approving the Fiscal Year 2019-2020 budget for the Celina Economic Development Corporation. (Jackson)

Background Information:

This resolution is a part of the annual budget approval process for the Celina Economic Development Corporation.

Board Review/Citizen Input:

The Celina Economic Development Corporation approved this budget at a meeting held on September 3, 2019.

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

N/A

Supporting Documents:

- Proposed resolution
- FY2019-20 EDC Budget

Staff Recommendation:

Staff recommends approval.

**CITY OF CELINA, TEXAS
RESOLUTION NO. 2018-34R**

**A RESOLUTION OF THE CITY OF CELINA, TEXAS RATIFYING AND
APPROVING THE FISCAL YEAR 2019-2020 BUDGET FOR THE CELINA
ECONOMIC DEVELOPMENT CORPORATION; AND PROVIDING AN
EFFECTIVE DATE.**

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

WHEREAS, the Celina Economic Development Corporation, hereinafter the “CEDC” is a 4A development corporation operating pursuant to the Development Corporation Act of 1979 now codified as Chapter 504 of the Texas Local Government Code;

WHEREAS, the CEDC Board of Directors has approved a 2019-2020 Fiscal year budget;

WHEREAS, the City of Celina desires to approve and ratify such said CEDC budget.

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

SECTION 1: The findings and declaration contained in the preamble of this Resolution are incorporated herein as part of this Resolution.

SECTION 2: The City Council hereby ratifies and approves the FY2019-2020 Budget for the Celina Economic Development Corporation.

SECTION 3: This Resolution shall be in full force and effect from and after its date of passage.

AND IT IS SO RESOLVED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas on the 10th day of September, 2019.

Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

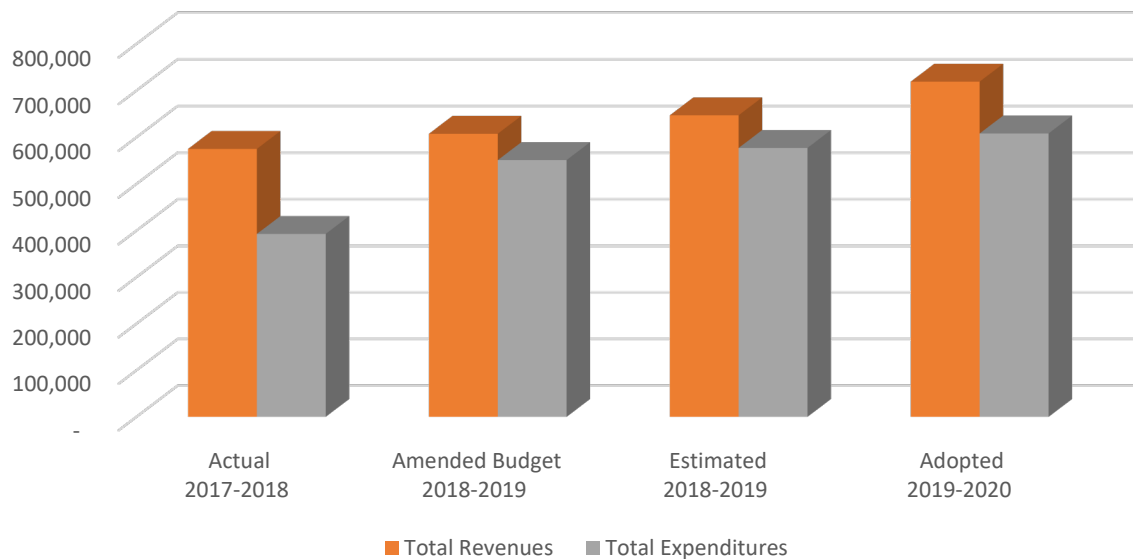
Attachment: 2019- R EDC Budget (FY2019-20 EDC Budget Approval)

City of Celina

Economic Development Corporation - Rev & Expenditure Summary

	Actual 2017-2018	Amended Budget 2018-2019	Estimated 2018-2019	Proposed 2019-2020
Revenues				
Taxes	\$ 573,145	\$ 602,500	\$ 622,500	\$ 684,750
Grants	-	-	-	15,000
Interest Income	1,950	5,000	10,600	5,000
Other Revenues	-	-	14,000	14,400
Total Revenues	575,095	607,500	647,100	719,150
Expenditures				
Personnel	333,374	207,244	212,620	218,398
Legal & Professional Services	5,162	17,000	17,000	22,000
Materials & Supplies	2,275	8,000	8,000	5,000
Maintenance	1,833	1,500	1,500	-
Utilities	3,674	4,950	3,194	1,500
Miscellaneous	46,629	72,437	94,877	134,487
Capital	-	-	-	-
Transfer	-	160,000	160,000	106,812
Debt Service	-	80,000	80,000	120,000
Total Expenditures	392,947	551,131	577,191	608,197
Revenue Over/(Under) Expenditures	\$ 182,148	\$ 56,369	\$ 69,909	\$ 110,953
Beginning Fund Balance	\$ 277,073	\$ 459,221	\$ 459,221	\$ 529,130
Ending Fund Balance	\$ 459,221	\$ 515,590	\$ 529,130	\$ 640,083

Revenue & Expenditure Summary

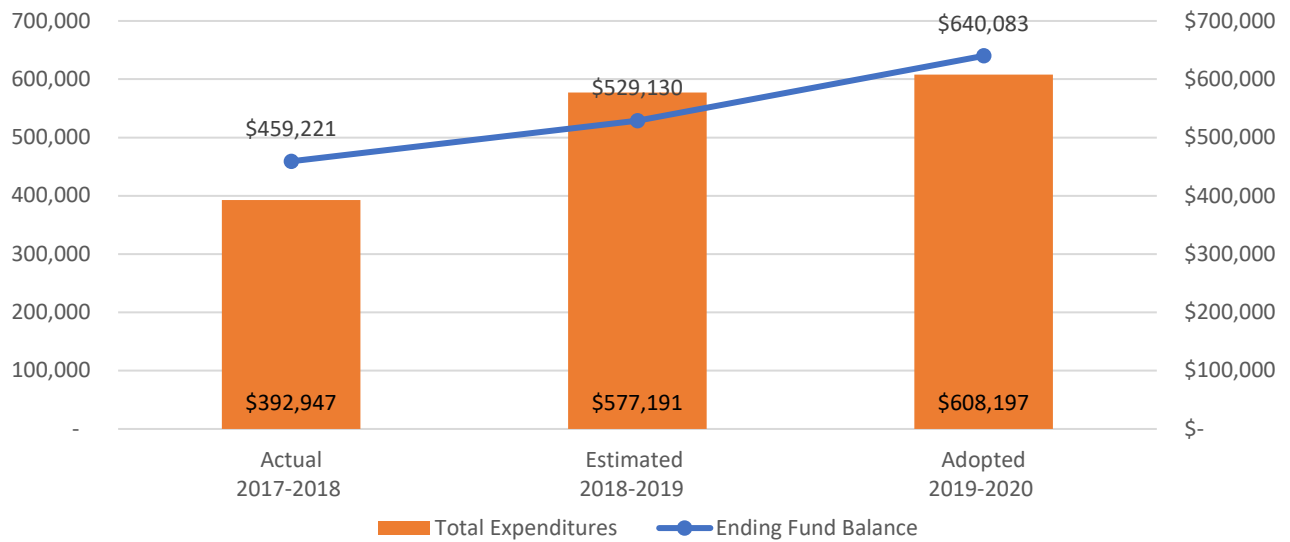


Attachment: FY2020 EDC-CEC Budget (FY2019-20 EDC Budget Approval)

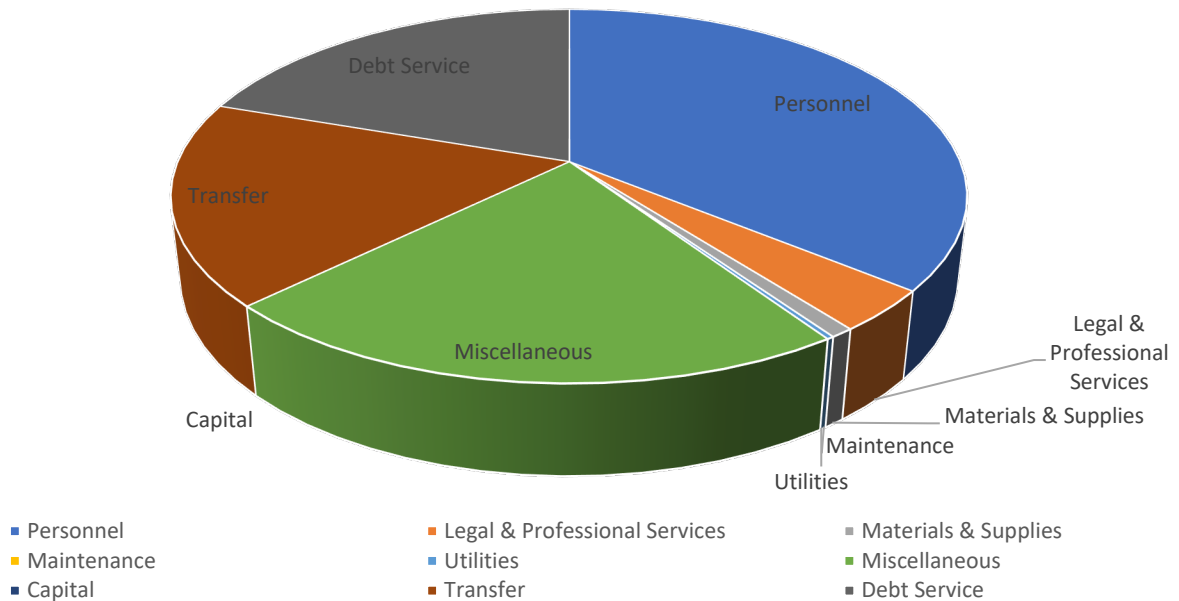
City of Celina

Economic Development Corporation - Rev & Expenditure Summary

Fund Balance



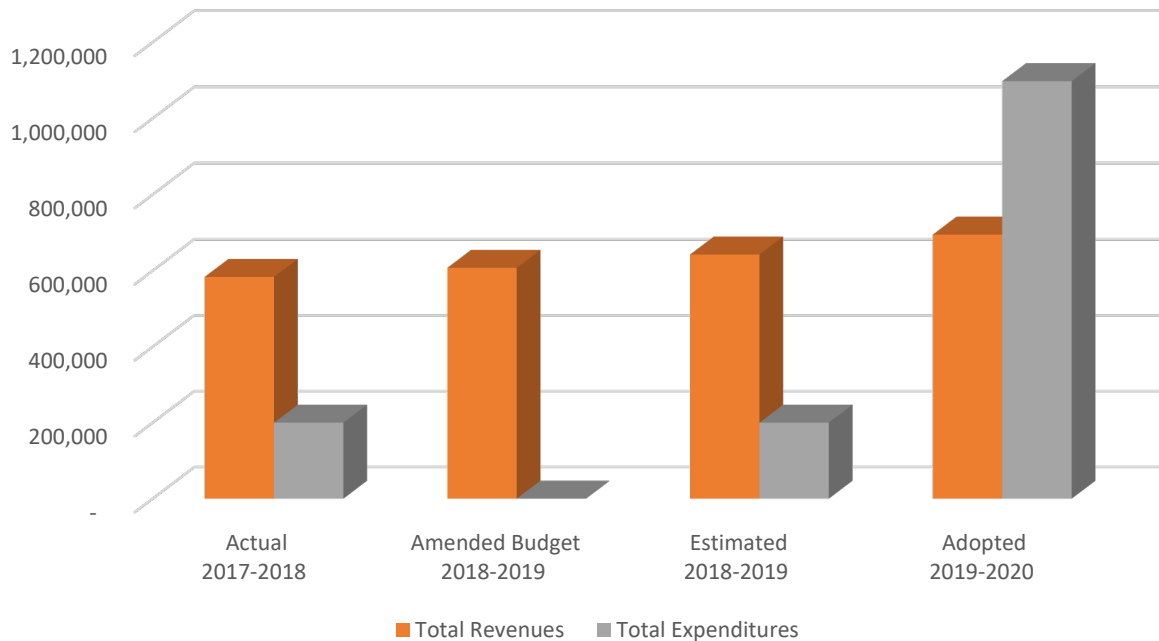
Expenditures



City of Celina Community Development Corporation - Rev & Expenditure Summary

	Actual 2017-2018	Amended Budget 2018-2019	Estimated 2018-2019	Proposed 2019-2020
Revenues				
Taxes	\$ 573,145	\$ 602,500	\$ 622,500	\$ 684,750
Interest Income	10,458	5,000	20,000	10,000
Total Revenues	583,603	607,500	642,500	694,750
Expenditures				
Transfer	200,000	-	200,000	1,097,537
Total Expenditures	200,000	-	200,000	1,097,537
Revenue Over/(Under) Expenditures	\$ 383,603	\$ 607,500	\$ 442,500	\$ (402,787)
Beginning Fund Balance	\$ 545,388	\$ 928,991	\$ 928,991	\$ 1,371,491
Ending Fund Balance	\$ 928,991	\$ 1,536,491	\$ 1,371,491	\$ 968,704

Revenue & Expenditure Summary



Attachment: FY2020 EDC-CEC Budget (FY2019-20 EDC Budget Approval)



Finance Department
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: September 10, 2019
Re: Celina Community Development Corporation Budget Approval

Action Requested:

Consider and act upon a resolution of the City of Celina, Texas, ratifying and approving the Fiscal Year 2019-2020 budget for the Celina Community Development Corporation. (Toutounchian)

Background Information:

This resolution is a part of the annual budget approval for the Celina Community Development Corporation.

Board Review/Citizen Input:

This budget was approved by the Celina Community Development Corporation at a meeting held on September 4, 2019.

Alternatives:

N/A

Financial Considerations:

Legal Review:

N/A

Supporting Documents:

Resolution, budget document

Staff Recommendation:



**COMMUNITY DEVELOPMENT CORPORATION
FY 2019 - 2020
PROPOSED BUDGET**

REVENUE:

Sales Tax Revenue	684,750.00
Interest Income	10,000.00

Total	694,750.00
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EXPENSES:

Debt Service Payment Old Celina Park (Phase 1)	200,000.00
Debt Service Payment Old Celina Park (Phase 2)	897,537.00

Total	1,097,537.00
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Surplus(Deficit)	(402,787.00)
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Beginning Fund Balance	1,371,491.00
Fund Balance Draw Down	(402,787.00)
Ending Fund balance	968,704.00

Debt for Old Celina Phase 1 will be paid off in year 2029

Debt for Old Celina Phase 2 will be paid off in Year 2039

Attachment: CDC Proposed Budget FY 2020 (CDC Budget)

**CITY OF CELINA, TEXAS
RESOLUTION NO. 2019- R**

**A RESOLUTION OF THE CITY OF CELINA, TEXAS RATIFYING AND
APPROVING THE FISCAL YEAR 2019-2020 BUDGET FOR THE
CELINA COMMUNITY DEVELOPMENT CORPORATION; AND
PROVIDING AN EFFECTIVE DATE.**

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

WHEREAS, the Celina Community Development Corporation, hereinafter the “CCDC” is a 4B development corporation operating pursuant to the Development Corporation Act of 1979 now codified as Chapter 504 of the Texas Local Government Code;

WHEREAS, the CCDC Board of Directors has approved a Fiscal 2019-2020 Budget;

WHEREAS, the City of Celina desires to approve and ratify such said CCDC Budget.

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

SECTION 1: The findings and declaration contained in the preamble of this Resolution are incorporated herein as part of this Resolution.

SECTION 2: The City Council hereby ratifies and approves the Fiscal 2019-2020 Budget for the Celina Community Development Corporation.

SECTION 3: This Resolution shall be in full force and effect from and after its date of passage.

AND IT IS SO RESOLVED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas on the 10th day of September, 2019.

Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

Attachment: 2019- R FY2020 CCDC Budget (CDC Budget)



Police Department
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Tony Griggs, Chief
Date: September 10, 2019
Re: Authorization for the City to enter into an Interlocal Agreement with Collin County for Jail services.

Action Requested:

Consider and act upon Interlocal Jail Services agreement with Collin County. (Griggs)

Background Information:

Annual agreement contract amendment for jail services with Collin County.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

FY2020 Collin County Jail services charge of \$98.78 per day, per inmate for City Class C Misdemeanor charges.

Legal Review:

N/A

Supporting Documents:

Interlocal Agreement - Collin County Jail Services Contract Amendment FY2020

Staff Recommendation:



Contract Amendment ONE (1)

Office of the Purchasing Agent **7.R.a**
Collin County Administration Building
2300 Bloomdale Rd, Ste 3160
McKinney, TX 75071
972-548-4165

Vendor: City of Celina Effective Date 10/1/2019
142 N. Ohio Contract No. 2018-390
Celina, TX 75009
Contract Jail Services

Awarded by Court Order No.: 2018-865-10-08
Amendment 1 Court Order No.: _____

YOU ARE DIRECTED TO MAKE THE FOLLOWING AMENDMENT TO THIS CONTRACT

Extension of agreement for a one (1) year period as provided for in section 2.01 of the contract documents.
Agreement shall be in effect from October 1, 2019, continuing through and including September 30, 2020.

Charges for fiscal year 2020: \$98.78 per day, per inmate

Except as provided herein, all terms and conditions of the contract remain in full force and effect
and may only be modified in writing signed by both parties.

ACCEPTED BY:

(Print Name)

City of Celina
142 N. Ohio
Celina, TX 75009

SIGNATURE

TITLE: _____

DATE: _____

ACCEPTED AND AUTHORIZED BY
AUTHORITY OF COLLIN COUNTY
COMMISSIONERS' COURT

Collin County Administration Building
2300 Bloomdale Rd, Ste 3160
McKinney, Texas 75071

Michalyn Rains, CPPO, CPPB

Purchasing Agent

DATE: _____

Attachment: FY2020 Interlocal Jail Services Agreement (Jail Services Interlocal Agreement)



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: September 10, 2019
Re: FY 2019/2020 Budget Public Hearing

Action Requested:

The Celina City Council will conduct a public hearing to consider testimony and receive public input regarding the proposed FY 2019-2020 budget. (Toutounchian)

Background Information:

The proposed FY 2019-2020 budget will raise more total property taxes than last year's budget by \$401,672.00 or 4.09%, and of that amount, \$1,451,323.00 is tax revenue to be raised from new property added to the tax roll this year.

Board Review/Citizen Input:

A public hearing will be held on September 10, 2019 at 5:00 p.m.

Alternatives:

Financial Considerations:

Legal Review:

Supporting Documents:

Staff Recommendation:



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dusty McAfee AICP, Director of Development Services
CC: Jason Laumer, City Manager
Date: September 10, 2019
Re: House Bill 3167 Ordinance

Action Requested:

The Celina City Council will conduct a public hearing and act upon an ordinance amending the Subdivision Regulation Ordinance to cause said ordinance to be in compliance with House Bill 3167, which bill took effect on September 1, 2019. (McAfee)

Background Information:

The 2019 State of Texas Legislature passed House Bill 3167 which was signed by Governor Abbott on June 14, 2019, with an effective date of September 1, 2019.

The Act requires extensive revisions to the Subdivision Ordinance and how plats and plans are processed by staff and the Planning & Zoning Commission.

Board Review/Citizen Input:

At the August 20, 2019, Planning & Zoning Commission regular meeting, the Commission voted unanimously to recommend approval of the ordinance.

Notice of the proposed House Bill Ordinance amendments was published in *The Celina Record* on August 2, 2019, in compliance with State law.

Supporting Documents:

- Proposed Ordinance

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

ORDINANCE NO. 2019-__
IMPLEMENTATION OF HOUSE BILL 3167

AN ORDINANCE OF THE CITY OF CELINA, TEXAS SUSPENDING APPLICATION OF ORDINANCE PROVISIONS CONTAINED IN THE CITY'S SUBDIVISION ORDINANCE, AS IT NOW EXISTS OR AS IT MAY BE AMENDED, THAT CONFLICT WITH THE PROVISIONS OF HB 3167 PASSED BY THE 86TH LEGISLATURE OF THE STATE OF TEXAS AND SIGNED BY GOVERNOR GREG ABBOTT ON JUNE 14, 2019; DIRECTING CITY STAFF TO PROCESS ALL PLANS AND PLATS AS DEFINED IN HB 3167 IN ACCORDANCE WITH THE PROVISIONS OF HB 3167; PROVIDING FOR A CONFLICT/SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 86th Legislature of the State of Texas passed HB 3167 which was signed by Governor Abbott on June 14, 2019, with an effective date of September 1, 2019 (the "Act"); and

WHEREAS, the Act requires extensive revisions to the Subdivision Ordinance and to the way in which the plats and plans, as defined in the Act, are processed by the staff and the Planning & Zoning Commission; and

WHEREAS, the City Council of the City of Celina urges the Texas Legislature to reconsider the provisions of the Act at its earliest opportunity.

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

SECTION 1**INCORPORATION OF RECITALS**

The recitals set forth above are incorporated as if fully set forth herein.

SECTION 2**STATE LAW ACKNOWLEDGMENT**

The City Council hereby acknowledges the provisions of the Act and suspends the application of any ordinance or process contained in the Subdivision Ordinance, as it now exists or as it may be amended, that conflict with the provisions and requirements of the Act.

SECTION 3**DIRECTION TO STAFF FOR COMPLIANCE**

The City Council further directs the City's Planning & Zoning Commission, staff and outside consultants to process, approve, approve with conditions or deny all plats and plans, as defined in the Act, in accordance with the provisions and requirements of the Act.

SECTION 4

CONFLICT/SAVINGS CLAUSE

In the event of a conflict between the provisions of this Ordinance and any other regulation or rule prescribed by charter, another ordinance, resolution or authorization of the City, the provisions of this ordinance shall control. Notwithstanding the foregoing, all rights and remedies of the City are expressly saved as to any and all complaints, actions, claims, or lawsuits, which have been initiated or have arisen under or pursuant to such conflicting Ordinance, or portion thereof, on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the conflicting Ordinance shall remain in full force and effect.

SECTION 5 **EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its date of passage.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, on this the 10th day of September 2019.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

APPROVED AS TO FORM:

Lance Vanzant, City Attorney
City of Celina, Texas

Attachment: Proposed Ordinance (House Bill 3167 Ordinance)



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dusty McAfee AICP, Director of Development Services
CC: Jason Laumer, City Manager
Date: September 10, 2019
Re: House Bills Ordinance (HB 2439 and HB 2497)

Action Requested:

The Celina City Council will conduct a public hearing and act upon an ordinance amending the Zoning Ordinance and Building Codes to cause said ordinance to be in compliance with House Bill 2439 and House Bill 2497, which bills took effect on September 1, 2019. (McAfee)

Background Information:

The 2019 State of Texas Legislature enacted House Bill 2439, prohibiting municipal regulation of materials used for construction and renovation of residential and commercial buildings. HB 2439 affects both the enactment of new regulations and the enforcement of existing regulations pertaining to materials for construction or alteration of residential and commercial buildings.

The 2019 Legislature also enacted HB 2497, which requires amendments to procedures applicable to the rules of and appellate procedures before the Zoning Board of Adjustment.

Both Bills were signed by the Governor in June 2019, and have an effective date of September 1, 2019.

Board Review/Citizen Input:

At the August 20, 2019, Planning & Zoning Commission regular meeting, the Commission voted unanimously to recommend approval of the ordinance.

Notice of the proposed House Bill Ordinance amendments was published in *The Celina Record* on August 2, 2019, in compliance with State law.

Supporting Documents:

- Proposed Ordinance

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

ORDINANCE NO. 2019-__
IMPLEMENTATION OF HOUSE BILL 2439 AND HOUSE BILL 2497

**AN ORDINANCE OF THE CITY OF CELINA, TEXAS,
 ENACTING AMENDMENTS TO THE CITY'S ZONING
 ORDINANCE AND BUILDING CODE REGULATIONS;
 PROVIDING FOR COMPLIANCE WITH NEW STATE
 LAWS AFFECTING MATERIALS USED IN THE
 CONSTRUCTION OR RENOVATION OF RESIDENTIAL
 AND COMMERCIAL BUILDINGS, RULES AND
 PROCEEDINGS BEFORE THE ZONING BOARD OF
 ADJUSTMENT; PROVIDING FOR APPEALS;
 PROVIDING RELATED DIRECTIVES TO THE CITY
 MANAGER; PROVIDING A CONFLICT/SAVINGS
 CLAUSE; AND SETTING AN EFFECTIVE DATE.**

WHEREAS, the 2019 Legislature enacted HB 2439, prohibiting municipal regulation of materials used for construction and renovation of residential and commercial buildings in certain instances and subject to certain exceptions; and

WHEREAS, HB 2439 affects both the enactment of new regulations and the enforcement of existing regulations pertaining to materials for construction or alteration of residential and commercial buildings; and

WHEREAS, HB 2439 was signed by the Governor on June 14, 2019 and has an effective date of September 1, 2019; and

WHEREAS, the City Council finds that City regulations prescribing the types of materials, products or aesthetic methods used for the construction or alteration of residential and commercial buildings are essential for preserving the public health and safety of its citizens and substantially further the economic development and general welfare of the City; and

WHEREAS, the exemptions to the provisions of HB 2439 hereinafter provided by this Ordinance are in accordance with the purpose and content of such law; and

WHEREAS, there is insufficient time before HB 2439 takes effect to amend specific provisions of the City's zoning and building regulations that may conflict with the provisions of HB 2439; and

WHEREAS, it is the intent of this Ordinance to supersede enforcement of regulations prescribing the types of materials, products or aesthetic methods used for construction or renovation of residential and commercial buildings, in so far as they conflict with HB 2439; and

WHEREAS, it is the further intent of this Ordinance to provide procedures for appealing decisions of officials in the enforcement of regulations prescribing the types of materials, products and aesthetic methods used for construction or renovation of residential and commercial buildings; and

WHEREAS, it is the further intent of this Ordinance to provide information to citizens of Celina, Texas, that are affected by HB 2439 concerning the prohibitions and limitations on enactment and enforcement of zoning and building regulations prescribing the types of materials, products and aesthetic methods used for construction or renovation of residential and commercial buildings; and

WHEREAS, the 2019 Legislature enacted HB 2497, which requires amendments to procedures applicable to the rules of and appellate procedures before the Zoning Board of Adjustment; and

WHEREAS, HB 2497 was signed by the Governor on June 10, 2019 and has an effective date of September 1, 2019; and

WHEREAS, it is the intent of the City Council of the City of Celina, Texas ("City"), to fully comply with the provisions of HB 2439 and HB 2497, while maximizing the public health, safety and general welfare of its citizens; and

WHEREAS, it is the further intent of this Ordinance to amend provisions of the City's Zoning Ordinance in order to implement such changes; and

WHEREAS, the City has given notice of the amendments to the zoning and building regulations contained in this Ordinance in accordance with all provisions of state law and the City's ordinances; and

WHEREAS, a public hearing on the provisions of this Ordinance before the City's Planning and Zoning Commission was conducted on August 20th, 2019; and

WHEREAS, the City Council has received the report of the Commission recommending approval of this Ordinance; and

WHEREAS, a public hearing on the provisions of this Ordinance before the City Council was conducted on September 10th, 2019; and

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

SECTION 1 **INCORPORATION OF RECITALS**

The foregoing recitals hereby are incorporated by reference and made a part hereof as if fully set forth.

SECTION 2 **DEFINITIONS**

The following definitions apply to the provisions of this ordinance:

(a) "National model code" means a publication that is developed, promulgated, and periodically updated at a national level by organizations consisting of industry and government fire and

building safety officials through a legislative or consensus process and that is intended for consideration by units of government as local law. “National model code” includes the International Residential Code, the National Electrical Code and the International Building Code.

(b) “Residential building” means a building having the character of a one-family or two-family dwelling or a multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling and that does not have the character of a facility used for the accommodation of transient guests or a structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.

(c) “Commercial building” means a building for the use or occupation of people for a public purpose or economic gain, or a residence if the building is a multi-family residence that is not defined as a residential building.

(d) “Building Code” means any of the following adopted by the City, as amended: the International Residential Code, the National Electrical Code; the International Building Code; the International Fire Code; the International Plumbing Code; the International Mechanical Code; the International Fuel Gas Code; and the International Energy Conservation Code.

SECTION 3

PROHIBITIONS ON ENFORCEMENT

(a) Notwithstanding any other provision contained in the City’s ordinances, regulations or rules to the contrary, an official responsible for enforcement of the City’s Zoning Ordinance or Building Codes, as designated by city charter, ordinance or other authorization of the City, shall not:

(1) prohibit or limit, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or

(2) enforce a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

(b) An applicant who proposes to use a building material, product or aesthetic method in the construction or alteration of a residential or commercial building that is prohibited or limited by the City’s adopted Zoning Ordinance or building codes, as amended, or that is less stringent than the standard established by such Ordinance or building codes, as amended, shall identify each provision in a national model code published within the last three code cycles that approves the use of such building material, product or aesthetic method, as a necessary requirement of the application.

(c) An applicant may agree in writing to employ a building material, product or aesthetic method for use in the construction or alteration of a residential or commercial building that otherwise cannot be enforced under subsection (a).

SECTION 4

EXEMPTIONS FOR ORDINANCES, REQUIREMENTS AND PROGRAMS

The prohibitions in Section 3 do not apply to the following ordinances, requirements or programs of the City or State, and the officials responsible for enforcement of the City's Zoning Ordinance and Building Codes, as designated by city charter, ordinance or other authorization of the City, shall apply all regulations and standards prescribed by such enactments, requirements or programs, whether such ordinances, requirements or programs existing or hereafter adopted or established, to the fullest extent therein provided:

- (a) a local amendment of a building code to conform to local concerns if the amendment does not conflict with Sections 3(a) or (b);
- (b) a program established by a state agency that requires particular standards, incentives, or financing arrangements in order to comply with requirements of a state or federal funding source or housing program;
- (c) a requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage under Chapter 2210, Texas Insurance Code;
- (d) an ordinance or other regulation that regulates outdoor lighting that is adopted for the purpose of reducing light pollution and that: (1) is adopted by a governmental entity that is certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places Program; or (2) applies to outdoor lighting within five miles of the boundary of a military base in which an active training program is conducted;
- (e) an ordinance that regulates outdoor lighting and is adopted under Subchapter B, Chapter 229, Texas Local Government Code, or under Subchapter B, Chapter 240, Texas Local Government Code; or
- (f) installation of a fire sprinkler protection system under Tex. Occupation Code, section 1301.551(i), or under Tex. Health and Safety Code, section 775.045(a)(1).

SECTION 5

EXEMPTIONS FOR BUILDINGS

The prohibitions in Section 3 do not apply to the following buildings, and the officials responsible for enforcement of the City's Zoning Ordinance and Building Codes, as designated by city charter, ordinance or other authorization of the City, shall apply all regulations and standards prescribed by those ordinances or codes to such buildings, whether such provisions are existing or hereafter adopted or established, to the fullest extent.

- (a) a building located in a place or area designated for its historical, cultural, or architectural importance and significance by the City which were adopted by the City Council prior to April 1, 2019:
- (b) a building located in a zoning district designated by the City Council after April 1, 2019 for its historical, cultural, or architectural importance and significance by the City, and for which the owner has voluntarily consented in writing to the application of the regulations or standards prohibited by Section

3, including the following zoning districts and any district that may hereafter be created by the City Council for its historical, cultural, or architectural importance and significance;

(c) a building located in a place or area designated for its historical, cultural, or architectural importance and significance that a municipality may regulate under Section 211.003(b), Texas Local Government Code, if the municipality (1) is a certified local government under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.); or (2) has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission;

(d) a building located in an area designated as a historic district on the National Register of Historic Places;

(e) a building designated as a Recorded Texas Historic Landmark;

(f) a building designated as a State Archeological Landmark or State Antiquities Landmark;

(g) a building listed on the National Register of Historic Places or designated as a landmark by a governmental entity;

(h) a building located in a World Heritage Buffer Zone; and

(i) a building located in an area designated for development, restoration, or preservation in a main street city under the main street program established under Section 442.014, Texas Government Code.

SECTION 6

APPEAL

An applicant, landowner or other aggrieved person may appeal the decision of an official responsible for enforcement of the City's Zoning Ordinance or Building Codes, as designated by city charter, ordinance or other authorization of the City, applying a regulation or standard to the construction, renovation, maintenance, or other alteration of a residential or commercial building, which application is asserted to be prohibited by Section 3, in the following manner:

(a) If the decision applies a requirement of a building code, to the Building Board of Appeals, or if there is no Building Board, to the Zoning Board of Adjustment; or

(b) if the decision applies a requirement of the zoning ordinance, to the Zoning Board of Adjustment.

The appeal shall identify the provision or provisions which the appellant alleges to have been applied in violation of Section 3. The appeal shall be filed, processed and decided in the manner provided for appeals by the appellate entity herein designated.

SECTION 7

AMENDMENTS TO ZONING BOARD OF ADJUSTMENT PROCEDURES

Notwithstanding any other provision contained in the City's ordinances, regulations or rules to the contrary, the following provisions apply to the adoption of or amendment to rules of the Zoning Board of Adjustment and to appellate procedures before the Board.

(a) Rules of the Zoning Board of Adjustment adopted or amended on or after September 1, 2019, must be approved by the City Council.

(b) Appeals to the Board from the decision of an administrative official made on or after September 1, 2019, shall be governed by the following rules:

(1) an appeal of a decision by an administrative official that is not related to a specific application, address or project may be made by an aggrieved person or any officer, department, board, or bureau of the City affected by the decision.

(2) an appeal of a decision by an administrative official that is related to a specific application, address or project may be made by: the applicant; the owner or owner's representative of the property that is the subject of the decision; an aggrieved person who is the owner of property within 200 feet of the property that is the subject of the decision; or any officer, department, board, or bureau of the City affected by the decision.

SECTION 8

CONFLICT/SAVINGS CLAUSE

In the event of a conflict between the provisions of this Ordinance and any other regulation or rule prescribed by charter, another ordinance, resolution or authorization of the City, the provisions of this ordinance shall control. Notwithstanding the foregoing, all rights and remedies of the City are expressly saved as to any and all complaints, actions, claims, or lawsuits, which have been initiated or have arisen under or pursuant to such conflicting Ordinance, or portion thereof, on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the conflicting Ordinance shall remain in full force and effect..

SECTION 9

EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage [or second reading [or other requirement prescribed by charter or ordinance]. The applicability of an exemption specified by Sections 4 and 5 of this Ordinance that is hereafter adopted or established by ordinance shall take effect on the effective date of such ordinance.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, on this the 10th day of September 2019.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

APPROVED AS TO FORM:

Lance Vanzant, City Attorney
City of Celina, Texas

Attachment: Proposed Ordinance (House Bills Ordinance (HB 2439 and HB 2497))



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dusty McAfee AICP, Director of Development Services
CC: Jason Laumer, City Manager
Date: September 10, 2019
Re: Subdivision Ordinance Amendments

Action Requested:

The Celina City Council will conduct a Public Hearing to consider testimony and act upon an ordinance amending the City's Code of Ordinances, Chapter 10: Subdivision Regulations, Article 10.03, Subdivision Ordinance. (Subdivision Ordinance Amendments) (McAfee)

Background Information:

The Subdivision Ordinance was replaced in September 2018 with a completely new Subdivision Ordinance. These changes will update the document and bring it into conformance with State law. In general, technical requirements are being removed from the Subdivision Ordinance and being referred to the *Engineering Design Standards*. This will eliminate the need to update the Subdivision Ordinance each time the *Engineering Design Standards* are revised. Attachment B details the proposed amendments.

Board Review/Citizen Input:

Notice of the proposed Subdivision Ordinance amendments was published in *The Celina Record* on August 2, 2019, in compliance with State law. The public hearing held on the August 13, 2019 meeting was continued to this September 10, 2019 meeting.

Supporting Document:

- Proposed Subdivision Ordinance
- Proposed Revisions
- Proposed Engineering Design Standards
- Staff Presentation

Staff Recommendation:

Staff recommends approval as presented.

CITY OF CELINA, TEXAS
ORDINANCE NO. 2019-__
SUBDIVISION ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, AMENDING NO. 1997-07, AS HERETOFORE AMENDED, THE SAME BEING CHAPTER 10, SUBDIVISION REGULATIONS, ARTICLE 10.03, SUBDIVISION ORDINANCE, AMENDING CERTAIN PORTIONS OF ARTICLE 10.03, ENTITLED “SUBDIVISION ORDINANCE;” PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENT TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY, 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 County 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 an orderly provision of adequate public facilities to serve new development in the city and enhance the aesthetics of the city as a whole; and

WHEREAS, the City Council of the City of Celina, Texas (“City Council”) desires to regulate the landscaping of medians in the City of Celina (“City”); and

WHEREAS, the City Council, has determined that regulating the development of median landscaping is necessary to promote responsible land and economic development, and to protect the public health and safety.

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 **AMENDMENTS**

3.01. That the Celina Code of Ordinances, Chapter 10: Subdivision Regulation, Article 10.03, Subdivision Ordinance is hereby amended as shown in Attachment "A."

SECTION 4 **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 5 **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 hotels and motels 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 6 **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 7 **PENALTY**

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 (\$2000) for each offense.

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 **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 Clause of this Ordinance as required by Section 52.013 of the Local Government Code.

SECTION 9
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 10
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage in accordance with law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas this 10th day of September, 2019.

 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: Proposed Subdivision Ordinance (Subdivision Ordinance Amendments)

ATTACHMENT A

SUBDIVISION ORDINANCE



City of Celina
September 10, 2019

Ordinance Number	Date of Adoption	Summary
2018-32	7/10/2018	New Subdivision Ordinance; repealed all previous Subdivision Ordinances and amendments
2019- 	9/10/2019	Revisions to Subdivision Standards

CHAPTER 107.03
SUBDIVISION ORDINANCE
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ARTICLE 10.03.000GENERAL SUBDIVISION AUTHORITY OF THE CITY

Sec. 10.03.001AUTHORITY, PURPOSE & APPLICABILITY.

- (a) **Authority.** The regulations of this Subdivision Ordinance are authorized under the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 212 (including Subchapter B) and the City's Charter. The provisions of this Subdivision Ordinance expressly extend to all areas inside the City limits and throughout the City's extraterritorial jurisdiction (ETJ), as either may be adjusted in the future, and as provided in the City's interlocal agreement with Denton and Collin Counties, in accordance with CHAPTER 242 of the TEXAS LOCAL GOVERNMENT CODE.
- (b) **Purpose.**
- (1) The development and subdivision of land, as they affect a community's quality of life, are activities for which regulation is a valid function of municipal government. The regulations contained within this Subdivision Ordinance are intended to protect the interests of the public and of private parties by granting certain rights, privileges, and obligations. The requirements in this Ordinance are also intended to establish a fair and rational procedure for developing and subdividing land such that land will be developed in accordance with existing physical, social, economic, and environmental conditions.
 - (2) The provisions of this Ordinance are intended to implement standards and requirements provided for herein, and shall be requirements for the platting and developing of subdivisions within the City and its ETJ.
 - (3) The provisions of this Ordinance are intended to implement the following objectives:
 - i. Promote the development and the utilization of land in a manner that provides an attractive and high-quality community environment in accordance with the *Comprehensive Plan*, the *Zoning Ordinance*, and other development-related ordinances of the City;
 - ii. Assist orderly, efficient, and coordinated development within the City's limits and its ETJ;
 - iii. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the required standards;
 - iv. Protect the public interest by having standards that include, but are not limited to, the location, design, class and type of streets, sidewalks, trails, alleys, utilities, and essential public services;
 - v. Integrate the development of various tracts of land into the community and coordinate the future development of adjoining tracts;
 - vi. Promote the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
 - vii. Provide for compatible relationships between land uses and buildings;
 - viii. Provide for efficient traffic circulation throughout the municipality;
 - ix. Provide for pedestrian and bicyclist movement that is appropriate within the context of various uses of land and buildings;
 - x. Minimize pollution of the air, streams, bodies of water, and aquifers; promote the adequacy of storm drainage facilities; minimize erosion; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land;
 - xi. Preserve the natural beauty and topography of public and private properties by encouraging the incorporation of natural features and land forms into developments as amenities;
 - xii. Establish processes that ensure accurate records of land subdivision;

- xiii. Provide for necessary infrastructure that will have sufficient capacity to serve existing and future developments as well as current and future citizens within the City and its ETJ;
 - xiv. Provide for adequate light, air, and privacy; safety from fire, flood, and other dangers; and prevent overcrowding of the land and undue congestion of population;
 - xv. Encourage the development of residential areas that incorporate a range of housing and lifestyle choices.
- (c) **Applicability.**
 - (1) The provisions of this Subdivision Ordinance apply to any non-exempt (see Section 10.03.031(d), *Exemptions*) division of land, combination of separate land parcels, and/or development of land within the corporate boundaries of the City and within its ETJ.
 - (2) No permit shall be issued for any building or structure on a property until a plat has been approved unless specifically exempted herein.
- (d) **Subdivision Rules.** The provisions of this Subdivision Ordinance, the standards governing constructed facilities applicable to plats in other portions of the Celina Code of Ordinances, and the technical standards contained in the *Engineering Design Standards*, constitute the subdivision rules of the City, which apply to applications for plat approval inside City limits and within the City's ETJ.
- (e) **Engineering Design Standards.** The City of Celina has adopted *Engineering Design Standards* and these standards, as they exist or may be amended, shall remain in force of law and effect and are herein incorporated into the Subdivision Ordinance. The *Engineering Design Standards* may be drafted or revised, from time to time, at the discretion and determination of the Director of Engineering, with approval by the City Council. As revised *Engineering Design Standards* are approved and adopted by the City Council, said standards shall be included and substituted for the existing *Engineering Design Standards*, and shall thereafter have the same force of law and effect as if originally adopted hereby. Any individual may request to receive written notice of any new or amended provision to the *Engineering Design Standards* by providing said request in writing to the Director of Engineering. A copy of the current *Engineering Design Standards* shall be kept on file and available for review with the Director of Engineering's office and on the City's website.
- (f) **Compliance with City Plans & Ordinances Required.** Compliance with all City ordinances pertaining to the subdivision and development of land, and the *Comprehensive Plan* (where applicable), shall be required prior to approval of any application pursuant to this Ordinance. All such ordinances and the *Comprehensive Plan* shall be construed to mean those documents as they exist or may be amended. It is the applicant's responsibility to be familiar with, and to comply with, City ordinances, the *Comprehensive Plan*, and the provisions of this Ordinance. Applicable City ordinances and plans with which all applications must comply include, but are not limited to, the following:
 - (1) *Comprehensive Plan* (Ordinance No. 2013-06), and as amended.
 - (2) *Zoning Ordinance* (Ordinance No. 2006-57), and as amended.
 - (3) *Engineering Design Standards*
 - (4) *International Building, Residential, and Fire Codes*
 - (5) *National Electrical Code*
 - (6) *International Energy Conservation Code*
 - (7) *Impact Fee Ordinance for Water* (Ord. No. 2003-75), and as amended.
 - (8) *Impact Fee Ordinance for Thoroughfares* (Ord. No. 2015-06), and as amended.
 - (9) *Drainage Design Manual*
 - (10) Federal, State, and Local Environmental Regulations.
 - (11) Other applicable portions of the Celina Code of Ordinances.

(g) **Governmental Agency Design Standards.**

The City of Celina, Celina Independent School District, and Prosper Independent School District, City departments, and any county governmental organization, when developing within the city limits, will be required to make best efforts to meet the City's development regulations related to City infrastructure. However, when the overall benefit to the City is reduced due to full compliance with adopted development standards, modified development standards may be administratively approved. This administrative approval shall be conditioned upon meeting the overall intent of the subject ordinance as determined by the City Manager, or his designee, whose decision may be appealed to City Council. (Ordinance 2017-59, adopted 10/10/17)

(h) **Special Provisions.**

- (1) The City of Celina does not issue permits for the installation of septic tanks in the ETJ but may issue permits for installation of septic tanks within the corporate city limits. Permits for septic tanks are limited to lots that are greater than one (1) acre in size exclusive of the house footprint and not located within 600 feet of a City sewer line, unless otherwise allowed by the Director of Engineering based up projected loads and use. Citizens may elect to connect to a sewer line that is greater than 600 feet from the property, but must individually bear the cost of the installation that is in excess of 100 feet. A septic system may not be installed upon any lot in a subdivision for which a Final Plat has not been approved and filed for record, or upon any lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
- (2) No building, repair, plumbing, or electrical permit shall be issued by the City for any structure on a lot in a subdivision for which a Final Plat has not been approved, nor for any structure on a lot within a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
- (3) The City Manager and the Director of Engineering may allow sectional development (i.e. phased development) of an approved Final Plat provided that the section of the Final Plat meets all the requirements of this Ordinance in full as though it were a subdivision within itself.
- (4) The City shall not authorize any other person, nor shall the City itself repair, maintain, install, or provide any streets or public utility services in any subdivision for which the standards contained herein or referred to herein have not been complied with in full.
- (5) The City shall not authorize any other person nor shall the City itself sell or supply any water, gas, electricity, or sewerage service within a subdivision for which a Final Plat has not been approved, nor in which the standards contained herein or referred to herein have not been complied with in full.
- (6) On behalf of the City, the City Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this ordinance or the standards referred to herein with respect to any violation thereof which occurs within the City, within the extraterritorial jurisdiction (ETJ) of the City as such jurisdiction is determined under the Municipal Annexation Act, or within any area subject to all or a part of the provisions of this ordinance.
- (7) If any subdivision exists for which a Final Plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, the City Council shall pass a resolution reciting the fact that such noncompliance or failure to secure Final Plat approval, and reciting the fact that the provisions of paragraphs (1), (2), (4) and (5) of this section will apply to the subdivision and the lots therein. The City Secretary shall, when directed by the City Council, cause a certified copy of such resolution under the corporate seal of the City to be filed in the Deed Records of Denton or Collin County in which such subdivision or part thereof lies. If full compliance and Final Plat approval are secured after the filing of such resolution, the City

Secretary shall forthwith file an instrument, in the Deed Records of the county stating that paragraphs (1), (2), (4) and (5) no longer apply.

- (8) The provisions of this section shall not be construed to prohibit the issuance of permits to any lots upon which a residential building exists and was in existence prior to passage of this Subdivision Ordinance, or to prohibit the repair, maintenance, or installation of any street or public utility services for any residential building, or abutting any sale lot, the last recorded conveyance of which prior to passage of this ordinance was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to the passage of this ordinance.

Sec. 10.03.002.....ENFORCEMENT.

(a) **Observation of Construction.**

- (1) The Director of Engineering, or his duly authorized representative, shall make periodic observation of the construction of improvements for subdivision. Inspection of improvements by the Director of Engineering or his representative, is not intended to and does not relieve the subdivider or his contractor, from ensuring that the improvements are constructed in accordance with the accepted plans and specifications. The subdivider or his contractor shall maintain contact with the Director of Engineering or his representative during construction of improvements.
- (2) No sanitary sewer, water, or storm sewer pipe shall be covered without approval of the Director of Engineering or his representative. No flexible base material, subgrade material, or stabilization shall be applied to the street subgrade without said approval. No concrete shall be poured nor asphaltic surface applied to the base without said approval of Director of Engineering.
- (3) The Director of Engineering or his representative, may at any time cause any construction, installation, maintenance, or location of improvements to cease when, in his judgment, the requirements of this article or the standards and specifications as hereinbefore provided have been violated. Any violation may require such reconstruction or other work as may be necessary to correct any such violation at the expense of the developer. The cost of materials testing shall be borne by the developer. (2004 Code, sec. 159.81)

- (b) **Maintenance Bond.** The subdivider shall furnish a good and sufficient maintenance bond in the amount of ten percent (10%) of the contract price of all public improvements, with a reputable and solvent corporate surety in favor of the City, to indemnify the City against any repairs which may become necessary to any part of the construction of public improvements in connection with the subdivision, arising from defective workmanship or materials used therein, for a period of two (2) full years from the date of final acceptance of the improvements. Final acceptance will be withheld until said maintenance bond is furnished to the City and approved by the City Attorney. (2004 Code, sec. 159.82)

(c) **Filing, Plat & Other Fees.**

- (1) The fees and charges shall be paid to the City when any preliminary plat or final plat or other filing is tendered to the Planning & Zoning Commission or any other authorized board or agency of the City. Each of the fees and charges provided herein shall be paid in advance and no action of the Commission or any other board or agency of the City shall be valid until the fees and charges shall have been paid to the City.
- (2) Except as hereinbefore provided, these fees and charges shall be charged on all plats and filings, regardless of the action taken by the Commission or any other board or agency of the City and whether the plat or filing is approved or denied. All fees are listed as shown in the City Fee Schedule ordinance, which is a bound and separate document. (2004 Code, sec. 159.83)

- (d) **Penalty.** Any person, firm or corporation who shall violate any of the provisions of this article or who shall

fail to comply with any provisions hereof shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed the amounts listed in the City's Fee Schedule, and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. (2004 Code, sec. 159.99)

Sec. 10.03.003 to Sec. 10.03.009. RESERVED

ARTICLE 10.03.010AUTHORITY OF DECISION-MAKERS

Sec. 10.03.011.....GENERAL PROVISIONS.

- (a) **Source of Authority.** Authority under this Subdivision Ordinance shall be vested in and delegated to the officials and decision-makers designated in Section 10.03.012, *Responsible Official Assigned*, and under the City's Charter, the constitution and laws of the State of Texas, and the Celina Code of Ordinances. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Subdivision Ordinance to any authority conferred upon the officials and decision-makers under the City's Charter, the constitution or laws of the State of Texas, or the Celina Code of Ordinances, or the failure to identify in this article authority conferred by other provisions of this Subdivision Ordinance, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.
- (b) **Implied Authority.** The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by CHAPTER 212 of the TEXAS LOCAL GOVERNMENT CODE and this Subdivision Ordinance, to the extent that the implied authority is not in conflict with the expressly delegated authority.
- (c) **Limitation on Authority.**
 - (1) City Policy. It is the policy of the City that the standards and procedures applicable to development of property within the city limits and within the City's extraterritorial jurisdiction (ETJ) are as stated in this Subdivision Ordinance, notwithstanding any representation by any City official summarizing, paraphrasing or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.
 - (2) Representations. The applicant shall not rely on any representation made by an employee of the City, a member of an appointed board or Commission, or a member of the City Council concerning the likelihood of an outcome of that official's decision or the decision of an appointed board, Commission, or City Council, on any application that has yet to be filed or is pending before the City. An official may, however, convey information concerning that official's position on a pending application in accordance with his role as the responsible official for such application or as the City staff contact person.
 - (3) Effect of Comprehensive Plan or Development Standards on Liability Claims. The City's approval of an application under the standards and procedures of this Subdivision Ordinance does not guarantee or ensure that development of the property in accordance with the standards will prevent, minimize, or mitigate harm to adjoining property. A person who undertakes development activities shall not rely on the City's approval of an application as ensuring that the development activities will not result in harm to adjoining property. The regulations contained in this Subdivision Ordinance constitute an exercise of the City's governmental authority, and approval of an application shall not give rise to any liability on the part of the City or its officers, agents, and employees, nor will an approval release the applicant from any liability for harm arising out of development of the property under applicable law.
 - (4) Variances. Except as expressly provided for in Section 10.03.086, *Variances & Modifications*, this Subdivision Ordinance, no official, board or Commission of the City, or the City Council, shall have authority to waive any requirement or standard for an application. Any attempted variance of a requirement or standard for an application in contravention of this section shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approved application.
- (d) **Conflict in Authority.** If any of the provisions of this Subdivision Ordinance are in apparent conflict, the Director of Development Services shall, after due consideration as to the purpose and intent of each

conflicting provision, make a determination as to which provision shall apply. The Director of Development Services shall make every effort to be fair and consistent in such interpretations, and his decision may be appealed to the City Manager (see Section 10.03.016, *City Manager & Other Officials*), unless otherwise noted within.

Sec. 10.03.012.....RESPONSIBLE OFFICIAL ASSIGNED.

- (a) **Responsible Official.** The responsible official shall be the Director of a designated City department who is assigned responsibility under this Subdivision Ordinance for taking the following actions with regard to a particular type of application authorized under this Subdivision Ordinance.
 - (1) Accepting the application for filing, and processing an application;
 - (2) Reviewing and making recommendations concerning an application;
 - (3) Seeking advice of other City departments, and coordinating any recommendations from such departments concerning an application;
 - (4) Determining a request for exemption;
 - (5) Preparing reports to and advising any board, Commission or the City Council that has responsibility for making recommendations on or approving/denying an application;
 - (6) Promulgating additional or modified policies, standards and administrative rules for adoption by the City Council that apply to an application;
 - (7) Initiating enforcement actions concerning compliance with the standards applicable to an application and the conditions imposed thereon; and
 - (8) Taking all other actions necessary for administration of the provisions of this Subdivision Ordinance with respect to an application, petition, approval, or appeal.
- (b) **Delegation.** The responsible official may delegate the official authority under this Subdivision Ordinance to subordinate employees, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

Sec. 10.03.013.....DIRECTOR OF DEVELOPMENT SERVICES.

- (a) **Responsible Official.** The Director of Development Services is the responsible official for the following types of applications, waivers, variances and petitions:
 - (1) Review and staff report, including a staff recommendation for approval/denial, for any type of plat;
 - (2) Extension of a plat approval;
 - (3) Appeal of a decision on any application for which the Director of Engineering is the responsible official;
 - (4) Vested rights petition for any application when the Director of Development Services is the responsible official.
 - (5) Review recommendations by the Parks Board, and carry out the Board's decisions, on the following types of applications:
 - i. Acceptance of fees in lieu of parkland dedication;
 - ii. The portion of an application showing where park land, including trails, is to be dedicated, and whether such dedication is acceptable;
 - iii. Any other portions of applications showing items required by Article 10.03.080, *Parks and Open Space*.
- (b) **Final Decision-Maker.** The Director of Development Services is the final decision-maker for the following types of applications (subject to any appeal):
 - (1) Minor Plat, as outlined in Section 10.03.035, *Minor Plats*;
 - (2) Amending Plat, as outlined in Section 10.03.037, *Amending Plats*;
 - (3) Extension for a Preliminary Plat approval, as outlined in Section 10.03.033, *Preliminary Plats*; and

- (4) Certain types of Vested rights petitions, as outlined in Section 10.03.087, *Vested Rights*.

Sec. 10.03.014.....DIRECTOR OF ENGINEERING.

- (a) **Responsible Official.** The Director of Engineering is the responsible official for the following types of applications:
- (1) Review of construction plans, including all engineering plans and related construction tasks, and approval of contracts for public improvements, as outlined in Section 10.03.041, *Construction Plans*;
 - (2) Time extensions for construction plans, as outlined in Section 10.03.041(h), *Extension*;
 - (3) Construction Releases, as outlined in Section 10.03.041(i), *Construction Release*;
 - (4) Development Agreement, as outlined in Section 10.03.044, *Development Agreements*;
 - (5) Appeal related to an application for which the Director of Engineering is the responsible official;
 - (6) Certain types of Variances (related to construction requirements), as outlined in Section 10.03.086, *Variances & Modifications*; and
 - (7) Vested rights petition for an application for which the Director of Engineering is the responsible official, as outlined in Section 10.03.087, *Vested Rights*.
- (b) **Final Decision-Maker.** The Director of Engineering is the final decision-maker for the following types of applications (subject to any appeal):
- (1) Approval of construction plans, including all engineering plans and related construction management tasks, and approval of contracts for public improvements;
 - (2) Construction Release;
 - (3) Extension for construction plans approval; and
 - (4) Certain types of Vested Rights petitions for an application for which the Director of Engineering is the initial decision-maker.

Sec. 10.03.015.....DIRECTOR OF PARKS & RECREATION.

- (a) **Responsible Official and Initial Decision-Maker.** The Director of Parks & Recreation is the responsible official for the review and recommendation to the Parks Board and for carrying out the Board's decisions, on the following types of applications:
- (1) Acceptance of fees in lieu of parkland dedication;
 - (2) The portion of an application showing where park land, including trails, is to be dedicated, and whether such dedication is acceptable; and
 - (3) Any other portions of applications showing items required by Article 10.03.080, *Parks and Open Space*.

Sec. 10.03.016.....CITY MANAGER & OTHER CITY OFFICIALS.

- (a) **City Manager.** Any decision which is made by a staff person other than the Director of Development Services shall be reviewed first by the Director of Development Services. Any decision that cannot be resolved by the Director of Development Services shall be appealed to the City Manager, who is the appellate decision-maker for any appeal for which the Director of Development Services is responsible.
- (b) **Fire Chief.** No provision contained in this Subdivision Ordinance shall be deemed or interpreted as a limitation on the Fire Chief's exclusive authority as set forth in the International Fire Code, especially as the decision relates to health and safety issues.
- (c) **Other City Officials.** The City Attorney and any other official delegated responsibilities under this Subdivision Ordinance or other provisions of the Code of Ordinances are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations

prescribed herein.

Sec. 10.03.017.....PLANNING & ZONING COMMISSION.

- (a) **Organization, Powers and Duties.** The Planning & Zoning Commission (also referred to as the “Commission”) shall hold meetings and have the powers and duties as provided for in the Code of Ordinances of the City (Code of Ordinances, Chapter 106, *Zoning*), and as authorized by CHAPTER 211 AND 212 OF THE TEXAS LOCAL GOVERNMENT CODE. Such powers and duties shall include exercising all the authority and control conferred by law relating to platting.
- (b) **Staff Liaison.** The Director of Development Services shall act as the staff liaison to the Commission, and shall abide by the City’s usual record-keeping and retention policies for boards and commissions, as amended, in maintaining records of the Planning & Zoning Commission’s meetings and actions.
- (c) **Authority for Deciding Applications.** The Commission shall have the final authority to act on the following types of applications:
 - (1) Conveyance Plats;
 - (2) Preliminary Plats;
 - (3) Final Plats;
 - (4) Replats (at a public hearing);
 - (5) All other types of plats, with the exception of Minor Plats and Amending Plats (which may be decided by the Director of Development Services, unless deferred to the Commission).
- (d) **Authority for Deciding Appeals.** The Commission shall hear and decide the following appeals:
 - (1) Any Variance petition on an application for a Preliminary Plat, Final Plat or Replat;
 - (2) Minor Plat or Amended Plat that is deferred by the Director of Development Services, as outlined in Section 10.03.035(h), *Appeal of Decision on Minor Plat Application*, or Section 10.03.038(i), *Appeal of Decision on Amending Plat Application*, as applicable;
 - (3) Any other appeal so authorized by this Ordinance.

Sec. 10.03.018.....CITY COUNCIL.

- (a) **Authority for Deciding Appeals.** The City Council shall hear and decide appeals from decisions made by the Commission when such appeals are authorized by this Ordinance.

Sec. 10.03.019.....RESERVED.

ARTICLE 10.03.020 SUBMITTAL PROCESS

Sec. 10.03.021.....PRE-SUBMITTAL MEETING (Development Review Committee Meeting).

- (a) **Optional Development Review Committee Meeting.** Prior to the official submission of an application for review and consideration, applicants are strongly encouraged to contact the Development Services staff to schedule a Development Review Committee (DRC) Meeting. This meeting will alert the applicant to the ordinances that apply to the specific project.
- (b) **Members of DRC.** Members of DRC are made up of representatives from the departments that have direct communication with all aspects of the development process: Planning, Engineering, Fire, Public Works, and Parks.
- (c) **Meeting Request.** To schedule a DRC Meeting, the applicant requests a DRC Meeting with the Development Services staff, and such request shall describe the type of development desired and/or the type of application intended for submittal along with an initial concept plan. The applicant shall then be notified by the Development Services staff of the time and place for the requested meeting.
- (d) **Vested Rights.** There shall be no vested rights based on the DRC Meeting.
- (e) **Effect.** Following the DRC Meeting, the applicant may proceed with the submittal of the appropriate application(s), including, but not limited to, the Conveyance or Preliminary Plat, Final Plat, Civil Plans, and Building Plans.

Sec. 10.03.022.....APPLICATION CONTENTS.

- (a) **Application Contents Generally.** All applications shall be submitted on a form supplied by the Development Services staff with the required information and exhibits as stated on the application form. Incomplete applications shall not be accepted.
- (b) **Application Timing.**
 - (1) Development Services staff shall establish submittal deadlines for all applications decided by the Director of Development Services and by the Commission. Such submittal schedule will be posted on the City website.
 - (2) An application must be considered officially complete in accordance with Section 10.03.023(c), *Determination of Completeness*, of this Subdivision Ordinance prior to being processed for review and consideration.
- (c) **Fees Required.** Every application shall be accompanied by the prescribed fees set forth in the City's Fee Schedule, as approved by City Council and as may be amended from time to time. Fees are not refundable and are not a guarantee of approval. Review of the application will not begin until the appropriate fees have been processed by the City.

Sec. 10.03.023.....APPLICATION SUBMITTAL PROCESS.

- (a) **Initiation by Owner.** An application required under this Subdivision Ordinance may be initiated only by the owner of the land subject to the application, or by the owner's duly authorized representative. If the applicant is a representative of the property owner, the application shall include a written and notarized statement from the property owner, such as a duly executed Power of Attorney, authorizing the representative to file the application on the owner's behalf.
- (b) **Applicability.** The procedures within this Chapter shall apply to all applications that are required by the City and submitted in accordance with this Subdivision Ordinance.
- (c) **Official Filing Date.** The 30-day time period established by State law and by this Subdivision Ordinance

shall begin on the “Official Filing Date.” The Official Filing Date is further defined as the date on which the plat has met all the requirements of the Subdivision Ordinance following staff or administrative review, fees have been paid, and that plat is scheduled for final approval by the Planning & Zoning Commission by placing the plat on the Commission agenda.

- (d) **Owners Dedication Language.** Refer to the Development Handbook (available online) for the appropriate owner dedication language to include on the plat and all other plat signature block wording and form.

Sec. 10.03.024.....REVISIONS & APPROVAL.

- (a) **Action by Responsible Official.** The responsible official for an application shall initiate internal (i.e., by City departments) review and assessment of the application according to the City’s development review procedures. The responsible official shall also, to the extent possible, work with the applicant by advising on and communicating revisions that may be necessary to bring the application into compliance with City regulations in preparation for consideration by the appropriate decision-maker.
- (b) **Revisions to Exhibits.** The responsible official may enumerate to the applicant such revisions to the plat exhibits as are necessary to bring the exhibit into compliance with the Subdivision Ordinance. Such revisions shall be made by the applicant or his agent in a timely fashion.
- (c) **Decision.** The decision-maker for the application shall approve, approve with conditions, or deny the application within the time period prescribed by this Subdivision Ordinance.
- (d) **Conditions Attached.** The decision-maker may attach such conditions to the approval of an application as are reasonably necessary to ensure compliance with all applicable requirements of this Subdivision Ordinance. These conditions of approval shall be completed prior to the plat being filed for record in Denton or Collin County.
- (e) **Notification of Decision.** The City shall send written notice of a decision on an application within fourteen (14) calendar days following the approval date. This written notice will include any future steps the applicant must take.
- (f) **Notification of City Appeal.** Whenever an appeal is requested from a final decision on an application following a public hearing, or whenever the City is to consider revocation of an application that was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided to the applicant.

Sec. 10.03.025.....AMENDMENTS & EXPIRATION OF CURRENT PROJECTS.

- (a) **Amendments/Revisions to an Approved Application.** Unless another method is expressly provided by this Subdivision Ordinance, any request to amend or revise an approved application shall be considered a new application, which must be considered in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.
- (b) **Expiration.**
 - (1) Unless otherwise expressly provided by this Subdivision Ordinance, an approved application for a plat or civil plans shall automatically expire one (1) year following the approval date of the application (see Section 10.03.041(g), *Expiration of Construction Plans*), and shall become null and void, and all activities under the application thereafter shall be deemed in violation of this Subdivision Ordinance, if:
 - i. The applicant fails to satisfy any condition that was imposed by this Subdivision Ordinance or as part of the approval of the application or that was made under the terms of any

Development Agreement, within the time limits established for satisfaction of such condition or term; or

- ii. The applicant fails to submit a subsequent complete application required by this Subdivision Ordinance within the time so required; or
 - iii. A Development Agreement has not been approved for the development.
- (2) The Director of Engineering may extend the time of expiration for the plat or construction plans by one (1) year if the applicant has requested the extension in writing and listed the cause for the delay. Any further extension of the expiration date shall be considered by the Planning & Zoning Commission and the Commission's decision shall be final.
- (1) If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years following the date the application was approved, except as provided through a vested rights petition.
- (2) An expiration date may differ from the first anniversary of approval upon approval of a different date being determined pursuant to a vested rights petition (Section 10.03.087, *Vested Rights*).
- (c) **Effect of Expiration.** Upon the expiration of an approved application, all previously approved applications for the same land shall also expire on the expiration date if the filing of an application was required to avoid expiration for the previously approved application(s), except as provided in Section 10.03.027, *Expiration*. Thereafter, a new application must be submitted for consideration and approval subject to regulations in effect at the time the new application is filed.

Sec. 10.03.026.....EXPIRATION (Projects Approved Prior to the Establishment of this Subdivision Ordinance).

- (a) **Two-Year Expiration Established.** Notwithstanding any other provision of this Subdivision Ordinance, for any approved application for which no expiration date was in effect on the date this Subdivision Ordinance was duly adopted by City Council, an expiration date of two (2) years following the date of approval of the application shall apply, unless the applicant files a written petition before such date for a vested rights determination pursuant to Section 10.03.087, *Vested Rights*, alleging that progress has been made toward completion of the project for which the application subject to expiration was filed. If a vested rights petition is timely filed and subsequently approved, the City Council shall determine the expiration date of the application in deciding the petition.
- (b) **Five-Year Expiration Established.** Notwithstanding any other provision of this Subdivision Ordinance, once an application has expired as described above, all previously approved applications for the same land also shall expire no later than five (5) years following the date of filing of the first application for the project for which the expired application was filed, unless the applicant files a written petition before such date for a vested rights determination pursuant to Section 10.03.087, *Vested Rights*. If a vested rights petition is timely filed and subsequently approved, the City Council shall determine the expiration date of the previously approved applications in deciding the petition.

Sec. 10.03.027 to 10.03.029.....RESERVED.

ARTICLE 10.03.030SUBDIVISION PROCEDURES

Sec. 10.03.031.....SUBDIVISION PROCEDURES & PLAT TYPES.

(a) Approval Required.

- (1) Unless and until any plat, plan, or replat shall has been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land; and any official of the City shall not issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by the City.
- (2) No building permits will be issued for the construction of any building on any unplatted land within the City and the City's extraterritorial jurisdiction (ETJ). Minor repair permits may be issued for an existing structure. When additions, alterations, or repairs within any twelve (12) month period exceed fifty percent (50%) of the value of an existing building or structure on previously unplatted property, the land upon which such building or structure is located shall be platted in accordance with the provisions of this chapter.

(b) Improvements Required.

- (1) Responsibility for Improvements. All of the improvements required under these regulations, or improvements specified in the *Comprehensive Plan* of the City, or improvements which, in the judgment of the Director of Engineering, are necessary for the adequate provision of streets, utilities, drainage, services, and facilities to the subdivision and to the surrounding areas of the City, shall be constructed at the sole expense of the developer, unless otherwise provided for and approved by City Council. All improvements required by this ordinance shall be constructed and accepted by the Director of Engineering prior to filing the associated plat, unless otherwise specified in a binding contractual Development Agreement approved by City Council. Payment for any and all improvements that are not to be made at the time of the primary construction of the subdivision or development shall be made a part of the signed and executed Development Agreement.
- (2) Plats Prior to Development. Plats may not be used as a mechanism to establish boundaries without the dedication of required infrastructure, such as public utilities easements, right-of-way dedication, and any other requirement of this Subdivision Ordinance. Platting of property is reserved for those properties that are anticipating immediate development, with the exception of Conveyance Plats.

(c) Types of Plats Required.

- (1) Final Plat or a Minor Plat. A Final Plat or Minor Plat must be approved prior to any land division that is subject to these regulations and prior to commencement of any new development or construction project. A Conveyance Plat may be approved for the reasons enumerated in Section 10.03.032(a), *Purpose*, but no vertical construction may occur until an associated Final Plat or Minor Plat is approved.
- (2) Replat. A Replat in accordance with State Law and the provisions of Section 10.03.036, *Replats*, shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property. In the case of minor revisions to recorded plats or lots, a Minor Plat or Amending Plat may also be utilized if allowed by State Law and if in accordance with Section 10.03.035, *Minor Plats*, Section 10.03.036, *Replats*, and 10.03.037, *Amending Plats*, respectively.

- (d) **Exemptions.** The following land divisions are exempt from the requirements of this Subdivision Ordinance that apply to plats:
- (1) Use of existing cemeteries complying with all State and local laws and regulations; and
 - (2) A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a plat meeting the requirements of this Ordinance shall be approved and recorded prior to the issuance of permits.
- (e) **Zoning.** A property within the City's corporate limits that is being proposed for platting or development must be properly zoned by the City prior to submission of an application for approval of any concept plan or plat. In addition, the proposed development layout or subdivision design shown on the proposed concept plan or plat must be in conformance with all standards and requirements prescribed in the City's zoning ordinance and this division.
- (1) Conformance with Existing Zoning. All applications shall be in conformance with the existing zoning on the property, as applicable.
 - (2) Request to Rezone Prior to Platting. If an applicant seeks to change the zoning for the property, the request to rezone the land shall be submitted and approved prior to acceptance of an application for any type of plat for recordation unless as otherwise provided below:
 - i. The applicant may request approval from the Director of Development Services to submit a plat application simultaneously with the zoning change request, in which case the application for the zoning amendment shall be acted upon first.
 - ii. In the event that the requested zoning amendment is denied, the plat application shall also be denied.
 - iii. It is not necessary to rezone the tract prior to the submittal and approval of a Conveyance Plat which is exclusively for the purpose of the sale of land and not as a precursor to development.
 - iv. It is not necessary to zone or rezone the tract prior to the submittal and approval of any plat within the City's ETJ, since the ETJ is not subject to the Zoning Ordinance.
 - (3) Site Plan Approval. Where Site Plan or Concept Plan approval is required by the Zoning Ordinance, a Conveyance Plat or Preliminary Plat shall be submitted prior to or concurrently with the Site Plan or Concept Plan application so the interrelated plans may be reviewed to determine if they will function together. A Final Plat may be submitted concurrently with the Site Plan application or at a later date.
- (f) **Stages of Plat Approval, Staff Review, & Approval.**
- (1) Preliminary and Final Plats. The platting process of land not previously platted typically involves two (2) approval stages: submission and approval of a Preliminary Plat (or Conveyance Plat under certain circumstances) and subsequent submission and approval of an associated Final Plat. However:
 - i. An applicant may proceed with the plat to be recorded without an approved Conveyance Plat or Preliminary Plat if one of the following conditions apply:
 - a. A Minor Plat is sufficient for submittal; or
 - b. A Concept Plan for a multi-family, single-family attached or nonresidential development is submitted and approved in accordance with the Zoning Ordinance.
 - c. The lot in question is less than two acres in size and will be developed in one phase.
 - ii. An applicant may submit construction plans and a Final Plat (or Minor Plat) simultaneously in lieu of a Preliminary Plat if a Development Agreement and appropriate surety (see Section 10.03.044, *Development Agreements*) are submitted along with the application.
 - (2) Staff Review. Unless otherwise specified under the regulations for a specific type of plat:
 - i. The Director of Development Services shall be the responsible official for processing a plat,

and shall be responsible for the initial review of a plat for conformance with this Subdivision Ordinance and any other applicable ordinances of the City.

- ii. The Director of Development Services shall direct other City staff to review all applications for conformance with this Subdivision Ordinance and with other applicable City regulations and supply to the applicant a list of revisions necessary for compliance with the Subdivision Ordinance, if warranted.
- (3) Approval. Authority for the approval of plats is granted by the State to either the Planning & Zoning Commission or the Director of Development Services. See individual plat descriptions, below, for the appropriate approval authority.
- (4) Signatures Required on Filed Plats. When any plat is prepared for filing with Denton or Collin County, each copy to be certified by the County must be signed by the Chairman of the Planning & Zoning Commission and a City Official of Celina, defined as being one of the following: the Mayor, the City Manager, or an Assistant City Manager. Both signatures shall be attested by the City Secretary.
- (5) Director of Engineering Signature Required. When any plat is prepared for filing with Denton or Collin County, and the installation of public improvements is required prior to the recordation of the plat, the Director of Engineering shall also endorse the plat after all conditions of approval of the plat have been satisfied and all public improvements completed to the City's specifications. There shall be written evidence that the required public improvements have been installed in a manner satisfactory to the City as shown by a certificate signed by the Director of Engineering stating that the necessary dedication of public lands and installation of public improvements has been accomplished.

Sec. 10.03.032.....CONVEYANCE PLATS.

- (a) **Purpose.** There are several purposes of a Conveyance Plat:
 - (1) To subdivide land and to provide for recordation of same, for the purpose of conveying (i.e., selling) the property without developing it in the near future. A Conveyance Plat may be used to convey the property or interests therein; however, a Conveyance Plat does not constitute approval for any type of development on the property. A Conveyance Plat is an interim step in the subdivision and development of land.
 - (2) To establish a general layout of lots as a preliminary step to Final Platting. In this case, the Conveyance Plat shall establish and show necessary fire lanes and other easements when a portion of the Conveyance Plat tract is being Final Platted. For example, a Conveyance Plat lays out the tract into multiple lots and only one of those lots will be Final Platted. However, no vertical construction may occur on any portion of a Conveyance Plat that has not subsequently been Final Platted. This function of a Conveyance Plat eliminates the necessity of filing legal Separate Instruments with Denton or Collin County for off-site improvements necessary for the development of the lot being Final Platted (see Diagram 10.03.112, *Median and Cross Access*).
 - (3) To record the remainder of a tract that is larger than five (5) acres, and that is created by the Final Platting of a portion of the property, provided that the remainder is not intended for immediate development.
 - (4) To record the subdivision of property into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all required public improvements exist to the City's current standards prior to approval and minimum frontage requirements are met. All public rights-of-way, fire lanes, and access easements must be dedicated and all abutting streets and utilities must be installed and accepted by the City. Installation of on-site improvements may be deferred if development of other tracts is not affected.
- (b) **Review and Consideration.**

- (1) Unless otherwise specified within this section for specific requirements for a Conveyance Plat, a Conveyance Plat shall be processed and approved using the same timing and procedures, including recordation, as specified for a Final Plat. Procedures to appeal a decision on a Conveyance Plat shall also be processed and considered the same as a Final Plat.
 - (2) Specific requirements for the plat exhibit may be found on the City of Celina Development Services webpage under *Plat Checklists*.
 - (3) A Conveyance Plat shall be accompanied by a Concept Plan (see Section 10.03.047) regardless if the development of the tract is to be postponed in order to ensure that accepted development practices will be applied to the parcel in the future and the Conveyance Plat will not create an undevelopable tract of land.
- (c) **Subsequent Filing of a Final Plat.** No Final Plat processed and approved in association with a Conveyance Plat shall be filed without the concurrent or prior filing of the associated approved Conveyance Plat for the remainder of the subject property.
- (d) **Conveyance Plat Limitations.**
- (1) No building or development permit shall be issued nor permanent utility service provided for land that has only received approval as a Conveyance Plat; a Final Plat must be filed for building and development permits and for utility service.
 - (2) A Conveyance Plat may be superseded by a revised Conveyance Plat or a Final Plat in total or in part through compliance with the procedures and requirements of this Ordinance.
- (e) **Standards for Approval.**
- (1) Access. All lots created by a Conveyance Plat shall have access to an improved public street that meets the City's minimum design and paving standards. All lots created by a Conveyance Plat shall provide points of access as required by the Zoning Ordinance and/or by this Ordinance.
 - (2) Reservation of Rights-of-Way. Conveyance plats must provide for the reservation of future rights-of-way of planned roadways, as shown on the Master Thoroughfare Plan. Right-of-way reservation acknowledges the future obligation to dedicate right-of-way for public thoroughfares and streets specified on the City's Thoroughfare Plan or approved Concept Plan. Reservation of right-of-way does not grant any right or interest in the property to the City, State, or other government entity. The final alignment of such roadways may be adjusted upon Final Platting in order to meet the standards of the *Engineering Design Standards*.
 - (3) Dedication of Rights-of-Way. Dedication of right-of-way shall be required where a Conveyance Plat is used to record the remainder of a tract created by the Final Platting of a portion of the property. The required right-of-way dedication shall be limited to that which is necessary to provide access to the property proposed for the Final Plat approval and to complete turn lanes, intersections, and transitions in road pavement width resulting from development of the property proposed for the Final Plat approval and what is considered to be roughly proportional to the impact of the development (see Section 10.03.088, *Rough Proportionality*, for more information). The Director of Engineering or Fire Marshal may require a temporary paved turn-around if a street is stubbed pending future construction.
- (f) **Approval of Conveyance Plats.** The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Conveyance Plats.
- (g) **Effect of Approval.**
- (1) The approval of a Conveyance Plat authorizes the sale of the lot(s) created thereon, but does not authorize any type of development on the property. The applicant and future owner(s) of the property remain obligated to comply with all provisions in this Subdivision Ordinance upon future development of the property including, but not limited to, all requirements for platting, required

public improvements, utility extensions, street improvements or assessments, right-of-way and easement dedications, and all other requirements in this Subdivision Ordinance.

- (2) Neither reservation nor dedication of right-of-way shall relieve the property owner from obligations for street construction or assessments associated with public street improvement programs.
- (3) Easements for access, utilities, and drainage may be recorded on Conveyance Plats.
- (4) No building permit shall be issued nor permanent utility service provided for land which has only received approval as a Conveyance Plat. Notwithstanding the above, the Building Official may authorize temporary building permits, temporary occupancy permits, and temporary utility service prior to Final Plat approval and recordation, if deemed appropriate.

Sec. 10.03.033.....PRELIMINARY PLATS.

- (a) **Purpose.** The purpose of a Preliminary Plat is to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of this Subdivision Ordinance and the Zoning Ordinance regulations for each zoning district. A Preliminary Plat is not recorded in the County. If a development is to be constructed in phases, a Conveyance Plat may be substituted for a Preliminary Plat should the lots be Final Platted separately and off-site easements need to be filed for record.
- (b) **Exceptions.**
 - (1) A Preliminary Plat is not required when a Minor Plat or Amending Plat is adequate.
 - (2) A Preliminary Plat is not required when the proposed development is a single phase and/or less than 300 lots, if the Concept Plan associated with a Development Agreement or Planned Development contains sufficient data as required by the Engineering Department, or at the discretion of the Director of Engineering.
 - (3) A Final Plat in accordance with Section 10.03.034, *Final Plats*, along with construction plans in accordance with Section 10.03.041, *Construction Plans*, may be submitted in lieu of a Preliminary Plat if a Development Agreement and appropriate surety are submitted along with the application.
- (c) **Accompanying Applications.**
 - (1) An application for a Preliminary Plat shall be accompanied by a Preliminary Drainage Plan, a Preliminary Utility Plan, and other plans deemed necessary for thorough review by the Director of Development Services or the Director of Engineering. However, approval of each shall be separate and in accordance with this Section 10.03.033, *Preliminary Plats* and with Section 10.03.041, *Construction Plans*.
 - (2) The applicant shall furnish as part of the Preliminary Plat submittal a current title commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property that is the subject of the Preliminary Plat.
 - (3) Specific requirements for the plat exhibit may be found on the City of Celina Development Services webpage under *Plat Checklists*.
- (d) **Review by Director of Development Services.** The Director of Development Services shall:
 - (1) Initiate review of the plat and materials submitted (including the required Preliminary Drainage Plan and Preliminary Utility Plan).
 - (2) Request written comments from other City departments, such as Engineering, Fire, Parks & Recreation, or other departments, as deemed necessary, which will be submitted to the applicant for compliance and revisions.
 - (3) Provide and make available the plat exhibit and reports to the Commission for review.
 - (4) Upon determination that the application is ready to be acted upon, schedule the Preliminary Plat

for consideration on the agenda of the next available meeting of the Planning & Zoning Commission.

- (e) **Action by Planning & Zoning Commission.** The Commission shall:
- (1) Review the Preliminary Plat application, the findings and recommendation of the Director of Development Services, and any other information available. From all such information, the Commission shall determine whether the Preliminary Plat conforms to the regulations of this Subdivision Ordinance.
 - (2) Act within thirty (30) calendar days following the official filing date of the Preliminary Plat application. If no decision is rendered by the Commission within the thirty (30) day period, the Preliminary Plat, as submitted, shall be considered to be approved.
 - (3) Take one of the following actions:
 - i. Approve the Preliminary Plat;
 - ii. Approve the Preliminary Plat with conditions, which shall mean that the Preliminary Plat shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Deny the Preliminary Plat.
- (f) **Standards for Approval.** The following criteria shall be used by the Commission to determine whether the application for a Preliminary Plat shall be approved, approved with conditions, or denied:
- (1) The Preliminary Plat is consistent with all zoning requirements for the property, including any applicable Planned Development zoning standards, and with any approved Development Agreement, if applicable;
 - (2) The proposed provision and configuration of public improvements including, but not limited to, roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, easements and rights-of-way are adequate to serve the development, meet applicable standards of this Subdivision Ordinance, and conform to the City's adopted master plans for those facilities;
 - (3) The Preliminary Plat is in accordance with the City's interlocal agreement with Denton or Collin County if the proposed development is located in whole or in part in the ETJ of the City;
 - (4) The Preliminary Plat has been duly reviewed and accepted as meeting the requirements of the Subdivision Ordinance by City staff;
 - (5) The Preliminary Plat conforms to design requirements and construction standards as set forth in the *Engineering Design Standards*;
 - (6) The Preliminary Plat is consistent with the *Comprehensive Plan*, except where application of the Plan may conflict with State law (e.g., land use in the ETJ); and
 - (7) The proposed development represented on the Preliminary Plat does not endanger public health, safety or welfare.
- (g) **Approval of Preliminary Plats.** The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Preliminary Plats.
- (h) **Effect of Approval.** The approval of a Preliminary Plat shall allow the applicant to proceed with the next step in the development and platting process by submitting a Final Plat and Construction Plans, and later submit an application for a Building Permit. Approval of the Preliminary Plat shall be deemed general approval of the subdivision's layout only, and shall not constitute approval or acceptance of construction plans or the associated Final Plat.
- (i) **Appeal of the Decision on a Preliminary Plat Application.**
- (1) Initiation of an Appeal. The applicant may appeal the decision of the Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision. A letter stating the reasons for the appeal, citing the specific applicable section(s) of the Subdivision Ordinance, shall be submitted by the applicant to the Director of Development Services.

- (2) Council Decision. Once the formal appeal is made, staff will schedule the hearing to be heard by the City Council at the first scheduled public meeting that meets the published deadline of the City Secretary. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.

(j) **Expiration.**

- (1) Two-Year Validity. The approval of a Preliminary Plat shall remain in effect for a period of two (2) years following the date of approval, during which period the applicant shall submit and receive approval for construction plans and a Final Plat for a portion or all of the land area shown on the Preliminary Plat. If construction plans and a Final Plat application have not been approved within the two (2)-year period, the Preliminary Plat shall automatically expire.
- (2) Phased Developments. A Final Plat and construction plans must be approved within two (2) years of the approval of the Preliminary Plat. When a project is phased, the Preliminary Plat may be extended for a period of one (1) year, during which time a subsequent Final Plat and construction plans must be approved. Preliminary Plats may be extended automatically for a period of one (1) so long as substantial activity on the property continues.
- (3) Relationship to Construction Plans. A Preliminary Plat shall remain valid for the period of time in which approved construction plans are valid.
- (4) Action on Final Plat. Should a Final Plat application be submitted within the two (2)-year period, but not be acted upon by the Commission within the two (2)-year period, the Preliminary Plat shall expire unless an extension is granted as provided below in Section 10.03.033(k), *Extension*, and in Section 10.03.026, *Amendments and Expiration of Current Projects*.
- (5) Void If Not Extended. If the Preliminary Plat is not extended as provided above, it shall expire and shall become null and void after a period of two (2) years of the date of approval.

- (k) **Extension.** A Preliminary Plat may be extended for a period not to exceed one (1) year beyond the Preliminary Plat's expiration date. A request for extension shall be submitted to the Development Services Department in writing within sixty (60) calendar days following the expiration of the Preliminary Plat, and shall include reasons why the Preliminary Plat should be extended.

- (1) Decision by the Director of Development Services.
 - i. The Director of Development Services will review the extension request and shall approve it, approve it with conditions, or deny the extension request within thirty (30) calendar days following the official filing date of the request.
 - ii. Should the Director of Development Services fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.
- (2) Considerations. In considering an extension, the Director of Development Services shall consider whether the following conditions exist:
 - i. A Final Plat has been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
 - ii. Construction plans have been submitted and/or approved for any portion of the property shown on the Preliminary Plat;
 - iii. Construction is occurring on the subject property;
 - iv. The Preliminary Plat complies with new ordinances that impact the health, safety and general welfare of the community; and/or
 - v. If there is a need for a park, school or other public facility or improvement on the property.
- (3) Additional Conditions.
 - i. In granting an extension, the decision-maker may impose such conditions as are needed to ensure that the land will be developed in a timely fashion and that the public interest is served. Any extension may be predicated upon compliance with new development

- regulations and/or the applicant waiving any vested rights.
- ii. All applicable City taxes shall be considered current prior to the consideration of any extension of the Preliminary Plat expiration date. Time extensions will not be considered for any property on which taxes are delinquent. Proof of payment shall be entered into the file.
- (4) Appeal of Denial for Extension.
- i. *Appeal of the Director's Decision.* The denial of an extension by the Director of Development Services may be appealed to the Commission. A written request for such appeal shall be received by Development Services Department within fourteen (14) calendar days following the denial. The Commission shall hear and consider such an appeal at the first scheduled public meeting that meets the published deadlines of the Development Services Department.
 - ii. *Appeal of the Commission's Decision.* The denial of an extension by the Commission may be appealed to the City Council. A written request for such appeal shall be received by the Director of Development Services within fourteen (14) calendar days following the denial. Once the formal appeal is made, staff will schedule the hearing to be heard by the City Council at the first scheduled public meeting that meets the published deadline of the City Secretary. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.
- (I) **Amendments to Preliminary Plat Following Approval.**
- (1) Minor Amendments. Minor amendments to the design of the subdivision subject to an approved Preliminary Plat may be incorporated in an application for approval of the associated Final Plat without the necessity of submitting a new application for reconsideration of a Preliminary Plat. Minor amendments include, but are not limited to, minor adjustments in street or alley alignments, street lengths and paving details, and minor adjustments to lot lines that do not result in creation of additional lots or any non-conforming lots (that do not comply with Zoning standards), provided that such amendments are consistent with the intent of the previously approved application.
 - (2) Major Amendments. All other proposed changes to the design of the subdivision subject to an approved Preliminary Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat (including new fees, new reviews, new official filing date, etc.) before approval of construction plans and/or a Final Plat.
 - (3) Determination. The Director of Development Services shall make a determination of whether proposed amendments are deemed to be minor or major, thereby requiring new submittal of a Preliminary Plat.

Sec. 10.03.034.....FINAL PLATS.

- (a) **Purpose.** The purpose of a Final Plat is to ensure that the proposed subdivision and development of the land is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded. The Director of Engineering may allow the grading and flatwork on the subject property following the approval of a Final Plat by the Planning & Zoning Commission.
- (b) **Exceptions.** A Final Plat is not required when a Minor Plat is sufficient (refer to Section 10.03.035, *Minor Plats*).
- (c) **Ownership.**
 - (1) The applicant shall furnish to the City a current title document issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in

Texas, or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Final Plat.

- (2) The Final Plat application shall be signed by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Final Plat. Such consent shall be subject to review and approval by the City Attorney, and the applicant shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.
- (d) **Complete Applications for Final Plats in the Extraterritorial Jurisdiction (ETJ).** Where the land to be platted lies within the ETJ of the City, pursuant to the existing or amended interlocal agreement with Denton or Collin County under State law, a complete application shall be submitted to the City.
- (e) **Accompanying Applications.** An application for a Final Plat may be accompanied by construction plans if also accompanied by a Development Agreement and appropriate surety in accordance with Section 10.03.044, *Development Agreements*. However, approval of each shall be separate and in accordance with this section for Final Plats and with Section 10.03.041, *Construction Plans*.
- (f) **Prior Approved Conveyance Plat or Preliminary Plat.** The Final Plat and all accompanying data shall conform to the associated Conveyance Plat or Preliminary Plat as approved by the Commission, or as the initial plats may have been amended subsequently incorporating all conditions imposed or required by the Commission.
- (g) **Review by Director of Development Services.** The Director of Development Services shall:
 - (1) Initiate review of the plat and materials submitted.
 - (2) Determine that the Final Plat substantially conforms to the associated Conveyance Plat or Preliminary Plat.
 - (3) Determine that the Final Plat conforms to the Zoning Ordinance and other applicable regulations.
 - (4) Request written comments from other City departments, such as Engineering, Fire, and Parks & Recreation, as deemed necessary.
 - (5) Make available plats and reports to the Commission for review.
 - (6) Upon determination that the application is ready to be acted upon, schedule the Final Plat for consideration on the agenda of the next available meeting of the Commission.
 - (7) A Final Plat may not be used to nullify any of the conditions, covenants and restrictions (CCRs) of any governing association, such as a HOA.
- (h) **Action by Planning & Zoning Commission.** The Commission shall:
 - (1) Review the Final Plat application, the findings and recommendation of the Director of Development Services, and any other information provided. From this information, the Commission shall determine whether the Final Plat conforms to the regulations of this Subdivision Ordinance.
 - (2) Act within thirty (30) calendar days following the official acceptance date of Final Plat. If no decision is rendered by the Commission within the thirty (30) day period, the Final Plat, as submitted, shall be deemed to be approved.
 - (3) Take one of the following actions:
 - i. Approve the Final Plat;
 - ii. Approve the Final Plat with conditions, which shall mean that the Final Plat shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Deny the Final Plat.
- (i) **Standards for Approval.** The following criteria shall be used by the Commission to determine whether the application for a Final Plat shall be approved, approved with conditions, or denied:

(1) Prior Approved Conveyance or Preliminary Plat.

- i. The Final Plat conforms to the associated, approved Conveyance Plat or Preliminary Plat except for minor amendments that are authorized under Section 107.04.03(k), *Amendments to Preliminary Plats Following Approval*, and that may be approved without the necessity of revising the approved associated plat;
- ii. All conditions imposed at the time of approval of the Conveyance Plat or Preliminary Plat, as applicable, have been satisfied;
- iii. The construction plans conform to the requirements of Section 10.03.041, *Construction Plans*, and have been approved by the Director of Engineering;
- iv. Where public improvements have been installed, the improvements conform to the approved construction plans and have been approved for acceptance by the Director of Engineering;
- v. Where the Director of Engineering has authorized public improvements to be deferred, a Development Agreement has been executed and submitted by the property owner in conformity with Section 10.03.044, *Development Agreements*;
- vi. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance;
- vii. The Final Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Denton or Collin County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the County;
- viii. The plat conforms to design requirements and construction standards as set forth in the *Engineering Design Standards*; and
- ix. The plat includes all information in the Development Services' subdivision application checklists.

(2) Final Plat Approval with No Prior Approved Conveyance Plat or Preliminary Plat. A Final Plat may be approved without prior approval of a Conveyance Plat or a Preliminary Plat when the following conditions are met:

- i. The construction plans conform to the requirements of Section 10.03.041, *Construction Plans*, and have been approved by the Director of Engineering;
- ii. A Development Agreement or surety for installation of public improvements has been prepared and executed by the property owner in conformance with Section 10.03.044, *Development Agreements*;
- iii. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance;
- iv. The Final Plat meets all applicable County standards to be applied under an interlocal agreement between the City and Denton or Collin County under State law, where the proposed development is located in whole or in part in the ETJ of the City and in the applicable County; and
- v. The Final Plat conforms to the Development Services application checklist.

(j) **Approval of Final Plats.** The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Final Plats. Upon approval, a certificate stating that the Final Plat has been reviewed and approved by the Planning & Zoning Commission shall be provided to the applicant, as required by State law.

(k) **Procedures for Recordation of Final Plat Documents upon Approval.** The applicant shall supply to Development Services Department the required number of signed and executed copies of the Final Plat documents (whether Mylar or paper originals, as required by both the City and Denton or Collin County) that will be needed to file the Plat, upon approval, with Denton or Collin County. No copies of the exhibits will be accepted.

- (1) General.
 - i. *Signatures.* After approval of the Final Plat, the Director of Development Services shall procure the appropriate City signatures on the Final Plat.
 - ii. *County Requirements.* It is the responsibility of the applicant to comply with the platting requirements of Denton or Collin County.
 - iii. *Recording Upon Acceptance of Public Improvements.* The Final Plat shall be recorded after:
 - a. The Final Plat is approved by the City;
 - b. All required public improvements have been completed and accepted by the City (or a Development Agreement has been executed and appropriate surety provided in accordance with Section 10.03.044, *Development Agreements*;
 - c. All Denton or Collin County filing requirements are met.
- (2) Submittal of Final Plat Documents for Filing When Improvements Installed. When all required public improvements have been installed prior to recording of the Final Plat, the applicant shall meet all requirements in accordance with Section 10.03.045, *Inspection, Maintenance and Acceptance of Public Improvements*.
- (3) Submittal of Final Plat Documents for Filing When Improvements Have Not Been Installed. When some of or all required public improvements are not yet completed in connection with an approved Final Plat, the applicant shall submit the Final Plat documents for filing as approved by the Commission, revised to reflect any conditions imposed by the Commission as part of approval.
- (4) Update of Proof of Ownership. If there has been any change in ownership since the time of the Proof of Ownership provided under Section 10.03.044(c), *Ownership*, the applicant shall submit a new consent agreement executed by each owner consenting to the platting of the property and the dedications and covenants contained in the plat. The title commitment or title opinion letter and consent agreement shall be subject to review and approval by the City Attorney, and the applicant shall reimburse the City for all related legal costs for review. This reimbursement shall be paid in full prior to filing of the Final Plat.
- (l) **Effect of Approval.** The approval and filing of a Final Plat:
 - (1) Supersedes any prior approved Conveyance Plat or Preliminary Plat for the lots final platted.
 - (2) Authorizes the applicant to install any improvements in public rights-of-way in conformance with approved construction plans and under a Development Agreement (refer to Section 10.03.044, *Development Agreements*), if applicable.
 - (3) Authorizes the applicant to seek Construction Release (refer to Section 10.03.041(i), *Construction Release*) and/or issuance of a Building Permit for vertical construction.
- (m) **Appeal of Decision of Final Plat Application.** Appeal of a decision on a Final Plat application shall be brought to the City Council. Council's decision shall be final.
- (n) **Revisions Following Recording/Recordation.** Revisions may only be processed and approved as a Replat or Amending Plat, as applicable.

Sec. 10.03.035.....MINOR PLATS.

- (a) **Purpose.** The purpose of a Minor Plat is to simplify divisions of land under certain circumstances as outlined in State law.
- (b) **Applicability.** An application for approval of a Minor Plat may be filed only in accordance with State law, when all of the following circumstances apply:
 - (1) The proposed division results in four (4) or fewer lots;
 - (2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of this Subdivision Ordinance;

and

- (3) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

- (c) **Application Requirements.** The requirements for the submittal of a Minor Plat shall be the same as the requirements for a Final Plat, as outlined in Section 10.03.034, *Final Plats*.
- (d) **Review by Director of Development Services.** The Director of Development Services shall:
- (1) Initiate review of the plat and materials submitted.
 - (2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.
- (e) **Action by Director of Development Services.** The Director of Development Services shall:
- (1) Determine whether the Minor Plat meets the regulations of this Subdivision Ordinance.
 - (2) Act within thirty (30) calendar days following the official filing date of a completed application for a Minor Plat. If no decision is rendered by the Director of Development Services, or if the Director has not deferred the application to the Planning & Zoning Commission for decision, within the thirty (30) day period, the Minor Plat, as submitted, shall be deemed to be approved.
 - (3) The Director of Development Services is authorized to make one of the following actions:
 - i. Approve the Minor Plat;
 - ii. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Defer the Minor Plat to the Commission for consideration prior to expiration of the required 30-day approval period.
- (f) **Standards for Approval.** The following criteria shall be used by the Director of Development Services to determine whether the application for a Minor Plat shall be approved, approved with conditions, or denied:
- (1) The Minor Plat is consistent with all zoning requirements for the property (if applicable), any approved Development Agreement (if applicable), and all other requirements of this Subdivision Ordinance that apply to the plat;
 - (2) All lots to be created by the plat already are adequately served by an improved public street access and by all required City utilities and services and by alleys, if applicable;
 - (3) The ownership, maintenance and allowed uses of all designated easements have been stated on the Minor Plat; and
 - (4) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- (g) **Approval of Minor Plats.** The Director of Development Services is authorized to approve, approve with conditions, or disapprove Minor Plats. However, the Director of Development Services may defer the decision of any Minor Plat for any reason to the Planning & Zoning Commission. Upon approval, a certificate stating that the Minor Plat has been reviewed and approved by the either the Director of Development Services or the Planning & Zoning Commission shall be provided to the applicant, as required by State law.
- (h) **Procedures for Recordation Following Approval.** The procedures for recordation of a Minor Plat shall be the same as the procedures for recordation of a Final Plat, as outlined in Section 10.03.034(j), *Procedures for Recordation of Final Plat Documents upon Approval*.
- (i) **Appeal of Decision on Minor Plat Application.**
- (1) Commission Decision. If the Director of Development Services defers the Minor Plat application to the Planning & Zoning Commission, the Commission shall consider the application at a regular

meeting no later than thirty (30) calendar days after the date on which the Director of Development Services deferred the application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:

- i. Approve the Minor Plat;
 - ii. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Deny the Minor Plat.
- (2) **Appeal.** The decision of the Commission may be appealed to the City Council in accordance with the procedures for an appeal on a Final Plat decision. Once the formal appeal is made, staff will schedule the hearing to be heard by the City Council at the first scheduled public meeting that meets the published deadline of the City Secretary. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.
- (j) **Revisions Following Approval.** Revisions submitted by the applicant following initial approval may only be processed and approved as a Replat or Amending Plat, as applicable.

Sec. 10.03.036.....REPLATS.

- (a) **Applicability and Terminology.**
 - (1) The procedures outlined in this section and in subsequent Sections 10.03.037, *Residential Replats*, and 10.03.038, *Amending Plats*, shall apply only if a property owner seeks to change any portion of a plat that has been filed for record with Denton or Collin County.
 - (2) The term “Replat” includes changes to a recorded Final Plat, whether the change is effected by replatting without vacation or replatting by vacating the recorded plat (Section 10.03.039, *Plat Vacation*) and approving a new application.
- (b) **City Action Required.** Unless otherwise specified, any change to a recorded plat shall be subject to approval by the Planning & Zoning Commission.
- (c) **Construction Management.** If the subdivision, as replatted, requires construction of additional public improvements, the provisions of the Development Agreement between the City and the developer shall apply (see Section 10.03.044, *Development Agreements*). If the subdivision as replatted does not require any appreciable alteration or improvement of utility installations, streets, alleys, building setback lines, etc., then no additional construction plans shall be required.
- (d) **Application and Approval Procedures.** Unless otherwise specified, application and all related procedures and approvals, including recordation, for a Replat shall be the same as specified for a Final Plat.
- (e) **Partial Replat Application.** If a Replat is submitted for only a portion of a previously platted subdivision, the Replat must reference the previous subdivision name and recording information, and must state on the Replat the specific lots that are being changed along with a detailed “Purpose for Replat” statement.
- (f) **Replats Requiring a Variance or Exception.** Replats requiring a Variance or Exception must be considered as a public hearing item. In these cases, notification in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing is required. In addition, written notices of the proposed residential replat requiring a Variance or Exception shall be mailed to all property owners located within 200 feet of the subject property a minimum of fifteen (15) days prior to the public hearing. Notice of the public hearing shall also be posted with the agenda at the City Hall and on the City’s website within the prescribed time limits, as required by State law.
- (g) **Special Requirements for Residential Replats.** State law offers an option for notification for residential replats. Cities may opt to notify residents in one of the following manners:

- (1) Written notices of the proposed residential replat shall be mailed to all property owners located within 200 feet of the subject property a minimum of fifteen (15) days prior to the public hearing. In addition, a notice shall be published in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing; OR
 - (2) As a courtesy to the neighboring property owners, written notices of the approved residential replat shall be mailed to all property owners located within 200 feet of the subject property a minimum of fifteen (15) days following the decision by the Planning & Zoning Commission. In this case, no public hearing is required and the plat may be considered on the Consent Agenda.
- (h) **Special Requirements for Non-Residential Replats.** Non-residential replats do not require noticing by newspaper or to adjacent property owners. However, a public hearing shall be held on any non-residential replat that requires a Variance or Exception.
- (i) **Approval of Replats.** The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Replats. Upon approval, a certificate stating that the Replat has been reviewed and approved by the Planning & Zoning Commission shall be provided to the applicant, as required by State law.
- (j) **Effect of Approval.** Upon approval and recording of the Replat, it is controlling over the previously recorded plat for the portion replatted.

Sec. 10.03.037.....AMENDING PLATS.

- (a) **Purpose.** The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a recorded plat consistent within the provisions of State law.
- (b) **Applicability.** The procedures for an Amending Plat shall apply only if the sole purpose of the Amending Plat is to achieve one or more of the following:
- (1) To correct an error in a course or distance shown on the preceding plat;
 - (2) To add a course or distance that was omitted on the preceding plat;
 - (3) To correct an error in a real property description shown on the preceding plat;
 - (4) To indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (5) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (6) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) To correct an error in courses and distances of lot lines between two (2) adjacent lots if:
 - i. Both lot owners join in the application for amending the plat;
 - ii. Neither lot is abolished;
 - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iv. The amendment does not have a material adverse effect on the property rights of any of the owners in the plat;
 - (8) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (9) To relocate one (1) or more lot lines between one (1) or more adjacent lots if:
 - i. The owners of all those lots join in the application for amending the plat;
 - ii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iii. The amendment does not increase the number of lots;
 - (10) To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or

a part of the subdivision covered by the preceding plat if:

- i. The changes do not affect applicable zoning and other regulations of the municipality;
 - ii. The changes do not attempt to amend or remove any covenants or restrictions; and
 - iii. The area covered by the changes is located in an area that the Commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or
- (11) To replat one (1) or more lots fronting on an existing street if:
- i. The owners of all those lots join in the application for amending the plat;
 - ii. The amendment does not attempt to remove recorded covenants or restrictions;
 - iii. The amendment does not increase the number of lots; and
 - iv. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (c) **Certificates of Correction.** Certificates of Correction are prohibited.
- (d) **Notice.** In accordance with State law, the approval and issuance of an Amending Plat shall not require notice, hearing or approval of adjacent lot owners.
- (e) **Review by Director of Development Services.** The Director of Development Services shall:
- (1) Initiate review of the plat and materials submitted.
 - (2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.
- (f) **Action by Director of Development Services.** The Director of Development Services shall:
- (1) Determine whether the Amending Plat meets the regulations of this Subdivision Ordinance.
 - (2)
 - (3) The Director of Development Services is authorized to take one of the following actions:
 - i. Approve the Amending Plat;
 - ii. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Defer the Amending Plat to the Commission for consideration prior to expiration of the required 30-day approval period.
- (g) **Approval of Amending Plats.** The Director of Development Services is authorized to approve, approve with conditions, or disapprove Amending Plats. However, the Director of Development Services may defer the decision of any Amending Plat for any reason to the Planning & Zoning Commission.
- (h) **Procedures for Recordation Following Approval.** The procedures for recordation of an Amending Plat shall be the same as the procedures for recordation of a Final Plat.
- (i) **Effect of Approval.** Upon approval, an Amending Plat shall be recorded and is controlling over the previously recorded plat without vacation of that plat. Upon approval, a certificate stating that the Amending Plat has been reviewed and approved by either the Director of Development Services or the Planning & Zoning Commission shall be provided to the applicant, as required by State law.
- (j) **Appeal of Decision on Amending Plat Application.**
- (1) Commission Decision. If the Director of Development Services defers the Amending Plat application to the Planning & Zoning Commission, the Commission shall consider the application at a regular meeting no later than thirty (30) calendar days after the date on which the Director of Development Services deferred the application to the Commission. The Commission shall, upon simple majority vote, take one of the following actions:
 - i. Approve the Amending Plat;

- ii. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Deny the Amending Plat.
- (2) Appeal. The decision of the Commission may be appealed to the City Council in accordance with the procedures for an appeal on a Final Plat decision. The City Council decision is final.

Sec. 10.03.038PLAT VACATION.

- (a) **Purpose.** The purpose of a Plat Vacation is to provide an expeditious means of nullifying a recorded plat in its entirety, consistent with provisions of State law.
- (b) **Initiation of a Plat Vacation.**
 - (1) By Property Owner. The property owner of the tract covered by a plat may submit an application to vacate the plat at any time before any lot in the plat is sold.
 - (2) By All Lot Owners. If lots in the plat have been sold, an application to vacate the plat must be submitted by all the owners of lots in the plat.
 - (3) City Initiation. If the Planning & Zoning Commission, on its own motion, determines that the plat should be vacated in the interest of and to protect the public's health, safety and welfare; and:
 - i. No lots within the approved plat have been sold within five (5) years following the date that the Final Plat was approved by the City; or
 - ii. The property owner has breached a Development Agreement, and the City does not appropriate funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successor; or
 - iii. The plat has been recorded in Denton or Collin County for more than five (5) years, and the Planning & Zoning Commission determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
- (c) **Notice.** Published notice of the public hearing on the Plat Vacation application shall be given in accordance with State law. The hearing shall be conducted by the Planning & Zoning Commission.
- (d) **Review by Director of Development Services.** The Director of Development Services shall:
 - (1) Initiate review of the Plat Vacation application and materials submitted.
 - (2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.
- (e) **Action by the Planning & Zoning Commission.** The Planning & Zoning Commission shall:
 - (1) Review the Plat Vacation application, the findings and recommendation of the Director of Development Services, and any other information provided. From all such information, the Planning & Zoning Commission shall conduct a public hearing and make a finding as to whether or not the plat should be vacated. The Planning & Zoning Commission decision on a Plat Vacation shall be final.
 - (2) Take one of the following actions:
 - i. Approve the Plat Vacation;
 - ii. Approve the Plat Vacation with conditions, which shall mean that the Plat Vacation shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Deny the Plat Vacation.
- (f) **Approval of Plat Vacations.** The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Plat Vacations. Upon approval, a certificate stating that the plat vacation has been reviewed and approved by the Planning & Zoning Commission shall be provided to the applicant, as required by State law.

- (g) **Procedures for Recordation Following Approval.** If the Planning & Zoning Commission adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the Denton or Collin County Clerk's Office. If the Planning & Zoning Commission adopts a resolution vacating a plat in part, it shall cause a revised Final Plat to be recorded along with the resolution which shows that portion of the original plat that has been vacated and that portion that has not been vacated.
- (h) **Effect of Approval.**
 - (1) On the execution and recording of the vacating instrument, the previously filed plat shall have no effect. Regardless of the Planning & Zoning Commission's action on the petition, the property owner(s) or developer will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the Planning & Zoning Commission.
 - (2) The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
 - (3) The Planning & Zoning Commission, at its discretion, shall have the right to retain all or specific portions of road rights-of-way or easements shown on the plat being considered for vacation. However, the Planning & Zoning Commission shall consider plat vacation upon satisfactory conveyance of easements and/or rights-of-way in a separate legal document using forms provided by the City Attorney's office.
 - (4) Once a plat is duly vacated, according to the regulations above, the property lines of the adjacent properties shall extend to the centerline of the plat, unless specific arrangements between or among the adjacent property owners has been agreed upon.

Sec. 10.03.039RIGHT-OF-WAY VACATION.

- (a) **Purpose.** From time to time, as the City's vehicular circulation needs and traffic patterns change, rights-of-way previously dedicated to, or acquired by, the City for public travel may no longer be necessary. Therefore, in accordance with the Texas Transportation Code § 311.007, the City may choose to vacate, abandon, or close a street or alley on its own accord or upon receipt of a petition of property owners adjacent to, abutting or directly served by the right-of-way sought to be closed and/or abandoned.
- (b) **Notice.** Prior to the vacation of a public street or alley right-of-way, a public hearing shall be held by the City Council. Written notices of the proposed right-of-way vacation shall be mailed to all property owners located within 200 feet of the subject property a minimum of ten (10) days prior to the public hearing. In addition, a notice shall be published in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing.
- (c) **Review by Director of Development Services.** The Director of Development Services shall:
 - (1) Initiate review of the right-of-way vacation application and materials submitted.
 - (2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.
 - (3) The Director shall consider issues of utility placement, traffic access, and the number of property owners in favor or against the request.
- (d) **Retention of Easements.** The applicant for a right-of-way vacation or alley abandonment shall verify with the appropriate entity that the right-of-way to be vacated is free of all public and private utilities including, but not limited to water, sanitary sewer, storm sewer, electricity, gas, and franchise utilities. If public or private utilities are present within the right-of-way, a utility easement of an appropriate size and location, as determined by the Director of Engineering, will be retained. A drainage easement may also be retained, as determined by the Director of Engineering.

- (e) **Action by the City Council.** If the City Council chooses to vacate or abandon a right-of-way, an ordinance shall be adopted and said ordinance shall be filed for record with the county clerk. A metes & bounds description or a visual depiction or exhibit showing the location and limits of the vacated right-of-way shall be attached to the ordinance.
- (f) **Effect of Approval.**
 - (1) The City Council, at its discretion, shall have the right to retain all or specific portions of right-of-way or easements being considered for vacation or abandonment.
 - (2) Once a right-of-way is duly vacated, according to the regulations above, the property lines of the adjacent properties shall extend to the centerline of the right-of-way.
 - (3) Zoning of the adjacent property shall also automatically extend to the centerline of the right-of-way.

ARTICLE 10.03.040CONSTRUCTION PLANS & PROCEDURES

Sec. 10.03.041.....CONSTRUCTION PLANS.

- (a) **Purpose.** This construction plan section which includes design criteria and standards for the City of Celina is intended primarily for use by the developer's engineer. These criteria and standards should enable the engineer to design the required community facilities in a manner acceptable to the City. There may be special circumstances which would call for requirements in excess of those outlined. In most cases, additional requirements will be apparent to the developer's engineer while preparing the plans for the subdivision or during conferences/discussions with the City staff.
- (b) **Submitting Plans.** Plans shall be submitted in accordance with the policies of the Engineering Department. A checklist of necessary items and exhibits to be included in the construction plans is available online on the Development Services webpage. Incomplete plans will not be accepted and such plans shall be returned to the applicant.
- (c) **Responsible Official and Decision.** The Director of Engineering shall be the responsible official for review and approval of construction plans. The Director of Engineering shall also be the initial decision-maker for construction plans. In this capacity, therefore, the Director of Engineering shall approve, approve subject to modifications, or deny the construction plans.
- (d) **Approval Required & Timing of Construction.** Construction plans must be approved in accordance with this section prior to the approval and/or recordation of the Final Plat, unless otherwise stated within the Subdivision Ordinance or a Development Agreement.
- (e) **Criteria for Approval.** The Director of Engineering shall approve construction plans if:
 - (1) Compliance Required. Prior to the Commission's approval of the Final Plat, the subdivider shall comply or provide for compliance with the policies and procedures set forth in these regulations and the *Engineering Design Standards* for construction of street improvements and utilities. No building, sewer, electrical or plumbing permit shall be issued by the City as to any property in the subdivision until:
 - i. The plans are consistent with the approved Preliminary Plat or the proposed Final Plat;
 - ii. The plans conform to the subject property's zoning and planned development standards, if applicable, and to the standards for adequate public facilities, contained in this Subdivision Ordinance, and all other applicable Code of Ordinances.
 - iii. The working drawings, specifications and agreements required herein have been reviewed and approved by the affected City departments and, as required, by the City Attorney.
 - (2) Engineering Design Standards. The *Engineering Design Standards* are hereby adopted by reference and made a part of these regulations, design criteria, and standards which shall be controlling in design, construction and installation of street paving, curbs and gutters, sidewalks, utilities and other public improvements required herein. All references to *Engineering Design Standards* shall mean and include those standards and specifications, together with all exhibits, charts, drawings and diagrams appertaining thereto, which have been approved by the Director of Engineering, adopted by the City Council, and placed on file in the office of the City Secretary and displayed on the Engineering webpage.
 - (3) Conformance to NCTCOG Standards. When the *Engineering Design Standards* lack the specificity required in certain circumstances, the specifications of the latest edition of the Standard Specifications for Public Works Construction, published by the North Central Texas Council of Governments shall apply.
 - (4) Installation and Financing. The subdivider shall arrange with the City and with utility companies franchised to serve the area in which the subdivision is located for the construction costs of

streets and alleys, utility lines and other public improvements. The subdivider shall also arrange for the sequence of work so that underground utilities shall be installed in those portions of streets intended for vehicular traffic before such streets shall be surfaced. If the several improvements required herein have not been installed or constructed prior to submission of the Final Plat, then the Final Plat shall bear a restriction that no lot shall be occupied and that no municipal services shall be extended thereto until the specified utilities and improvements have been constructed as required.

- (f) **Effect.** Approval of construction plans authorizes the applicant to schedule a Pre-Construction Meeting in accordance with Section 10.03.042, *Pre-Construction Meeting*, and apply for Construction Release in accordance with Section 10.03.041(i), *Construction Release*.
- (g) **Expiration.** The approval of construction plans shall remain in effect for a period of one (1) year from the date of approval, or for the duration of construction of the project, provided that progress toward completion of the project continues to be demonstrated, unless the plans are extended in accordance with Section 10.03.041(h), *Extension of Expiration Date*.
- (h) **Extension of Expiration Date.** Construction plans may be extended for a period of six (6) additional months beyond the expiration date. A request must be made in writing to the Director of Engineering for such extension prior to expiration of the plans, and shall include reasons why the plans should be extended.
 - (1) Decision by the Director of Engineering.
 - i. The Director of Engineering will review the extension request, and shall approve, approve with conditions, or deny the extension request within thirty (30) calendar days following the date the request for extension is received.
 - ii. Should the Director of Engineering fail to act on an extension request within thirty (30) calendar days, the extension shall be deemed to be approved.
 - (2) Consideration. The Director of Engineering shall extend construction plans approval for a period of six (6) additional months beyond the plans' expiration date if all of the following conditions are met:
 - i. The Final Plat has been submitted, approved or filed of record for any portion of the property shown on the construction plans;
 - ii. The construction plans comply with new ordinances that impact the health, safety and general welfare of the community;
 - iii. Demonstrable forward progress has been made to proceed with construction or required improvements; and
 - iv. A Development Agreement (Section 10.03.044, *Development Agreements*), if applicable, is still valid and in full effect.
 - (3) Conditions. In granting an extension, the Director of Engineering may impose such conditions as are needed to ensure that the land will be developed in a timely manner and that the public interest is served. Any extension may be predicated upon compliance with new development regulations and/or the applicant waiving any vested rights.
 - (4) Additional Extension. A second, six (6) month extension may be requested using the same process outlined above.
- (i) **Construction Release.** Upon approval of the Preliminary Plat and the construction plans, receipt of all documentation (e.g., insurance information, bonds, etc.), receipt of required fees, and park land dedication, if applicable, and after the Pre-Construction Meeting with City staff, the Director of Engineering may release the plans for construction if all City requirements pertaining to construction have been met. The Construction Release shall remain in effect for a period of one (1) year from the date of issuance, or for the duration of construction of the project, provided that progress toward completion of

the project continues to be demonstrated. Expiration, and possible extension, of the Construction Release shall be the same as for the construction plans.

Sec. 10.03.042.....PRE-CONSTRUCTION MEETING.

- (a) **Purpose.** The purpose of the Pre-Construction Meeting is to discuss administrative, communication, and operating procedures for the project prior to the onset of construction. A list of typical inspection items, procedures and acceptance criteria for items in public right-of-way and easements will also be furnished to the applicant prior to the meeting.
- (b) **Notice.** The applicant shall receive written notice from the Director of Engineering that construction plans have been approved and that the project is eligible for a Pre-Construction Meeting.
- (c) **Required Attendance.** The applicant, along with key construction managers, must attend a Pre-Construction Meeting with the Director of Engineering or his designee and other appropriate City officials following the approval of construction plans, the approval of the Final Plat, and prior to commencement of any construction on the property.
- (d) **Effect.** Following the Pre-Construction Meeting and upon approval of the construction plans and full compliance with all pre-construction requirements, the Director of Engineering shall authorize Construction Release, allowing the applicant to commence with construction of the project. The applicant may also be issued a Building Permit, if appropriate, provided that a Building Permit application has been submitted and approved and all other Building Permit requirements have also been met.
- (e) **Fees Due.** Fees for the Development application and any associated permits are due prior to the Pre-Construction Meeting. These include, but are not limited to, Roadway and Utility Impact Fees and Park Land Dedication Fees-in-lieu of Land.

Sec. 10.03.043.....TIMING OF PUBLIC IMPROVEMENTS.

- (a) **Completion Prior to Final Plat Recordation.** Completion of all required public improvements, in accordance with the approved Final Plat and the approved construction plans, shall occur prior to Final Plat recordation with Denton or Collin County. Final Plat exhibits will not be accepted for filing with the County prior to completion of such improvements except as provided below.
- (b) **Completion after Final Plat Recordation.** The Director of Engineering, upon written request by the applicant, may allow construction of public improvements after Final Plat recordation. Such postponement shall be conditioned on execution of a Development Agreement and provision of security. It shall be at the Director of Engineering's discretion to determine whether postponing construction of public improvements until after Final Plat recordation is appropriate, and therefore, whether financial guarantee is acceptable through a Development Agreement.
- (c) **Deferral of Obligation.** The Director of Engineering may defer the developer's obligation to dedicate rights-of-way or easements for, or to construct, public improvements to serve a new development upon execution of a Development Agreement and upon provision of adequate security.
- (d) **Phased Development.** If the development is being platted and constructed in phases, improvements shall be completed as platted areas are approved and phases are constructed. Also refer to Section 10.03.033(k), *Expiration*, for details regarding phased development and Preliminary Plat validity.
- (e) **Easements for Utility Providers.** The applicant is responsible for contacting all utility providers prior to beginning construction, and for securing all necessary easements for same prior to Final Plat approval and recordation. The applicant's engineer shall provide the Director of Engineering with written certification that all necessary easements are secured for the various utility providers, and such easements shall be

shown on the Final Plat with the recording information for each (if previously platted) or established through the recordation of the Final Plat.

- (f) **Off-Site Easements.** All necessary off-site easements required for installation of required off-site public improvements to serve the development shall be acquired by the applicant prior to the Pre-Construction Meeting, or prior to approval and recordation of the Final Plat, whichever occurs first. Off-site easements shall be conveyed and recorded in Denton or Collin County by filing the off-site easement in a Conveyance Plat prior to filing the Final Plat. At the discretion of the Director of Engineering, a Separate Instrument may be used for the purposes of recording off-site easements. If the property on which the off-site easement is required has been platted prior to the granting of the easement, a replat is required to dedicate the easement.
- (g) **Oversized Facilities.** When the City sees fit to request that the developer upsize any required infrastructure for the use of future development within the City, the difference in cost of the required infrastructure for the development and the cost of upsizing shall be borne by the City. (See Section 10.03.044(b)(2), *Oversizing of Infrastructure*, below).

Sec. 10.03.044.....DEVELOPMENT AGREEMENTS.

- (a) **Purpose.** A subdivider shall be required to enter into a Development Agreement with the City, which shall govern the subdivision if there are pro rata payments or other financial agreements, subject to the TEXAS LOCAL GOVERNMENT CODE, SUBCHAPTER C, *DEVELOPER PARTICIPATION IN CONTRACT FOR PUBLIC IMPROVEMENTS*. City participation in cost, escrow deposits, or other future considerations, will be not issued prior to filing the Development Agreement in the Denton or Collin County records.
- (b) **Applicability.**
 - (1) Improvements Delayed. When any of the required public improvements will be postponed and constructed after Final Plat recordation, the Final Plat shall not be accepted for filing for recordation with Denton or Collin County unless and until the applicant enters into a Development Agreement to ensure the completion of all required public improvements.
 - (2) Oversizing of Infrastructure. The City requires a Development Agreement pertaining to any public improvement for which the developer may request reimbursement from the City for oversize costs as for water and sewer improvements or all other required improvements not necessitated by the project itself. The City Council may authorize the approval of such agreement as meeting the City's future requirements, and the City will not withhold approval as a means of avoiding compensation due under the terms of this code.
- (c) **Authority of the City to Complete Work.** This agreement shall be based upon the requirements of this chapter, and shall provide the City with specific authority to complete the improvements required in the agreement in the event of default by the subdivider, and to recover the full legal costs of such measures. The City may subordinate its Development Agreement to the prime lender if provided for in said agreement.
- (d) **Joint Obligations.** The Development Agreement shall be a legally binding agreement between the City and the subdivider specifying the individual and joint responsibilities of both the City and the subdivider. Unusual circumstances relating to the subdivision shall be considered in the Development Agreement such that the purpose of this chapter is best served for each particular subdivision. The subdivider shall include in such an agreement a hold harmless and indemnity clause agreeing to hold the City harmless against any claim arising out of the subdivision of the property or any actions taken therein.
- (e) **Security for Completion of Improvements.**
 - (1) Type of Security. When any of the required public improvements will be constructed after approval

and recordation of the Final Plat, the applicant shall guarantee proper construction of such postponed improvements, in accordance with the City's design standards and with this Subdivision Ordinance, by a bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City, on the form provided by the City. The performance bond shall be approved as to form by the City Attorney.

(2) Estimated Cost and Security Approval.

- i. Security shall be issued in the amount of 110% of the cost to construct, complete, and maintain all required public improvements to the City's standards as estimated by the applicant's professional engineer, and as approved by the Director of Engineering.
- ii. Security shall be subject to the review and approval of the City Attorney. The applicant shall reimburse the City for all related legal costs for the City's legal review prior to filing the Final Plat.
- iii. Upon the dedication of and acceptance by the City of all required public improvements, the City shall authorize a reduction in the cash security to ten percent (10%) of the original amount if the property owner is not in breach of the Development Agreement. The remaining cash security shall ensure that the owner will warrant that the required public improvements are free from defect for a period of two (2) years following acceptance by the City.

(3) Letter of Credit. In certain circumstances and at the discretion of the Director of Engineering, an applicant may submit a letter of credit in lieu of cash security. In this case, the letter of credit shall:

- i. Be irrevocable.
- ii. Be in a form approved by the City Attorney.
- iii. Be for a term sufficient to cover the completion, maintenance and warranty periods of the improvements covered by the letter of credit, but in no event less than two (2) years.
- iv. As portions of the public improvements are completed in accordance with the *Engineering Design Standards* and the approved engineering plans, the applicant may request that the Director of Engineering reduce the amount of the original letter of credit. If the Director of Engineering is satisfied that such portion of the improvements has been completed in accordance with City standards, the Director of Engineering may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that the Director of Engineering deems appropriate, so that the remaining amount of the letter of credit adequately ensures the completion of the remaining public improvements.

(4) Security for Construction in Extraterritorial Jurisdiction (ETJ). Where all or some portion of the proposed development is located in the City's ETJ, the security shall be in a form and shall contain such terms as are consistent with the City's interlocal agreements with Denton or Collin County under TEXAS LOCAL GOVERNMENT CODE, CHAPTER 242. In cases where the requirements governing the form and terms of the security are defined in such an agreement, they will supersede any conflicting provisions within this Subdivision Ordinance.

(f) **Escrow Policies and Procedures.**

- (1) Request for Escrow. The City may require or the developer may petition the City to defer required improvements in exchange for a deposit of escrow. An example may include a timing issue due to pending street improvements by another agency such as TxDOT. The Director of Engineering may require studies and other information to support the developer's request to escrow.
- (2) Escrow Deposit with the City. When the Director of Engineering requires or agrees to accept escrow deposits, the developer shall deposit in escrow with the City an amount equal to 110% of the total costs including, but not limited to, the design, construction, any required studies performed by a third party, permitting, acceptance and inflation costs related to the improvements. The Director of Engineering shall review and approve the amount, which shall be approved and paid to the City

prior to recordation of the Final Plat.

- (3) City Usage of Escrowed Funds. The City may also use the escrowed funds in participation with another entity (such as TxDOT, Denton or Collin County, etc.) to jointly construct the public improvements.
- (4) Termination of Escrow. Escrows, or portions of escrowed amounts, which remain unused after a period of ten (10) years following the date of such payment shall, upon written request, be refunded to the developer. Such refund of escrowed funds does not remove any obligations of the developer for construction of the required improvements.
- (5) Refund. If all or a portion of a street or other type of public improvement for which escrow is deposited is constructed by a party other than the City, the remaining unused escrowed funds, upon written request, shall be refunded to the developer after completion and City acceptance of the street or public improvement.
- (6) Interest on Escrowed Funds. When escrowed funds are returned or refunded to the escrowing developer, the City shall retain all of the interest accrued by the funds, if any.
- (7) Escrow Fee Agreement. The Director of Engineering, at his discretion, may require an escrow fee agreement be executed.

- (g) **Authority of City Council**. The City Council has the sole authority to approve Development Agreements.
- (h) **Agreement to Run with the Land**. The Development Agreement shall provide that the covenants and other terms of agreement contained therein shall run with the land and shall bind all successors, heirs and assignees of the current applicant. All existing owners shall be required to execute the agreement or provide written consent to the covenants and other terms contained in the agreement.
- (i) **Termination of Agreement**. The subdivider shall have a continuing responsibility under the Development Agreement after the filing of any Final Plat with Denton or Collin County until all facilities and improvements required under the Development Agreement have been completed, inspected and accepted by the City. When the construction of required improvements has proceeded to the point that certain parts of the subdivision are adequately served, the Director of Engineering may release specified portions of the subdivision for use prior to the completion of all improvements, unless the release of such improvements will jeopardize or hinder the continued construction of required improvements. Any Development Agreement shall remain in force for all portions of the subdivision for which a release has not been executed.
- (j) **Development Agreement Fee**. The City shall impose a fee for processing Development Agreements. The amount of the fee shall be as specified in the City's Fee Schedule that may be amended from time to time by ordinance. The direct cost of the City Attorney review of the Development Agreement shall be passed through to the applicant.

Sec. 10.03.045.....CITY PARTICIPATION

- (a) The City may participate with the developer on major items of construction, such as lift stations, bridges or streets adjacent to the subdivision which benefit existing or future development in addition to that being subdivided. The amount of financial responsibility of each party and the terms of discharging such responsibility may be provided for in a facilities agreement.
- (b) The construction of certain facilities required by the provisions of this article may not be possible or practical at the time the developer prepares his plans for public improvements. Such deletion or delay of improvements may be specified in the facilities agreement, together with provisions for escrow deposits or future payment by the City and/or developer. (2004 Code, sec. 159.23)

Sec. 10.03.046.....INSPECTION, MAINTENANCE & ACCEPTANCE OF PUBLIC IMPROVEMENTS.**(a) Inspections.**

- (1) The Director of Engineering shall inspect the construction of improvements while in progress, as well as upon completion. The applicant, or his contractor, shall maintain contact with the Director of Engineering during all phases of construction.
- (2) Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be made by the applicant's engineer, and shall be subject to approval by the Director of Engineering.
- (3) Any changes in design required during construction should be made by the engineer whose signature and seal are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents. All revisions must be approved by the Director of Engineering.
- (4) If the Director of Engineering finds, upon inspection, that any of the required public improvements have not been constructed properly and in accordance with the approved construction plans, the applicant shall be responsible for completing and/or correcting the public improvements to bring such into compliance.

(b) Maintenance during Construction. The applicant shall maintain all required public improvements during construction of the development phases or until the City approves the improvements and accepts same.**(c) As-built Plans and Submission of Record Drawings for Filing.**

- (1) After construction is completed, the developer shall provide the commission a set of as-built plans of all streets, alleys, sidewalks, drainage, underground utilities, signs, signals, street lighting and any other pertinent physical improvement of the subdivision. (2004 Code, sec. 159.67)
- (2) The City shall accept required public improvements when the applicant's engineer has certified to the Director of Engineering, through submission of detailed "record" or "as built" drawings of the project and filed copies of any off-site easements, unless otherwise noted within the Subdivision Ordinance, that the public improvements have been built in accordance with the approved construction plans. Unless otherwise provided in a Development Agreement, the City will not submit the approved Final Plat for recordation in Denton or Collin County until all required improvements have been accepted by the Director of Engineering.

(d) Revisions Documented on Plat. Each record drawing sheet shall document all changes made in the plans during construction, and on each sheet, there shall be a "record" stamp bearing the signature of the engineer and date. Detailed requirements for such drawings and stamps are available on the Celina Engineering website.**(e) Acceptance or Rejection of Improvements by Director of Engineering.**

- (1) Responsible Official. Using the *Final Acceptance Checklist* (online on the Development Services webpage), the Director of Engineering shall be responsible for inspecting all required public improvements shown in the construction plans, and for accepting completed subdivision improvements intended for dedication to the City.
- (2) Final Inspection. After completion of all improvements, franchise utilities, grading, and erosion control, the Director of Engineering and other designated representatives (as applicable) will perform a final inspection before recommending acceptance of the improvements.
- (3) Letter of Final Acceptance. If all improvements are completed, inspected, tested (when applicable), and determined by the City to be in conformance with this Subdivision Ordinance and with the City's *Engineering Design Standards*, then the Director of Engineering shall issue a Letter of Final Acceptance to the applicant, thereby notifying the applicant of the City's acceptance.
- (4) Effect of Acceptance. Acceptance of the improvements shall mean that the applicant has

transferred all rights to all the public improvements to the City for title, use, and maintenance.

- (5) **Rejection.** If any portion of the construction plans fails to comply with the City's standards and specifications, the Director of Engineering shall reject the complete set until the failure is remedied.
- (f) **Disclaimer.** Approval of a Preliminary Plat or Final Plat by the Commission, or construction plans by the Director of Engineering, shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with this section.
- (g) **Acceptance or Rejection of Improvements in Extraterritorial Jurisdiction (ETJ).** Where the improvements to be constructed under a Development Agreement are located within the City's ETJ and are to be dedicated to Denton or Collin County, the Director of Engineering shall inform the County officials that the public improvements have been constructed in accordance with approved construction plans, and are ready for acceptance by the County.
- (h) **Maintenance Bond Following Acceptance.** The applicant shall furnish to the Director of Engineering a sufficient maintenance bond with a reputable and solvent corporate surety registered with the State of Texas, in favor of the City, to indemnify the City against any repairs. The bond shall be in effect for two (2) years from the date of final acceptance of the entire project. The bond, which is a part of the requirements for final acceptance, shall be a minimum of ten percent (10%) of the value of the work constructed. The applicant shall reimburse the City for all related legal costs for review (this reimbursement shall be paid in full prior to filing of the Final Plat).

Sec. 10.03.047.....BUILDING PERMITS and CERTIFICATES OF OCCUPANCY.

- (a) No building permit shall be issued for a lot or building site unless the associated Final Plat has been approved by the City of Celina and all public improvements as required for the Final Plat approval have been completed, except as permitted below:
 - (1) Building permits may be issued for nonresidential and multiple-family development provided that a Final Plat is approved by the Planning & Zoning Commission and construction plans have been released by the Director of Engineering. Building construction will not be allowed to surpass the construction of fire protection improvements.
 - (2) The Director of Development Services may authorize residential building permits for a portion of a subdivision, provided that a Final Plat has been approved by the Planning & Zoning Commission and all public improvements have been completed for that portion of the development, including but not limited to those required for fire and emergency protection. Notwithstanding, no lot may be sold or title conveyed until a Final Plat approved by the Planning & Zoning Commission has been recorded.
 - (3) No certificate of occupancy shall be issued for a building permit or the use of a property unless all subdivision improvements have been completed and the Final Plat approved by the Planning & Zoning Commission has been recorded in the County. Notwithstanding the above, the Director of Development Services may authorize the temporary occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the City for the completion of all remaining public improvements. The certificate of occupancy may be revoked if the Final Plat approval and filing process is not completed.
 - (4) The temporary certificate of occupancy shall state on its face that the recipient accepts all liability resulting from occupancy of the building or space and indemnifies the City thereof.

Sec. 10.03.048 - 10.03.059Reserved for future use.

ARTICLE 10.03.060 SPECIAL EXTRATERRITORIAL JURISDICTION POLICIES & REGULATIONS

Sec. 10.03.061.....GENERAL POLICIES IN THE EXTRATERRITORIAL JURISDICTION (ETJ).

- (a) **Application of Requirements.** Unless otherwise stated within this Subdivision Ordinance, all standards, specifications and regulations herein shall apply to development within the City's extra-territorial jurisdiction (ETJ).
- (b) **Extension of City Services.** Given that land proposed for development in the City's ETJ must be served adequately by essential public facilities and services, including those related to adequate water distribution, wastewater collection and treatment, streets, pedestrian circulation, storm drainage conveyance, and park and recreational facilities, the following policies for the provision of infrastructure services provided by the City of Celina into the City's ETJ shall apply:
 - (1) It is in the City's best interest to encourage development in areas adjacent to compatible development already receiving City services, and particularly where those services have excess capacity.
 - (2) It is in the City's best interest to annex areas that:
 - i. Need to be protected in order to prevent or reduce flood damage in existing urban areas;
 - ii. Possess unique physical characteristics;
 - iii. Have requested City services; or
 - iv. Minimize the City's fiscal liability.
 - (3) It is in the City's best interest to withhold all water and sewer extensions outside the City's limits except in instances where the extension will serve a large-volume user who has agreed in writing to annexation at a predetermined date, and who has demonstrated that a significant community benefit will accrue to the City if it provides such service outside the City's limits, and where no significant fiscal liabilities will be incurred by the City.
 - (4) It is in the City's best interest to provide services, other than water and wastewater service, to individual users beyond the City's limits:
 - i. Upon request and under contracts or cost-sharing arrangements that minimize future City fiscal liability;
 - ii. Upon request and under contracts or cost-sharing arrangements that encourage compact development;
 - iii. Upon request and under contracts or cost-sharing arrangements that ensure compliance with City subdivision, building, electrical, plumbing and fire codes; and
 - iv. When it is not in the City's best interest to annex the areas to be served.
 - (5) The City shall therefore provide for extension of public facilities and services only under the following circumstances:
 - i. Such extension is part of an annexation agreement that provides for development consistent with established City objectives and policies, as described and illustrated in the *Comprehensive Plan*;
 - ii. Such extension allows the City to retain its right under State law to annex the property in the future;
 - iii. The quality of the development that is occurring or will be occurring is consistent with City standards;
 - iv. The use or development offers significant public benefits to the City; and
 - v. The proposed development and land uses comply with City Building and Fire Codes (as agreed to in an annexation agreement with the City).
 - vi. The area to be served is, or becomes a part of, the City's Certificates of Convenience and Necessity (CCN) when required by State law.

- (c) **Design and Construction Standards for Public Improvements in the City's Extraterritorial Jurisdiction (ETJ).** All public improvements constructed in conjunction with a new development in the City's ETJ shall be designed, engineered and constructed in accordance with the City's standards and all other applicable City master plans (e.g., *Water Reuse Master Plan*, the *Comprehensive Plan*, etc.).

Sec. 10.03.062.....DENTON & COLLIN COUNTY REGULATIONS.

- (a) The City has executed interlocal cooperation agreements, as authorized under CHAPTER 242 of the TEXAS LOCAL GOVERNMENT CODE, with Denton or Collin County.
- (b) Denton or Collin County has assigned to the City its authority to approve plats in the City's ETJ. The agreement also provides for the City to enforce its subdivision regulations, together with specified regulations of Denton or Collin County, within the City's ETJ via Interlocal Cooperation Agreements.
- (c) In the event that the subdivision rules and regulations of Denton or Collin County provide a more stringent standard than those of the City, then the more stringent standards shall apply.

Sec. 10.03.063.....CITY PARTICIPATION IN IMPROVEMENTS IN THE ETJ.

- (a) **Improvements.** The City shall not be required to participate in the cost of any improvements where such improvements required by this Ordinance are outside the corporate limits of the City (i.e., they are within the City's ETJ area).
- (b) **Certificates of Occupancy/Utility Connections.**
- (1) A Certificate of Occupancy for non-residential and multiple-family projects within the City's ETJ shall not be issued until a Letter of Final Acceptance has been issued by the City, and a copy of such Letter has been submitted to the Building Official by the developer, unless otherwise authorized by the City Manager or designee (refer to Section 10.03.046(d), *Acceptance or Rejection of Improvements by the Director of Engineering*).
 - (2) Utility connections for all developments in the City's ETJ shall not be issued until a Letter of Final Acceptance has been issued by the City or appropriate utility district, as applicable, and a copy of such letter has been submitted to the Building Official by the developer, unless otherwise authorized by the City Manager (refer to Section 10.03.046(f), *Acceptance or Rejection of Improvements by the Director of Engineering in ETJ*).

Sec. 10.03.064.....OTHER ETJ REGULATIONS.

- (a) **Minimum Lot Size without Platting.** Any subdivision of land within the ETJ must be platted unless the resulting subdivided lots are a minimum of ten (10) acres each, each subdivided lot has access to a public street, and no public improvements are being dedicated. This regulation is to encourage platting of land within the ETJ.
- (b) **No Land Uses Shown on Plats.** Proposed land uses may not be shown on plats within the ETJ, unless specifically allowed by the Director. Proposed land uses that may be shown on plats prior to the adoption of this ordinance do not in any way establish zoning or vest any rights to the use of the property in the future.

Sec. 10.03.065.....TREE PRESERVATION IN THE ETJ.

- (a) **Purpose.** The purpose of this section is to encourage the preservation of mature trees which, once removed, cannot be replaced by equivalent trees, to preserve the health and viability of retained trees during construction, and to control the removal of protected trees when necessary. It is the intent of this section to achieve the following:
- (1) Prohibit the indiscriminate clearing of property;

- (2) Protect and increase the value of residential and commercial properties within the City;
- (3) Maintain and enhance a positive image for the attraction of new business enterprises to the City;
- (4) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the City; and
- (5) Help provide needed shaded areas in order to provide relief from the heat by reducing the ambient temperature.

(b) **Construction Regulations.**

- (1) Tree pruning restrictions. No protected tree shall be pruned in such a manner which significantly disfigures the tree or in a manner which would reasonably lead to the death of a tree, except where such pruning is necessary for the safety of the public or to maintain utility service. Utility companies may prune trees as necessary to re-establish disrupted utility service. The practice of "topping" trees, either ornamental or canopy, is absolutely prohibited except when necessary for utility provision, public safety or some other official nuisance.
- (2) Fill and grading. The area within the drip line of a protected tree shall not be filled or graded.
- (3) Maintenance after development. If any of the trees required to be retained or trees planted as a part of this division should die within a period of one year after completion of the activities associated with construction, the owner of the property shall replace the trees within six (6) months at a ratio of three-to-one (3:1) with an approved large canopy tree from the recommended plant materials chart, which is the same size as the tree removed.

(c) **Regulations Prior to Construction.**

- (1) Tree flagging. All protected trees on the subject property within forty (40) feet of a construction area or surface improvements such as driveway, walks, etc., shall be flagged with bright fluorescent colored vinyl tape wrapped around the main trunk at a height of five (5) feet or more such that the tape is highly visible to workers operating construction equipment. This shall not include the flagging of protected trees adjacent to ROW within approved residential subdivisions during the construction of the roadway.
- (2) Protective fencing. Solid, protective fencing a minimum of three (3) feet in height will be located at the drip lines of all protected trees that border the limits of construction. In situations where a protected tree is located within the immediate area of intended construction, protective fencing will be located at or beyond the drip line.

(d) **Regulations During Construction.** The following activities shall be prohibited within the limits of the critical root zone of any protected tree, subject to the requirements of this division:

- (1) Material storage. No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
- (2) Equipment cleaning/liquid disposal. No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This would include paint, oil, solvents, asphalt, concrete, mortar or similar materials.
- (3) Tree attachments. No signs, wires or other attachments, other than those of a protective nature shall be attached to any protected tree.
- (4) Vehicular traffic. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within a critical root zone for purposes of clearing underbrush, emergency restoration of utility service, or routine mowing operations.
- (5) Grade changes. No grade changes (cut or fill) shall be allowed within the limits of the critical root

- zone of any protected tree unless adequate construction methods are approved by the Director.
- (6) Impervious paving. No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree.
 - (7) Removal of protective fencing. Protective fencing may only be removed from the construction site at the time of the installation of additional, permanent landscaping features.

(e) **Permanent Construction Methods & Standards.**

- (1) Boring. Boring of utilities under protected trees may be required in certain circumstances. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.
- (2) Trenching. All trenching where possible shall be designed to avoid trenching across the critical root zone of any protected tree. This shall not inhibit the placement of necessary underground services such as electric, telephone, gas, etc.
- (3) Root pruning. It is recommended that all roots two (2) inches or larger in diameter which are exposed as a result of benching or other excavation be cut off square with a sharp medium tooth saw and covered with pruning compound within two (2) hours of initial exposure.

- (f) **Fees**. Any fees for removal or destruction of trees pursuant to this Section are listed in the Master Fee Chart.

Sec. 10.03.065 to 10.03.069.....RESERVED.

ARTICLE 10.03.070SUBDIVISION REQUIREMENTS

Sec. 10.03.071.....GENERAL SUBDIVISION POLICIES.

(a) **Conformance to Plans.**

- (1) Public Improvements. Proposed public improvements serving new development shall conform to and be properly related to the public facility elements of the *Comprehensive Plan*, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall at a minimum meet the service levels specified in such plans.
- (2) Conformance with Master Thoroughfare Plan. All Plats within the City and its ETJ, and corresponding construction plans, shall provide for thoroughfares as shown in the *Master Thoroughfare Plan*. Minor adjustments to thoroughfare alignments may be allowed without amending the *Master Thoroughfare Plan* if the Director of Engineering determines the new alignment meets the spirit and intent of the *Master Thoroughfare Plan* and will not compromise public safety or traffic efficiency. The design and construction of all proposed thoroughfares shall be in conformance with the City's *Engineering Design Standards*, and is subject to approval by the Director of Engineering. Such approvals shall be required prior to any Plat approval.
- (3) Master Thoroughfare Plan Amendment. If a significantly different roadway alignment or a road type other than what is shown on the *Master Thoroughfare Plan* is proposed, then the *Master Thoroughfare Plan* shall be amended prior to any plat approval. Submission of a Traffic Impact Analysis (TIA) of the proposed amendment by the developer may be required if the Director of Development Services and the Director of Engineering determine that such an analysis is necessary to fully assess the impact of the proposal upon the City's overall thoroughfare network.
- (4) Water and Wastewater Plans. The design and construction of the water system and wastewater system to serve the development shall be in conformance with the City's master plans for water and wastewater facilities and with the *Engineering Design Standards*. The design is subject to approval by the Director of Engineering prior to approval of the construction plans and the Final Plat.
- (5) Storm Drainage Standards. The design and construction of the storm drainage system to serve the development shall be in conformance with, but not limited to, the City's master plans for storm water drainage, with the City's storm drainage policies (*Water Reuse Master Plan*), and with the *Engineering Design Standards*. The design is subject to approval by the Director of Engineering prior to approval of the construction plans and the Final Plat.

(b) **Provision of Adequate Public Facilities.**

- (1) Adequate Services for Areas Proposed for Development. Land proposed for development in the City and in the City's ETJ shall be served adequately by essential public facilities and services, including, but not limited to, water distribution, wastewater collection and treatment, roadways, pedestrian circulation, storm drainage conveyance, and park and recreational facilities. Land shall not be approved for platting or development until adequate public facilities necessary to serve the development exist or provisions have been made for the facilities, whether the facilities are to be located within the property being developed or offsite.
 - i. Street Access. A plat will not be approved unless all of the proposed lots have safe and reliable street access or frontage for daily use and emergency purposes.
 - a. A plat will not be approved unless all of the proposed lots have access to an improved public street (or a public street that will be improved during construction of the proposed development) that meets the City's minimum design and paving standards, or to an approved public way or mutual access easement that is connected to an improved public street.

- b. Except for lots that are provided access from an approved cul-de-sac, all lots within a development shall have at least two (2) means of access or approach. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the City may, but is not required to, accept a temporary, paved street connection provided that a second permanent access point can be reasonably anticipated with future development of adjacent properties.
 - c. In certain circumstances where providing two (2) means of access to a site is not feasible, the Planning & Zoning Commission may waive this requirement if staff can demonstrate that the site can be adequately served by emergency vehicles and that life and safety issues have not been compromised.
 - d. For properties situated adjacent to an existing or planned median-divided thoroughfare, at least one (1) of the required access points shall occur at, or through access easement connection to, a median opening. (See Diagram 10.03.112, *Median & Cross Access*)
 - ii. *Water*. A Plat will not be approved unless all of the proposed lots are connected to a public water system which is capable of providing adequate water for health and emergency purposes.
 - a. Except for lots along an approved cul-de-sac, all lots shall be provided service connections from a looped water main providing water flow from two (2) directions or sources.
 - b. Water service shall be sufficient to meet the fire flow requirements of the proposed development, except where a suitable alternative means of fire protection is approved by the Fire Chief.
 - c. The City may require the phasing of development and/or improvements to the water system to ensure adequate fire protection.
 - d. Plats for residential lots greater than one (1) acre in size may use private well water, at the discretion of the Director of Engineering.
 - iii. *Wastewater*. A Plat will not be approved unless all of the proposed lots are served by an approved means of wastewater collection and treatment.
 - a. The projected wastewater discharge of a proposed development shall not exceed the proposed capacity of the wastewater system.
 - b. The City may require the phasing of development and/or improvements to the sanitary sewer system so as to maintain adequate wastewater capacity.
 - c. Plats for residential lots greater than one (1) acre in size may use authorized private septic systems, at the discretion of the Director of Engineering.
 - iv. *Storm Drainage*. Increased storm water runoff attributable to new development shall not cause impacts to adjoining, upstream or downstream properties. Impacts are defined as the change (delta) in runoff between pre- and post-development counts. Where the projected runoff from a new development exceeds runoff from pre-development conditions, the City may require the phasing of development, the use of control methods such as retention or detention, obtaining off-site drainage easements, and/or the construction of off-site drainage improvements as means of mitigation. All designs shall comply with the Engineering Design Standards, as it exists or may be amended.
- (2) City's Cost of Review. Should the City deem that adequate review of the roadway, water, wastewater, or drainage submittal should be outsourced to a third party, the cost of such review shall be passed through to the developer or applicant.
- (3) Property Owner's Responsibilities. The property owner shall be responsible for, but not limited to, the following:
 - i. *Dedication and Construction of Improvements*. The property owner shall dedicate all rights-of-way and easements for, and shall construct and extend, all necessary on-site and off-site public improvements for water distribution, wastewater collection and treatment, streets,

storm drainage conveyance, and other improvements that are necessary to adequately serve each phase of a proposed development at service levels that are consistent with the City's applicable master facilities plans and *Engineering Design Standards*.

- ii. *Abutting Substandard Streets*. Where a substandard street abuts or traverses a proposed development, the City may require the property owner to dedicate additional right-of-way and to improve the street to the current City design and construction standards as set forth in the *Engineering Design Standards*. Such requirements to improve the substandard street to the City's current standards shall only be imposed following careful review of factors including, but not limited to:
 - a. The impact of the new development on the street;
 - b. The timing of the development in relation to need for the street; and
 - c. The likelihood that adjoining property will develop in a timely manner.
 - iii. In the case of frontage or service roads for state or federally designated highways, the entire abutting right-of-way shall be dedicated to the City and improved to the County, State or Federal agency's applicable construction design standards if such improvement is approved by the agency.
 - iv. *Right-turn Lanes Mandatory*. The City reserves the right to require free right turn lanes into any development from a Collector or higher category roadway. Should the applicant request a waiver from this requirement, the applicant must provide to the City a study by an acceptable third party that justifies the elimination of the required free right turn lane.
 - v. *Facilities Impact Studies*. The City may require that a developer prepare a comprehensive Traffic Impact Analysis (TIA), flood or drainage study or downstream assessment, or other facilities impact studies in order to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The cost of such study or studies shall be borne by the applicant.
 - vi. *Timing and Approval of Studies*. Any outside study shall be subject to approval by the Director of Engineering prior to approval of the Preliminary Plat and the construction plans. The City also may require, at the time of approval of subsequent applications (e.g., Final Plat), an update of a facilities impact studies that were approved in conjunction with a prior application (e.g., Preliminary Plat).
 - vii. *Future Extension of Public Facilities*. The property owner shall make provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation policies, if applicable.
 - viii. *Operations and Maintenance of the Public Facilities*. The property owner shall provide for all operations and maintenance of the shared public facilities located on private property, or shall provide proof that a separate entity will be responsible for the operations and maintenance of the facilities.
 - ix. *Fiscal Security*. The property owner shall provide all fiscal security required for the construction of the public facilities.
 - x. *Approvals from Utility Providers*. The property owner shall obtain all necessary approvals from the applicable utility providers other than the City, and shall submit written verification of such approvals to the City with the construction plans.
 - xi. *Compliance with Utility Providers*. The property owner shall comply with all requirements of the utility providers, including the City and applicable utility districts.
- (c) **Provision of Utilities**. All electrical, cable, and other telecommunications systems shall be located underground with the exception of regional transmission lines.

Sec. 10.03.072.....WATER, WASTEWATER & DRAINAGE REQUIREMENTS & ENVIRONMENTAL STANDARDS.**(a) Water & Wastewater Basic Policy.****(1) Construction Requirements.**

- i. All public water and wastewater mains shall be located in the frontage of the property along streets, or in easements adjacent to the development in order to provide service to adjacent property.
 - ii. Public water and/or wastewater mains shall not be located within a private street, drive or access easement unless a public utility easement is provided.
 - iii. The minimum easement width for water or wastewater mains shall be fifteen (15) feet, or as determined by the Director of Engineering. Where it is necessary for water and wastewater facilities to be located within the same easement, the easement shall be a minimum of twenty (20) feet in width, or as determined by the Director of Engineering.
 - iv. No portion of a structure (including, but not limited to, walls, foundations, porches/patios and porch/patio covers, canopies, roof extensions/overhangs, chimneys, fire flues, etc.) shall encroach over or into any easement, except that wall-attached window awnings, "bay" style windows, and roof eaves shall be allowed to encroach into an easement a maximum of twenty-four (24) inches.
 - v. A water or wastewater easement between two (2) lots must fall entirely on a single lot and shall not straddle the lot line unless specifically approved by the Director of Engineering for cause.
 - vi. Easements shall be dedicated for exclusive use for water and wastewater facilities and shall be shown on the Final Plat for the specific purpose intended. When it is necessary for additional utilities to be placed within such utility easement, additional width shall be provided and the easement shall be labeled for its additional intended purpose on the Final Plat.
 - vii. When it is necessary to relocate or replace an existing water or sewer facility to accommodate a proposed subdivision, the developer is responsible for all costs associated with the relocation, except as agreed to by City Council for oversize participation.
- (2) Construction Plans. Plans for construction of all water and wastewater facilities required by these regulations shall be prepared in accordance with the requirements and specifications contained in the *Engineering Design Standards*, the regulations of the Texas Commission on Environmental Quality (TCEQ), National Sanitation Foundations (NSF), Texas Department of Insurance, Insurance Services Office, and the City's current adopted Fire Code, which are incorporated by reference and made a part hereof. Plans for the improvements must be prepared by a licensed engineer and accepted by the Director of Engineering.
- (3) Acquisition of Easements. The developer shall be responsible for the acquisition of all required off-site easements. If the developer is unable to acquire the necessary off-site easement, the City shall be provided with easement or right-of way survey documents and exhibits, documentation, including evidence of a reasonable offer made to the affected property owner. Upon receiving a written request for assistance, the City may, at its option, acquire these easements either through negotiations or through condemnation in appropriate situations. The developer shall reimburse the City for the costs of acquiring the necessary easements including but not limited to attorney fees, expert fees, and title searches.

(b) Preliminary Utility Plan.

- (1) Submittal of Plans. Concurrent with the submission of a Preliminary Plat, Final Plat, Replat or Minor Plat, the developer shall submit a plan showing the location and size of water, wastewater, and storm drainage mains that will be required to provide adequate service and fire protection to the

lots specified in the proposed plat. Plans and specifications for fire hydrant systems shall be submitted to the Fire Marshal for review prior to construction.

(2) Plan Document. The plan shall conform to the *Engineering Design Standards*.

(3) Coordination with other Utility Providers.

- i. *Preliminary Plat*. When the subdivision is located in an area served by a utility provider other than the City, the developer must provide a water system analysis.
- ii. *Minor Plat, Replat*. When a subdivision is located in an area served by a utility provider other than the City, the developer must provide a letter from the utility provider stating that the existing facilities provide adequate domestic service and fire protection. If the City has reason to believe that there may be water supply or pressure concerns, a water system analysis may be required.
- iii. *Final Plat*. The final plat will not be filed with Denton or Collin County until a letter has been provided from the utility provider stating that they have accepted the plans for construction.

(c) **Miscellaneous Requirements.**

- (1) No building or structure shall be constructed within or over an existing wastewater, lateral, water main or storm drain easement unless approved in writing by the Director of Engineering in a signed and executed Development Agreement, approved by City Council, stating that any damage to the lines within or over the easement caused by the erection of the sign or construction of any building or structure shall be repaired to City standards at the property owner's expense. Additionally, should the City, the County and/or franchise utility company require access to said easement that any repairs to the affected building, sign or structure shall be solely at the expense of the property owner.
- (2) Monument signs may be constructed over an existing wastewater, lateral, water main or storm drain easement if approved by the City Manager or designee in a signed and an executed agreement stating that should any disturbance, repair, or realignment conducted by the City or a franchise utility company within the easement that may affect the sign requires that the sign owner make all necessary repairs to the sign, including the entire replacement of the sign, at the owner's sole expense.
- (3) Ownership and maintenance of water and wastewater mains and service connections shall be regulated as follows:
 - i. The title to all wastewater lines constructed, including wastewater service connections located in a right-of-way or dedicated easement, shall be vested in the City or the applicable utility provider.
 - ii. The developer, or single customer, shall be responsible for all maintenance of the wastewater service connection, unless replacement of the service is required under the public roadway or pavement. When replacement is determined to be necessary by the Director of Engineering, the City shall assume the responsibility for replacement of that portion under the pavement.
 - iii. The title to all water mains and water meters constructed, and installed, including the title to service connections, shall be vested in the City or the applicable utility provider.
- (4) The City makes no guarantee that water supply or wastewater capacity will be available at any particular time or place.
- (5) The service lines shall extend across the lot in question to provide future service connections to the adjacent lot.
- (6) Water and wastewater service lines shall be maintained by the property owner.
- (7) Public water and wastewater mains adjacent to federal, state, or county roadways shall be constructed outside the right-of-way in a separate easement unless otherwise agreed upon by those

agencies.

(d) **Water.**

(1) Design & Construction.

- i. *Installation of Water Facilities.* Where water is to be provided through the City system, the property owner shall install adequate water facilities, including fire hydrants, in accordance with the City's *Engineering Design Standards*, the adopted Fire Code, the current Rules and Regulations for Public Water Systems of the Texas Commission of Environmental Quality (TCEQ), and the firefighting standards of the Texas Board of Insurance. If any such requirements conflict, the most stringent requirement shall apply.
- ii. *Facilities for Health and Safety Emergencies; Alternative Water Sources.* All water facilities connected to the City's water system shall be capable of providing water for health and emergency purposes, including fire protection and suppression. Water supply facilities shall be in accordance with the *Engineering Design Standards*. The design and construction of water system improvements and alternative water sources shall also comply with the following standards:
 - a. Design and construction of a water source on the site shall be in accordance with applicable regulations of the Texas Commission on Environmental Quality (TCEQ).
 - b. Design and construction of water service from the City shall be in accordance with the standards in the City's *Engineering Design Standards*.
 - c. Design and construction of a fire protection and suppression system shall be in accordance with the standards in the *Engineering Design Standards*, and in accordance with the City's Fire Department and adopted Fire Code.

(2) Location.

- i. *Shown on Construction Plans.* The location and design of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems and certified water service areas, indicating all improvements proposed to be served, shall be shown on the construction plans.
 - ii. *Extension of Lines.* Extension of water lines shall be made along the entire frontage of the development adjacent to a street. If the subdivision is not adjacent to a street, the extension of water lines shall be accomplished in such a manner as to allow convenient future connections to said lines by new subdivisions and the developer shall provide stub out connections at the property line at the time of water infrastructure installation.
 - iii. *Variance from Requirement.* If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Director of Engineering may approve a Minor Variance for this requirement in accordance with Section 10.03.086, *Variances*, of this Ordinance prior to action on the construction plans or prior to action on any plat.
- (3) Cost of Installation. The cost of installing all water supply improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees and Development Agreement, if applicable (refer to Section 10.03.044, *Development Agreements*).
- (4) Cost of Extension for Single Customer.
- i. When it is necessary to extend a water line to serve a new single customer where only one meter will be installed, the City at its own expense will extend the said water line up to 100 feet.
 - ii. If a distance is equal to or greater than 100 feet is required to reach the nearest property line of the new single customer, the said single customer shall pay one hundred percent (100%) of cost extension in excess of 100 feet.
 - iii. If more than one single customer is served by the main extension, 100 feet of main will be

allowed for each single customer thus served, and any excess footage will be paid for at one hundred percent (100%).

- iv. No more than one single customer credit of 100 feet will be allowed each lot or tract of record so served regardless of the number of buildings, occupied or otherwise, which might be located on said lot or tract.
- v. Payment will be made in advance of construction.
- (5) Cost of Extension to Serve Developers.
 - i. Where the City's water distribution system is not planned to be extended in time to serve a proposed new development, all necessary water facilities to serve such development shall be provided by and at the expense of the developer. If oversizing of a water facility is deemed necessary by the Director of Engineering for future developments, then the City may participate in such oversizing costs as part of a Development Agreement.
 - ii. The developer will pay one hundred percent (100%) of the construction cost of the size mains required to serve his development, including the design, construction, and City inspection of the approach main(s).
 - iii. When the developer desires that water mains be extended to serve his property, he will submit a request in writing to the Director of Engineering. The property to be served shall be listed showing the lot, block and subdivision. If the area to be served is a part of a larger area that is owned or controlled by the developer and which is reasonably expected to be served by water in the future, a tentative design of a main layout will be made of the entire area. The cost estimate will be made on that portion of the subdivision to be served immediately.
- (6) Individual Wells in ETJ.
 - i. *Well Approval.* Individual wells to provide potable water within the City's ETJ shall be subject to approval by the Denton or Collin County health official, and this approval shall be documented by the health official's signature on the water system statement on the Preliminary and Final Plat. The property owner must submit with the Preliminary and Final Plat applications a certificate from a professional engineer who is registered or a geoscientist who is licensed to practice in the State of Texas verifying the adequacy of the proposed well water supply and potability prior to Preliminary Plat and construction plans approvals.
 - ii. *Compliance with Other Regulations.* Installation, operations and maintenance of individual wells shall comply with City standards, regulations of the Texas Commission on Environmental Quality (TCEQ), and any other applicable County or State rules and regulations. In the event of conflict among these regulations, whichever is the most stringent shall apply.
- (7) Alternative Water Systems. Developments may be approved with alternative water facilities according to the following criteria:
 - i. Water well operation and quality shall meet the minimum requirements of the Texas Commission on Environmental Quality (TCEQ), Denton or Collin County, City health ordinances, and all other regulatory agencies, as applicable.
 - ii. Water wells may not be used for commercial sale of water.
 - iii. The cost to tie onto the public water system must exceed the certified initial capital cost of a well by twenty-five percent (25%). All costs and engineering designs shall be submitted by a licensed professional engineer and are subject to review and approval by the Director of Engineering. If a residence is located within 1,000 feet of a domestic water supply, that residence must be connected to that service.

(e) **Wastewater.**

- (1) Extension of and Connection to the City's Wastewater Collection System. Extension of, and

connection to, the City's sanitary sewer system shall be required for all new developments within the City limits. Extension of, and connection to, the municipal sewer system shall also be required for new developments within the City's ETJ for any proposed development, lot, tract or parcel that is less than one (1) acre in size. The City is not in any way obligated to allow extension of municipal sewers outside the City limits. The required extension of, and connection to, the municipal sewer system may be waived as a Minor Variance, in accordance with Section 10.03.086, *Variances*, by the Director of Engineering if the Director of Engineering determines that such extension would require unreasonable expenditures and that an on-site wastewater disposal system (see Section 10.03.072(e)(5), *On-Site Wastewater Disposal Systems*) will function properly and safely.

- (2) Design & Construction. It is the policy of the City to require all wastewater collection lines to have gravity flow. The use of lift stations and force mains is prohibited unless a gravity design is impractical, as determined by the Director of Engineering. The location, design and sizing of all wastewater improvements shall be shown on the construction plans and are subject to approval by the Director of Engineering.
- (3) Cost of Installation. The cost of installing all wastewater improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees and Development Agreement, if applicable.
- (1) Community Sanitary Sewerage Collection Systems. All subdivisions developed subsequent to this ordinance must be served by community sanitary sewerage collection, treatment and disposal systems approved by the City with exceptions granted only if all of the following conditions exist:
 - i. The subdivision in question is less than five (5) parcels of land;
 - ii. The existing community type collection, treatment and disposal system is not and cannot feasibly, in the opinion of the Director of Engineering, be made available to the area of development; and,
 - iii. Percolation tests run by an independent testing laboratory are submitted to both the City and County health department with results showing that a septic tank and spreader field can be developed to provide adequate disposal of the sewage.
- (2) Sewer Extensions, Generally. All sewer extensions shall be designed in accordance with the latest applicable rules and regulations as published by the Texas State Department of Health and Texas Commission for Environmental Quality (TCEQ). All sewers shall be designed with consideration for serving the full drainage area subject to collection by the sewer in question except as modified with the concurrence of the Director of Engineering because of the projected rate of development or the financial feasibility of the proposed extension.
- (3) Sewer Extensions for Single Customers.
 - i. Where it is necessary to extend a sewer line to serve a new single customer, the City, at its own expense, will extend said sewer up to 100 feet.
 - ii. If a distance is equal to or greater than 100 feet should be required to extend the line to the nearest property line of the customer, said single customer shall pay the excess over the 100 feet allowable at the rate of one hundred percent (100%) of cost.
 - iii. If more than one single customer is served by the main extension, 100 lineal feet of sewer will be allowed for each single customer thus served, and any excess footage will be paid for at one hundred percent (100%) of cost.
 - iv. No more than one single customer credit of 100 feet will be allowed for each lot or tract of record so served regardless of the number of buildings, occupied or otherwise, which might be located on said lot or tract.
 - v. Payment will be made in advance of construction.
 - vi. All service lines shall be designed and constructed in accordance with the Wastewater Master Plan.

- (4) Extensions to Serve Developers. The developer shall pay one hundred percent (100%) of the construction cost of all sewers including the design and construction of "approach mains," but excepting "service lines."
- i. The developer will also pay one hundred percent (100%) of the cost of service lines to all lots to be served by a sewer located in the street. Said service lines will be constructed at the same time as a part of the same contract as all other sewers in the developer's addition. If the sewers are being constructed by City forces, the service lines will be constructed by City forces at the time all other sewers within the addition are constructed.
 - ii. The Director of Engineering shall determine the size of the approach main required to serve developer's property and the actual size to be constructed. Should the City elect to construct a main larger than the developer's required approach main, the developer will not be charged for the additional upsizing.
 - iii. The amount of developer's payment shall be determined using unit bid prices contained in the award contract.
 - iv. All service lines shall be designed and constructed in accordance with the Wastewater Master Plan.
- (5) Required Stub-Out to Adjacent Properties. All lateral and sewer mains installed within a subdivision must extend to the borders of the subdivision as required for future extensions of the collecting system regardless of whether or not such extensions are required for service within the subdivision.
- (6) Lift Stations or Separate Treatment Facilities. The provision for lift stations or separate treatment facilities will not be permitted unless the cost of constructing such lift stations or separate facilities is at least twenty percent (20%) less than the costs of constructing an adequate outfall or approach sewer from the existing system.
- (7) Connections. No connection shall be made to any sanitary sewerage system within the City which will permit the entrance of surface water or waste of other than domestic sewage characteristics without the specific authorization by the City Council.
- (8) On-Site Wastewater Disposal Systems.
- i. In cases where the Director of Engineering determines that extension of and connection to the City's sewer system is impractical or not feasible, and where the Director of Engineering approves the use of an on-site wastewater disposal systems, such on-site systems shall provide adequate sewage disposal for all lots, tracts, parcels and structures in the development that cannot be connected to the City's sewer system.
 - ii. All on-site wastewater disposal systems shall be designed, permitted, constructed, operated and maintained in compliance with all applicable local, County and State regulations, and a permit for such system shall be acquired prior to Preliminary Plat and construction plans approvals.
 - iii. On-site wastewater disposal facilities requiring soil absorption systems may be prohibited where such systems will not function properly in conditions of high ground water, flooding, unsuitable soil characteristics, or other topographical or environmental issue.
 - iv. Each lot, tract, parcel and structure that utilizes an on-site wastewater disposal system shall have a minimum land area of at least one (1) acre.
 - v. No portion of any on-site wastewater disposal system shall be constructed within a minimum 150-foot radius around any water well either on-site or on other properties.
 - vi. In order to protect the public health, safety and welfare, an existing on-site wastewater disposal system shall be upgraded, or reconstructed if necessary, to comply with the City's standards by the owner, at the owner's expense, if the operation of the facility does not comply with government regulations or if it causes objectionable odors, unsanitary

conditions, pollution, etc.

(f) **Stormwater.**

- (1) Adoption. This Ordinance is in compliance with the adopted Floodplain Regulations Ordinance and Engineering Design Standards Ordinance of the City of Celina.
- (2) Purpose and Scope. The purpose of policies and design standards set forth herein is to ensure adequate stormwater drainage and flood control within the City of Celina. The policies and standards are included in the most recent version of the *City of Celina, Texas Engineering Standards* manual ("*Engineering Standards*") and are intended to protect public health and safety, to prevent property damage due to flooding, to equitably distribute the cost of necessary drainage improvements, and to minimize the maintenance cost of drainage facilities constructed. Any development or improvement of property affecting storm drainage and flood control in the City of Celina is subject to the provisions of this Ordinance.
 - i. The development of land shall consider all drainage elements normally used in the engineering standards of design.
 - ii. Evaluation of stormwater runoff characteristics shall consider development conditions of the watershed as specified in the *Engineering Standards*.
 - iii. Stormwater design shall evaluate flow rate, volume, and velocity characteristics considering the maximum results from a design storm as specified in the *Engineering Standards*.
- (3) Standard Provisions for Storm Drainage. All construction for storm drainage in the development or improvement of real property within the City of Celina shall conform to the requirements set forth in the *Engineering Standards*.
- (4) Responsibility of Owner or Developer for Storm Drainage.
 - i. The owner or developer of property to be developed or used shall be responsible for all storm drainage flowing through or abutting such property. This responsibility includes the drainage directed to that property by prior development as well as the drainage naturally flowing through the property by reason of topography. It is the intent of this Ordinance that provision be made for storm drainage in accordance with Section 10.03.071(f)(2) and the *Engineering Standards*, at such time as any property effected is proposed for development use.
 - ii. Where the improvement or construction of a storm drainage facility is required along a property line common to two (2) or more owners, the owner hereafter proposing development or use of his property, shall be responsible for the required improvements at the time of development, including the dedication of all necessary right-of-way or easements, to accommodate the improvements.
 - iii. Where a property owner proposed development or use of only a portion of his property, provision for storm drainage in accordance with Section 10.03.071(f)(2) and the *Engineering Standards*, shall only be required in that portion of the property proposed for immediate development or use, except as construction or improvements of a drainage facility outside that designated portion of the property is deemed essential to the development or use of that designated portion.
 - iv. The owner or owners shall dedicate to the City the required drainage easements. Minimum easement requirements are set forth in the *Engineering Standards*. Final determination of easement requirements shall be made by the Director of Engineering.
 - v. In the event that an owner or developer desires to impound stormwater by excavation, filling or construction of a dam within a property, thereby creating a lake, pond, or lagoon as a part of the planned development of that property, the following provisions shall apply:
 - a. An engineering plan for such construction, accompanied by complete drainage design

- information, prepared by a registered professional engineer, shall have been approved by the Director of Engineering;
- b. The owner or developer shall have agreed to retain under private ownership the lake, pond, or lagoon constructed, and to assume full responsibility for the protection of the general public from any health or safety hazards related to the lake, pond, or lagoon constructed;
 - c. The owner or developer shall have agreed to assume full responsibility for the maintenance of the lake, pond, or lagoon constructed;
 - d. The obligations herein shall run with the land and shall be a continuing obligation of the owner or owners of such land;
 - e. The requirements of the Texas Water Code pertaining to impoundment of surface water are complied with including the design, construction and safety of the impounding structure;
 - f. On any existing structure, the owner will furnish a study or design prepared by a professional engineer for the City for approval.
- (5) Responsibility and Participation of the City in Storm Drainage Improvements.
- i. The City may, in its sole discretion, participate in the cost of such improvements as are required by this Ordinance.
 - ii. The City may, in its sole discretion, participate in any project of improvements by the levy of a special assessment against the lands to be enhanced in value by such improvements.
 - iii. The City may acquire drainage easements necessary for such improvements by acceptance of dedication, purchase, or condemnation.
 - iv. The City may, upon acquisition of the drainage easement and the completion of improvements as hereinabove provided, assume full responsibility for the maintenance of such drainage facilities.
- (6) Engineering Design. The design of all storm drainage facilities in the development or improvement of real property shall be in accordance with the requirements set forth in the *Engineering Standards* and the following requirements:
- i. Storm sewer inlets shall be provided along paved streets at such intervals as are necessary to limit the depth of flow according to the requirements set forth in the *Engineering Standards*.
 - ii. A closed storm sewer system shall generally be required to accommodate a run-off exceeding the street capacity, as provided above and as specified in the *Engineering Standards*. Design of open channel systems in lieu of a closed system shall adhere to the requirements set forth in the *Engineering Standards*.
 - iii. The criteria for drainage improvements as hereinabove set forth in paragraphs i. and ii. of this section shall be applicable to publicly owned lands solely at the discretion of the City of Celina.
 - iv. Excavation, fill and grading operations within the city limits shall be undertaken only after a proper permit has been obtained from the City.
- (7) Easements. Drainage easements shall be dedicated for public drainage features in accordance with requirements of this Ordinance and the *Engineering Standards*.
- (8) Stormwater Quality. Designs for new development shall manage stormwater in a manner that protects water quality by addressing the development's potential to cause erosion, pollution, siltation, and sedimentation in the Municipal Separate Storm Sewer System (MS4) and natural waterways. The goal is to maintain after development, to the maximum extent practical, the predevelopment characteristics in the waterway, which ultimately receives stormwater runoff from the development. It is the developer's responsibility to ensure that designs for new development

meet the stormwater management requirements in the General Permit for Stormwater Discharges Associated with Construction Activities (TXR150000) issued by the TCEQ and its successor agencies. This permit includes the requirement for measures that will be installed during construction to control pollutants in stormwater discharges after construction operations have been completed.

- (9) Minimum Finish Floor Elevations. The Director of Engineering may require minimum finish floor elevations (MFF) to provide flood protection on certain lots contained within the subdivision. The MFFs shall be shown on the plat. These elevations shall incorporate the most current floodplain management criteria or other criteria as necessary to avoid damages. The minimum finish floor elevation shall conform with the requirements set forth in the Floodplain Ordinance and the *Engineering Standards*. The following note or an amended version appropriate to the specific plat shall be added to any plat upon which the Director of Engineering requires the establishment of minimum finish floor elevations:

“The City reserves the right to require minimum finish floor elevations on any lot contained within this addition. The minimum elevations shown are based on the most current information available at the time the plat is filed and are subject to change.”

- (10) Off-Site Drainage. When any proposed development requires off-site grading where stormwater runoff has been collected or concentrated, it shall not be permitted to drain onto adjacent property except in existing creeks, channels, storm sewers or streets. In such a case, a drainage easement shall be dedicated and shall be of a width sufficient to comply with the criteria outlined in this Ordinance and the *Engineering Standards*.
- (11) Building or Structure Setback Requirement. Any building or structure constructed, reconstructed, or relocated adjacent to an open drainage channel shall conform to the set-back requirements established in the *Engineering Standards*.
- (12) Construction Over Drainage Facilities. No building or structure shall hereafter be constructed, reconstructed, or relocated over or across any storm drainage facility, unless specifically approved by the Director of Engineering and pursuant to the criteria established in the *Engineering Standards*.
- (13) Stormwater Storage. Temporary storage of stormwater on-site is allowable pursuant to the criteria established in the *Engineering Standards*.

(g) **Preliminary Stormwater Management Plan.**

- (1) A preliminary stormwater management plan (SWMP) shall be prepared for all developments in accordance with the *Engineering Standards*. The purpose of the SWMP is to identify permanent water quality feature opportunities for the development.
- (2) The preliminary SWMP shall be prepared in coordination with the preliminary drainage plan on all projects where both are required. The preliminary SWMP and the preliminary drainage plan may be shown on the same sheet.
- (3) The preliminary SWMP must comply with the standards and criteria outlined in this Ordinance, the *Engineering Standards*, and the Floodplain Ordinance. The plan may satisfy the stormwater management portion of the SWPPP that is required for construction activities; however, the SWMP is not a substitution for the SWPPP. The City’s review of the preliminary SWMP does not constitute acceptance of the final SWMP or the final development plans.
- (4) The developer shall provide a preliminary SWMP for the area proposed for development. For amended plats or plats with a previously accepted preliminary SWMP, the accepted preliminary SWMP shall be enforced unless a revised preliminary SWMP is required.
- (5) Electronic copies of the preliminary SWMP plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. The plan shall be labeled as

“Preliminary.” Upon acceptance of the plan, the plan shall be signed, sealed, and dated by the engineer, or shall contain a statement showing the engineer’s name and license number and affirming the plan was prepared under the direction of the engineer and that the plan is preliminary. At the discretion of the Director of Engineering, an earthwork permit may be issued prior to the plat being filed so long as a floodplain development permit, if necessary, and a SWPPP have been approved. The developer takes the financial risk of grading the tract prior to final approval of the plat and construction plans.

(h) **Preliminary Drainage Plan.**

- (1) The Director of Engineering may require a Hydrologic and Hydraulic Analysis and reserves the right to review.
- (2) This plan shall show the watershed affecting the development and how stormwater will be conveyed to, through, and from the development. It must comply with the standards outlined in this Ordinance and the drainage design criteria found in the *Engineering Standards*. The preliminary drainage plan is a guide for the detailed drainage design. The review of the preliminary drainage plan does not constitute final drainage plan approval or authorize a variance to this Subdivision Ordinance.
- (3) For any property involved in the development process, a preliminary drainage plan shall be provided, at the developer's expense, for the area proposed for development. For property with a previously accepted preliminary drainage plan, the accepted preliminary drainage plan may be submitted and enforced unless a revised preliminary drainage plan is required by the City due to lot reconfiguration or other conditions created by the new plat. The Director of Engineering may waive the requirement for a preliminary drainage plan if the submitted plat is not anticipated to cause any significant change in runoff characteristics from a previously accepted drainage study or for single residential properties where no drainage problems are anticipated. If the applicant requests a variance in writing, a copy of any previous drainage plan shall be provided.
- (4) At the request of the City, the property owner shall submit additional studies, including but not limited to the following, as deemed appropriate and necessary by the City, as part of the Preliminary Plat submittal requirements. These studies shall be considered during review and approval of the Preliminary Plat. For any study required by the City that is outsourced to a third party, the cost of such study shall be passed through to the developer or applicant.
 - i. Environmental Assessment;
 - ii. Wetland Delineation Study;
 - iii. Habitat Study;
 - iv. Vegetative Study;
 - v. Erosion Hazard Setback Study;
 - vi. Storm Drainage Study;
 - vii. Riparian (i.e., Tributary) Study;
 - viii. Flood Study; and
 - ix. Downstream Assessment Study.
- (5) Electronic copies of the preliminary drainage plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. The plan shall be labeled as “Preliminary.” The plan shall be stamped and dated by the engineer and be accompanied by a floodplain development application describing the hydrologic and hydraulic impacts of the development and all associated supporting data files.

(i) **Major Creeks.**

- (1) Definition. Major creeks shall be defined by the most recent “Major Creek” map maintained by the City of Celina and available to developers upon request.

- (2) Major Creek Restrictions. All major creeks shall be maintained in an open natural condition. All major creeks are subject to the requirements set forth in the *Engineering Standards* and the additional following requirements for all types of development:
- i. The 100-year floodplain and Erosion Hazard Setback shall be dedicated on the Final Plat to the City as a single lot or shall be owned and maintained by an HOA or POA, pursuant to Section 10.03.079(d), *HOA Requirements*, of this Ordinance.
 - ii. At no time shall any portion of the 100-year floodplain encroach upon any single-family or two-family residential lot.
 - iii. The Commission may waive any of these dedication requirements for a Replat that was originally platted prior to the adoption of this Subdivision Ordinance.
- (3) Access. Public access to parks and open space shall be dedicated for maintenance purposes as required by the Director of Engineering.

(j) **Floodplain Development Requirements.**

- (1) 100-Year Floodplain Restrictions. All development proposed adjacent to or within the 100-year floodplain shall be in accordance with this Ordinance, the City's Floodplain Ordinance, and the *Engineering Design Standards*. A floodplain development permit and earthwork permit must be submitted and approved by the Director of Engineering prior to any construction on the site.

(k) **Detention & Compensatory Flood Storage Facilities.**

- (1) Intent. The City of Celina encourages the use of detention basins and compensatory flood storage areas for the benefits of the community outlined below:
- i. *Control of flood discharges.* The intent of detention basin and compensatory flood storage design shall be to reduce flood discharges for the ultimate watershed development conditions without increasing peak discharges above the peak discharges for undeveloped watershed conditions. This storage method serves as a key strategy of the stormwater management plan.
 - ii. *Environment.* As development occurs, there is a loss of wildlife and bird life habitat. It is possible to create a natural micro-environment around ponds and storage areas that can offset this loss of habitat. These "natural" environmental pockets in conjunction with natural open space areas can help maintain the rural setting of the City. Detention ponds also benefit downstream water quality by allowing the sedimentation of pollutants.
 - iii. *Recreation.* Detention basins and storage areas offer many recreational opportunities in an urban setting; for example, a normally dry detention basin could be used for athletic fields or picnic areas, while the banks of a pond offer valuable park space.
 - iv. *Aesthetics.* As an integral part of the City of Celina, a detention basin or flood storage area needs to blend into the landscape and into the community. Measures such as gentle side slopes, planting of trees and shrubs, and other landscaping features can transform the detention facility into an attractive amenity for the neighborhood.
- (2) Requirements.
- i. All detention and compensatory flood storage facilities shall be designed and constructed according to the requirements set forth in the *Engineering Design Standards*.
 - ii. Detailed engineering studies of the drainage basin according to the requirements set forth in the *Engineering Standards* shall be required to evaluate the timing of hydrographs from regional and on-site facilities, as well as backwater calculations to determine the effect of the detention/retention and flood storage facilities on upstream water surface elevations.
 - iii. All detention and compensatory flood storage facility designs shall be performed by a professional engineer registered in the State of Texas and shall meet the requirements of

Permanent Rule 31, Texas Administration Code (TAC) Chapter 299, and other requirements, as applicable.

- iv. Detention ponds shall have trees planted on the perimeter of the facility at a rate of one large canopy tree for every forty (40) linear feet.

Sec. 10.03.073.....STREET & ALLEY STANDARDS.

(a) Streets Basic Policy.

- (1) Street Improvements. In platting a new development, the property owner shall provide additional right-of-way needed for existing or future streets as required by the *Engineering Design Standards* and as shown on the Thoroughfare Plan (see Table A, *Thoroughfare Types & Standards*).
- (2) Existing Substandard Streets.
 - i. When a proposed residential or nonresidential development abuts one (1) or both sides of an existing substandard street, the developer shall be required to improve the substandard street and its appurtenances (such as curbs and gutters, sidewalks, barrier-free ramps, street trees, etc.) to bring the same to City standards, or to replace it with a standard City street, at no cost to the City other than as may be provided in the City's cost-sharing policies, including any ordinances that are in effect at the time of Final Plat approval.
 - ii. If the proposed development is located along only one (1) side of a substandard street, and if the City makes a determination that it is not feasible to improve the full width of said substandard street at that time the City may require the developer to pay into escrow, in accordance with Section 10.03.044, *Development Agreements*, funds for the future improvement of the street as a condition of Final Plat approval for the development.
 - iii. When a Traffic Impact Analysis (TIA) is required or voluntarily submitted, the findings determined shall not be imposed on the requirements, alignment, rights-of-way, and number of lanes shown on the Master Thoroughfare Plan, as it exists or may be amended. The TIA may be used to justify amendments to the Thoroughfare Plan, but in no case shall dictate such amendments.
- (3) New Perimeter Streets.
 - i. When a proposed residential or nonresidential development is developed abutting an existing or planned major thoroughfare, minor thoroughfare or collector street as shown on the Master Thoroughfare Plan, the developer shall construct a portion of the abutting street and its appurtenances (such as curbs and gutters, sidewalks, barrier-free ramps, street trees, etc.) to the City's standards for that type of street (per the *Engineering Design Standards*). If the Director of Engineering determines that it is not feasible to construct the abutting street and its appurtenances at the time of development, the City may require the developer to pay into escrow, in accordance with Section 10.03.044, *Development Agreements*, funds for the future construction of the street as a condition of Final Plat approval for the development. The funds placed in escrow or the value of the lanes constructed shall be roughly proportional to the amount of traffic estimated to be generated by the development itself.
 - ii. When a proposed residential or nonresidential development is constructed and has designed an unplanned perimeter street in order to provide access to the site and/or adjacent land, the developer shall construct a portion of the abutting street as described in Section 10.03.073(a)(4), *New Internal Streets*, below, and under the same conditions.
 - iii. Streets at the entrance to residential, multiple-family, and non-residential developments shall have decorative pavers or stamped concrete to delineate the entrance. Single family developments shall have a divided entrance with the median being a common area lot to be owned and maintained by the HOA. An entrance monument sign may be located on this lot.
- (4) New Internal Streets.

- i. All new streets and their appurtenances internal to a proposed residential or nonresidential development shall, at a minimum, be built to a width and design that will adequately serve the development, and shall conform to the City's standards as described in the *Engineering Design Standards*. If oversizing of an internal street is deemed necessary by the Director of Engineering for traffic safety or efficiency (such as adjacent to a school or park site), then the City and/or the applicable entity may participate in such oversizing costs as part of a Development Agreement/Facilities Agreement with the developer.
 - ii. Streets which temporarily dead end at power lines, railroads or similar rights-of-way shall be constructed for at least one-half (½) the distance across these rights-of-way, or provision shall be made to place the construction cost for said improvements in escrow with the City in accordance with Section 10.03.044, *Development Agreements*.
 - iii. When, in the judgment of the Director of Engineering, it is not feasible to construct an internal street or appurtenances at the time of development of the subdivision, the City may require the developer to pay into escrow funds for the future construction of the street or its appurtenances as a condition of Final Plat approval for the development, in accordance with Section 10.03.044, *Development Agreements*.
- (5) Impact Fees. All fees due on the project shall be paid in accordance with the City's Impact Fee Ordinance and/or executed Development Agreement/Facilities Agreement.

(b) **Street Design & Appurtenances.**

- (1) Application of Requirements. Street design requirements are subject to the provisions included in the *Engineering Design Standards*, Development Agreements and Planned Development Ordinance (if applicable to the subject property) as well as the regulations contained within this Subdivision Ordinance.
- (2) Conformity to the Master Thoroughfare Plan. The general location of streets shall conform to the *Master Thoroughfare Plan*. For streets that are not shown on the *Master Thoroughfare Plan*, such as local residential streets, the arrangement of such streets shall:
 - i. Provide for the continuation or appropriate continuation of existing streets or street stubs from or into surrounding areas – refer to street stub requirements outlined in Section 10.03.073(b)(8), *Stub Streets*, and connectivity requirements in Section 10.03.073(b)(9), *Street Connectivity*;
 - ii. Conform to any plan for the neighborhood approved or adopted by the City to address a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical; and
 - iii. Not conflict with existing or proposed streets or driveway openings, including those on the opposite side of an existing or planned thoroughfare, as described within the *Engineering Design Standards*.
 - iv. New streets that intersect with divided arterials shall align to the greatest extent possible with opposite streets such that median openings can be shared.
- (3) Relation to Adjoining Street System. The proposed street system shall extend all existing major and minor arterials and such existing collector and local streets as may be necessary for convenience of traffic circulation and emergency ingress and egress.
- (4) Maximum Street Length. No street shall be more than 1,000 feet in length without an intersection with another street which will provide some degree of flexibility in traffic patterns and public convenience.
 - i. See the *Engineering Design Standards* for specific design requirements.
 - ii. In certain circumstances, the City may consider minor exemptions to the maximum street lengths if sought by the applicant. These circumstances include, but are not limited to:

- a. Rerouting of streets;
 - b. Decreasing the lot count by five percent (5%) or more from the previously approved Preliminary Plat or Final Plat; or
 - c. Approval by the Planning & Zoning Commission through a Subdivision Ordinance Variance. Any variance approved by the Planning & Zoning Commission shall include the curvilinear requirement and street calming methods, described below.
- (5) Curvilinear Requirement. When a residential street length exceeds 500 feet but is less than 1,000 feet in length, the design of the street shall include a curve of between 100 to 200 feet radius for a length equal to the curve radius.
- (6) Additional Street Calming Methods. When a residential street length exceeds 500 feet but is less than 1,000 feet in length, one or more of the following street calming methods shall be incorporated into the design in addition to the curvilinear requirement (above) in order to reduce traffic velocity and increase safety to pedestrians and cyclists, subject to the review and approval of the Director of Engineering:
 - i. Street width narrowing with landscaped islands placed approximately every 400 feet;
 - ii. Roundabouts placed approximately in the center of the street length or near a major entrance to the development; and/or
 - iii. Landscaped medians that include pedestrian crossing oases included for a minimum of one-third ($\frac{1}{3}$) of the street length.
 - iv. Speed humps/bumps are prohibited from being installed in alleys, private aisles, and any fire lanes, unless approved in writing by the Director of Engineering.
- (7) Street Widths & Rights-of-Way. Street widths and related rights-of-way shall be designed in accordance with the following:
 - i. *Master Thoroughfare Plan* (existing, and as amended);
 - ii. Planned Development Ordinance (if applicable to the subject property); and
 - iii. All streets shall be constructed in accordance with the *Engineering Design Standards*.
- (8) Street Names, Street Name Signs, and Traffic Control Signs.
 - i. *Street Names*. New streets shall be named so as to provide naming continuity with existing streets, and so as to prevent conflict or “sound-alike” confusion with similar street names. All street names shall be approved by the Director of Development Services prior to any plat approval, and prior to approval of the construction plans and should comply with the City’s approved street name policy, as it exists or may be amended.
 - ii. *Cost of Signs*. The cost of street name signs and traffic control signs shall be paid for and installed by the developer.
 - iii. *City Standards*. All street name signs and traffic control signs shall conform to the City’s details for street name sign design and the latest edition of the Texas “Manual of Uniform Traffic Control Devices” (TMUTCD).
- (9) Traffic Studies. The Director of Engineering may require a Traffic Impact Analysis (TIA) or other type of engineering study from the developer prior to any approval for plats or construction plans to ascertain technical data pertaining to the potential traffic impact of the proposed development on the City’s street system. For any study required by the City that is outsourced to a third party, the cost of such study shall be passed through to the developer or applicant.
- (10) Stub Streets.
 - i. See the *Engineering Design Standards* for all design requirements.
 - ii. Future connections are required to adjacent vacant properties at locations as approved by the Director of Development Services and the Director of Engineering.
 - iii. When a residential development is constructed in phases requiring a temporary stubbed street, a paved temporary turn-around shall be provided for maneuvering by emergency

equipment.

- iv. A note shall be clearly placed on the Final Plat indicating that the stub street will be extended with future development (see requirements for temporary turn-arounds in the *Engineering Design Standards*).
 - v. All stub streets shall have barricades that meet TMUTCD standards.
 - vi. All stub streets shall have a sign prominently posted at the terminus of the street to indicate no through traffic and that the street will be extended in the future.
 - a. The sign shall comply with standards established by the Director of Engineering, and
 - b. Installation and cost of the signs shall be the responsibility of the developer.
- (11) Connectivity.
- i. New residential developments shall provide street connections to adjacent developments, as determined by the Director of Development Services, allowing access between developments for neighborhood traffic and to enhance pedestrian and bicycle connectivity as recommended in the *Comprehensive Plan*.
 - ii. Residential developments shall not have direct vehicular access to adjacent commercial or retail developments. Pedestrian and/or bicycle access may be provided, as approved by the Director of Development Services.
 - iii. Commercial developments shall provide off-street connections to other businesses through mutual access easements and shared access drives to thoroughfares.

(c) **Street Lighting.**

(1) Street Lighting Required.

- i. Street lighting shall be provided by the developer along all streets and thoroughfares in accordance with the *Engineering Design Standards*.
- ii. The developer is responsible for the installation of street lighting and they shall be installed to City standards prior to the City accepting responsibility for the future provision of electricity to the street lights.
- iii. The Director of Engineering shall be the responsible official for decisions related to street lighting, and may authorize a minor variance to these regulations, in accordance with Section 10.03.086, *Variances*, for a street lighting requirement if such Variance will not compromise public health, safety, security and convenience.

- (2) New Subdivisions. New subdivisions are required to prepare and submit a street lighting plan. This plan is reviewed by Staff to ensure conformance with current street lighting policies. Financial responsibility for purchase of lighting equipment and construction is the responsibility of the developer. In the City of Celina, power is provided franchise utility companies. Upon completion of the street light system, the appropriate power server will be the owner and maintenance provider of the street light equipment and the City of Celina will become responsible for the monthly electrical and maintenance expenses.

- (3) Street Lighting Placement. Street lighting shall be chosen and installed according to the *Engineering Design Standards*.

(4) Subdivisions with Existing Street Lighting.

- i. Residents or a Home Owners Association (HOA) of a subdivision with existing street lighting may request additional light or lights by completing a petition and request for additional street lighting form. The petition must be signed by adjacent property owners of each proposed light location and by at least eighty percent (80%) of the overall property owners within 300 feet in each direction of the proposed light location.
- ii. Upon receipt of the petition and request form, City Staff will contact the appropriate power provider to prepare an estimate of the cost to install the requested lighting. Additionally, the

provider will be requested to provide information about necessary easements for light pole and other facilities required for installation.

- iii. The HOA or residents requesting the additional street light shall be responsible for obtaining all required signatures for easements and shall be financially responsible for all costs to purchase and install additional lighting.
 - iv. Upon receipt of executed easement documents and deposit of funds with the City based on the installation estimate, the City will issue a request to the electric provider for installation.
 - v. Following installation and acceptance of the lighting facilities, the City will pay for all future electrical charges, repair and maintenance.
- (5) Subdivisions without Existing Street Lighting.
- i. Residents of subdivisions without existing street lighting or infrastructure required to support street lighting should submit a petition for street lighting form to the Department of Development Services (form available online).
 - ii. Upon receipt of the petition, City Staff will contact the appropriate power provider to prepare an estimate of the cost to install the requested lighting. Additionally, the provider will be requested to provide information about necessary easements for light pole and other facilities required for installation.
 - iii. The petition and request form will be presented to the City Council during the budgeting process. At this time Council will determine if the City will participate in the funding to complete the lighting request or establish assessments to the property owners for the cost to construct the requested lighting system.

(d) **Private Streets.**

- (1) Private Streets. Private streets within the City and/or the ETJ may be allowed in accordance with the Zoning Ordinance. Private streets shall be designed and constructed to the same standards as for public streets, in accordance with the *Engineering Design Standards*.
- (2) City Council Action Required. Dedicated streets and rights-of-way shall not be designated or used as private streets and such use is prohibited, except where specific approval is given by action of the City Council for properties within the City's extraterritorial jurisdiction and upon approval of a Specific Use Permit for properties within the City limits. The City Council may add any conditions as deemed appropriate as part of the approval of a Private Street Development.
- (3) Private Street Development.
 - i. Private Street Developments are subject to provisions of the Master Thoroughfare Plan and the Subdivision Ordinance, as it exists or may be amended. Private Street Developments shall only be permitted by the approval of a Specific Use Permit or through a Planned Development District. Private Street Developments shall be restricted to an area that is surrounded on at least three (3) sides, and in any event no less than approximately seventy-five percent (75%) of the perimeter, by natural barriers or similar physical barriers created by man. Examples of natural barriers would be creeks and floodplains. Examples of similar barriers created by man would be a golf course, school location, park, railroad tracks or a limited access roadway. Non-qualifying man-made barriers include screening walls, local roadways, man-made drainage ditches, detention ponds, landscape easements, earthen berms, utility easements and rights-of-way. Private Street Developments may not cross an existing or proposed thoroughfare as shown on the City's adopted *Master Thoroughfare Plan* nor shall a private street development disrupt an existing or proposed hike & bike route.
 - ii. Private Street HOA Fund. A developer requesting private streets must show that adequate funds will be set aside and held in reserve for private street maintenance and replacement costs by the associated Homeowners Association (HOA).

- (4) Connectivity. The *Comprehensive Plan* calls for all plans for development in the City to include a high degree of connectivity within developments and between one development and another. Any proposed Private Street Development adjacent to an existing public street subdivision that can be reasonably connected, including by constructing a bridge or culvert, for example, should not be approved as a Private Street Development. The two adjacent subdivisions should allow cross-connectivity using public streets. This is especially important when one of the two adjacent subdivisions has a school site within the development that will be accessed by both developments.
- (5) Criteria for Approval for Private Streets in New Developments. Private Street Developments within the City may be considered through the Specific Use Permit (SUP) process or through a Planned Development District. The Planning & Zoning Commission and City Council shall use any of the following criteria:
- i. Non-disruption of planned public roadways or facilities/projects (thoroughfares, parks, park trails, public pedestrian pathways, etc.);
 - ii. Non-disruption to and from properties of future developments either on-site or off-site to the proposed subdivision;
 - iii. No negative effect on traffic circulation on nearby public streets;
 - iv. Not less than one hundred (100) feet of street frontage on which to locate the main entrance gate;
 - v. No more than two (2) gated street entrances, subject to approval by the Director of Engineering, may face the same thoroughfare;
 - vi. No impairment of access to and from public facilities including schools or public parks;
 - vii. No impairment of the adequate and timely provision of essential municipal services (emergency services, water/sewer improvements or maintenance, etc.);
 - viii. The main entrance to the private street development shall have adequate throat depth to provide for residents, their guests and any accidental access and have an escape aisle for those vehicles not admitted into the subdivision,
 - ix. Existence of natural and/or qualifying man-made boundaries around seventy-five percent (75%) of the development; and/or
 - x. Absence of a concentration of Private Street Developments in the vicinity of the requested Private Street Development.
- (6) Conversion of Public Streets to Private Streets. The criteria for converting existing public streets to private streets includes all the criteria, issues and procedures involved with new developments, listed above, plus:
- i. Submittal of a petition signed by one hundred percent (100%) of the owners in the existing subdivision requesting conversion to private streets;
 - ii. Existence of a property owners' association that would be responsible for owning and maintaining the converted streets and rights-of-way;
 - iii. Applicants must agree to contract with the City for the purchase of the installed infrastructure and rights-of-way from the City of Celina at fair market appraised value for cash in full payment, and agree to maintain the infrastructure and rights-of-way at City standards thereafter prior to the approval of the Specific Use Permit;
 - iv. All documents are subject to the review and approval of the City Attorney; and/or
 - v. Subsequent to the approval of the Private Street designation, the entire subdivision affected shall be re-platted to reflect the right-of-way ownership changes.
- (7) Conversion of Private Streets to Public Streets. The City may, but is in no way obligated to, accept private streets for public access and maintenance. Requests to convert private streets to public streets shall be subject to all of the following provisions:
- i. The homeowners' association (HOA) shall submit a petition signed by at least sixty-seven

percent (67%) of its members/lot owners (or a greater number of signatures, if required by the HOA documents or declarations).

- ii. All of the infrastructure shall be in a condition that is acceptable to the Director of Engineering.
 - iii. All security stations and other structures not consistent with a public street development shall be removed by the HOA, at its cost, prior to acceptance of the streets and appurtenances by the City.
 - iv. All monies in the reserve fund for private street maintenance shall be delivered to the City. Money in the reserve fund in excess of what is needed to bring the streets and appurtenances up to City standards will be refunded to the HOA. Private Street developments that exist as of the adoption of this ordinance are not required to deliver a reserve fund balance to the City.
 - v. The HOA shall prepare and submit a replat to Development Services for review. Upon approval, the HOA shall file the replat to dedicate the streets and appurtenances to the City.
 - vi. The HOA shall modify and re-file, at its cost, the HOA documents to remove requirements specific to Private Street developments. The City Attorney shall review the modified HOA documents prior to their filing. The HOA shall be responsible for the cost of review by the City Attorney.
- (7) HOA Requirements. Private Street developments and the related HOA shall meet all requirements of Section 10.03.079, *HOA Requirements*, of this Ordinance.

(e) **Alleys.**

- (1) When Alleys are Optional. Alleys are optional for all single-family residential lots that are equal to or greater than sixty (60) feet in width at the front building line.
- (2) When Alleys are Required. Alleys are required for single-family residential lots that are less than sixty (60) feet in width at the front building line. When so utilized, alleys shall be constructed according to design criteria in the *Engineering Design Standards*.
- (3) Alleys Required for Single-Family Attached Residences. Alleys are required for all duplex (two-family residences) and townhomes.
- (4) Alley Design. Permanent dead end and “hammerhead” alleys are prohibited. All alleys shall have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead end alley situation is unavoidable (such as due to project phasing), a temporary, paved turn-around bulb or turnout onto a street, either of which will require a temporary alley easement, shall be shown on the plat.
- (5) Street Access when Alleys are Present. No driveway shall access a street when an alley is available unless specifically allowed in writing by the Director of Engineering.

(f) **Mews Streets.**

- (1) Definition. A mews street is a grassy, landscaped area on which houses or housing units may face in lieu of facing a paved street.
- (2) Minimum Width of Mews. The common area of the mews shall be a minimum of forty (40) feet in width.
- (3) Fire & Emergency Access. Since fire and other emergency vehicles must access the homes from the alley, the alley shall be a minimum of twenty-four (24) feet in width within a thirty (30) foot right-of-way.
 - i. The mews alley shall be striped as a fire lane.
 - ii. Fire hydrants shall be placed in the alley and spaced as they would on any similar residential street.
 - iii. No parking is allowed within the fire lane.

- iv. A rear door to the home shall be provided that is a minimum of thirty-six (36) inches wide and is not through the garage. This door shall have a doorbell or means to alert the occupant.
- (4) Maximum Mews Length. The maximum mews length is 500 feet. Minor modifications may be considered by the Fire Department and Director of Engineering.
- (5) Garage Set-Back. Garages shall be set back either a minimum of twenty (20) feet to allow tandem parking or a maximum of three (3) feet where no parking, tandem or parallel, is allowed.
- (6) Trash Receptacles. Trash receptacles shall be placed on a concrete pad that is outside the limits of the fire lane.
- (7) Parking. Additional parking for visitors and delivery trucks shall be provided at the terminus of the mews street.
- (8) Vehicle Access. Dead-ended mews streets and alleys are prohibited.
- (9) Sidewalks. Sidewalks within the mews street shall be a minimum of six (6) feet in width if located at or near the center of the mews or a minimum of five (5) feet if two sidewalks are provided on each side of the mews.
- (10) Side Yards. No side yard shall be paved.
- (11) Signage. Wayfinding signs that include address numbers shall be provided at the end of the mews to direct pedestrians to the houses facing the mews.
- (12) Addressing. Individual house or unit addressing shall be provided at the entrance to the mews, with an additional street number and street name sign on each house or unit's rear and side façade. Addresses shall be posted on the building prominently. Both wayfaring signs and individual house numbers shall be illuminated for nighttime viewing. All such signage is subject to the discretionary review and approval by the Fire Department.

Sec. 10.03.074.....SIDEWALKS & TRAIL STANDARDS.

Sidewalks are required adjacent to all public streets, shall be provided according to the regulations in the *Engineering Design Standards*, and shall stub out to the adjacent property. No meter valves or drainage inlets may encroach into sidewalks. Bicycle and pedestrian trails shall be a minimum of twelve (12) feet in width and be constructed of an improved surface. Any portion of a sidewalk or trail located on private property shall be shown on the filed plat. Trails and sidewalks shall comply with any City adopted Parks or Trail Plans. See also Section 10.03.084, *Hike & Bike Trail Requirements*.

Sec. 10.03.075.....DRIVEWAYS, FIRE LANES, RETAINING WALLS, & ACCESS.

- (a) **Driveways, Generally.** All driveway approaches, curbs, gutters, pavements and appurtenances necessary to provide access to properties shall be provided by the developer, shall be designed, constructed and maintained in accordance with standards in the City's *Engineering Design Standards*, *Zoning Ordinance*, and *Planned Development Ordinance* (if applicable to the subject property).
- (b) **Driveways, Residential.**
 - (1) Residential driveway widths and curb cuts shall not be wider than the combined width of the garage door or doors. In certain large lot cases, additional pad sites may be allowed for vehicle parking, at the discretion of the Director.
 - (2) Residential tracts may have only one drive per lot.
- (c) **Fire Lanes.** Fire lanes are to be designed in accordance with the City's adopted Fire Code and *Engineering Design Standards*. Fire lane easements shall be shown on the Site Plan (see the *Zoning Ordinance*) and on any Conveyance Plat, Preliminary Plat, or Final Plat, and shall be maintained to the City's standards by the property owner. For safety and emergency accessibility reasons during construction, developments other than single-family detached or two-family residential subdivisions shall not be allowed to proceed with vertical structural construction above the foundation prior to:

- (1) Completion and City inspection of all fire lanes and fire hydrants on the site (unless otherwise approved by the Fire Chief); and
- (2) Issuance of a Building Permit for the structure.
- (d) **Retaining Walls.** Any retaining wall over four (4) feet in height requires engineered plans. Contractors shall incorporate a form liner or add a brick or stone façade. Plain concrete retaining walls are prohibited.
- (e) **Access Easements.** Access easements shall be provided as directed by the Director of Engineering and Director of Development Services.

Sec. 10.03.076.....LANDSCAPING & SCREENING ADJACENT TO ROADWAYS.

- (a) **Median Landscaping Improvements Required.** Landscaping improvements shall be installed within the medians of all proposed or planned or divided roadways within the city limits as shown on the City Master Thoroughfare Plan. Frontage is wherever a property abuts the right-of-way of the divided thoroughfare, and separate frontages exist on each side of the thoroughfare.
 - (1) Developer obligation. The subdivider or developer shall be fully responsible for the construction and installation of the required landscaping and maintenance of the improvements for a period of one year. During the first year following installation, the subdivider or developer shall replace any tree, shrub, sod, groundcover or hardscape in substandard condition. Following the first year, the Director of Engineering shall inspect the installation and determine what, if any, plant materials and/or hardscape must be replaced prior to the city taking over maintenance.
 - (2) Installation or deferment. In the event that the Director of Engineering, in his sole discretion, determines that the installation of improvements at any given time period is impractical due to further road construction or other factors, the subdivider or developer shall pay a fee-in-lieu into an escrow account for future median landscaping and/or maintenance. This fee-in-lieu of installation is collected once from each frontage and described more fully in Section 10.03.075(d).
 - (3) City participation. At the discretion of the Director of Engineering, the subdivider may install the median landscaping across the full width of the median, and be reimbursed by the City for the landscaping provided for the second frontage at the per linear foot of frontage rate or the actual cost of the improvements, whichever is less, if funds are available.
 - (4) Plan design burden/escrowed cost. In the case where undeveloped land exists on both sides of a divided public street, the first to develop shall carry the burden of submitting plans for landscaping, hardscape and irrigation of the median, along with escrowing the fee-in-lieu, as described in Section 10.03.075(d). At the discretion of the Director of Engineering, the city or county may contribute to this escrow account in order to facilitate the implementation of the landscape plan.
 - (5) Installation burden. If the City declines to participate in the immediate landscaping of the median in question, the second to develop will utilize the approved plans (or modify the approved plans with City approval of the modifications) and shall be responsible for the purchase and installation of the median improvements, using the escrowed account from the first developer and shall contribute an equal amount to the overall cost of the median landscaping. In the event that the original escrow amount has fallen short of current material and/or installation costs, the City will make up the difference in cost or the plans shall be modified to be installed within the cost allotted. Any surplus funds shall be placed in the City's landscape maintenance account.
 - (6) Design. The median design shall be approved by the Director of Engineering and the City may elect to create the design for the landscaped median in house.
- (b) **Minimum Requirements for Median Landscaping.**
 - (1) Only developments or subdivisions abutting or adjacent to a divided roadway, as defined in the Master Thoroughfare Plan, shall be subject to this section.

- (2) All trees and plant materials shall be chosen from the City's approved plant list;
- (3) One ornamental tree per forty (40) linear feet of median. Ornamental trees shall be a minimum two-inch (2") caliper and eight feet (8') in height at time of planting and shall be used primarily as accent trees near the median nose and dispersed within the canopy trees;
- (4) One canopy tree per forty (40) linear feet of median, with a minimum of four-inch (4") caliper trunk, and a well-formed canopy that is typical of the species. Canopy trees shall be planted no closer than thirty (30) feet from streetlights located in the median, no closer than twenty (20) feet to an intersection, and no closer than fifteen (15) feet from any overhead electrical line;
- (5) Ornamental and canopy trees need not be evenly spaced and may be clustered for a more pleasing aesthetic effect;
- (6) A minimum of twenty percent (20%) of the landscaped area shall be planted in evergreen shrubs, ground cover and/or native grasses;
- (7) Planting beds shall be separated from turf grass using 14-gauge steel edging to define ground cover beds and reduce weed incursion;
- (8) Irrigation installation shall include bubblers or drip irrigation for all canopy and ornamental trees and irrigation to uniformly water the planting beds and shall be equipped with rain-freeze sensors; and
- (9) Landscape and installation plans shall be subject to review and approval by the Director of Development Services and the Director of Engineering. The location and placement of landscaping shall conform to the City street design standards and shall be placed to accommodate the ultimate number of traffic lanes, although shrubs, native grasses and ornamental trees may be placed in future traffic lanes if it is determined that these lanes will likely not be constructed in less than ten (10) years.

(c) **Roadway Landscape Easements or Buffers.** Roadway landscape easements/buffers are defined as open, landscaped areas between the property line (right-of-way) and any built structure on a lot. The roadway parkway is the portion of right-of-way that is typically sodded and kept clear of trees or deep-rooted shrubs since this is often the location of underground or above-ground infrastructure, such as water and sewer lines and electrical wiring, respectively. In some cases, underground utilities will be placed entirely or in part within the landscape easement/buffer and therefore this easement/buffer shall be shown on the associated plat. The following easement standards apply unless a more stringent standard applies due to the lot being located in an overlay district.

- (1) Minimum width of landscape easements along roadways.
 - i. Adjacent to all six-lane divided streets and limited access roadway service roads, as shown on the Thoroughfare Plan, the landscape easement shall be a minimum forty (40) feet wide.
 - ii. Adjacent to all four-lane divided streets, as shown on the Thoroughfare Plan, the landscape easement shall be a minimum of thirty (30) feet wide.
 - iii. Adjacent to all other streets called out on the Thoroughfare Plan, the landscape easement shall be a minimum twenty (20) feet wide.
 - iv. Adjacent to residential streets and other streets not called out on the Thoroughfare Plan, the landscape easement shall be a minimum of ten (10) feet wide.
- (2) Setbacks. The following setbacks apply based on zoning district adjacency:
 - i. Adjacent to single-family district (either attached or detached districts).
 - a. Any non-residential building that is one (1) or two (2) stories in height shall be setback from the single-family district property line a minimum of forty (40) feet.
 - b. Any non-residential building that is three (3) stories in height shall be setback from the single-family district property line a minimum of sixty (60) feet.

- c. Any non-residential building that is four (4) stories in height or greater shall be setback from the single-family district property line a minimum of eighty (80) feet.
 - d. Parking and/or drive aisles may be located within these setbacks.
- ii. Adjacent to any district other than single-family district. When a non-residential building is adjacent to a similar land use, the setbacks shall be the minimum allowed by the adopted Building Codes and Fire Codes.
- (3) Intent & application of the Ordinance. When circumstances exist that may restrict the ability of an applicant to comply with the precise minimum widths referenced above, the Director may allow some flexibility so long as the overall intent of the ordinance is met.
- (4) Landscaping & screening within easements or buffers. Street trees, native grasses, sod, and shrubs may be planted within the landscape easement, avoiding conflicts with any utility service, as shown on the approved site plan or concept plan.
- (5) Signs located within easements or buffers. Any applicant who places a monument sign within a landscape easement that may also be the location of underground or above ground infrastructure shall be required to allow the City and/or utility company access the facilities located beneath or above the monument sign and must sign an agreement authorizing the City and/or utility company to carry out needed repairs or replacement with no obligation to rebuild or compensate the owner/applicant for the removal, repair, or loss of the sign.
- (d) **Minimum Requirements for Landscaping within Roadway Landscape Easements.**
 - (1) Landscape easements shall be made up of an attractive mix of sod, native grasses, berms, and trees between the right-of-way and the screening wall.
 - (2) All trees and plant materials shall be chosen from the City's approved plant list.
 - (3) One large, canopy tree per forty (40) linear feet of street frontage, with a minimum of three-inch (3") caliper trunk, and a well-formed canopy that is typical of the species. Canopy trees shall be planted no closer than thirty (30) feet from streetlights.
 - (4) One small, ornamental tree per forty (40) linear feet of street frontage. Ornamental trees shall be a minimum two-inch (2") caliper and eight feet (8') in height at time of planting and shall be used primarily as accent trees dispersed within the canopy trees.
 - (5) Ornamental and canopy trees need not be evenly spaced and may be clustered for a more pleasing aesthetic effect within the landscape easement or buffer.
 - (6) A minimum of twenty percent (20%) of the landscaped area shall be planted in evergreen shrubs, ground cover, and/or native grasses.
 - (7) Planting beds shall be separated from turf grass using 14-gauge steel edging to define ground cover beds and reduce weed incursion.
 - (8) Irrigation installation shall include bubblers or drip irrigation for all canopy and ornamental trees and irrigation to uniformly disperse water over the planting beds and shall be equipped with rain-freeze sensors.
 - (9) No drainage retention or detention for the property shall be placed in the landscape easement.
 - (10) Landscape and installation plans shall be subject to review and approval by the Director of Development Services and the Director of Engineering. The location and placement of landscaping shall conform to the City street design standards and shall be placed to accommodate the ultimate number of traffic lanes, although shrubs, native grasses and ornamental trees may be placed in future traffic lanes if it is determined that these lanes will likely not be constructed in less than ten (10) years.
- (e) **Fee-in-Lieu.** Should the Director of Engineering, at his sole discretion, determine that the immediate installation of median or roadway easement landscaping is impractical; a fee-in-lieu of installation shall be collected and placed in escrow at the rate listed in the current Fee Schedule. The fee-in-lieu shall be

collected prior to plat filing. Said fees-in-lieu of installation shall be applied to construction, reconstruction, upgrading, and installation of median landscaping of divided roadways within the adjacent median landscape areas and any roadway easement or landscape buffers.

- (f) **Refund of Fees.** Any fees not expended within ten (10) years of collection shall be returned to the developer or subdivider who deposited the fees with the City. The time period for the expenditure of fees escrowed with the City for the construction of median landscaping shall not begin to run until such time as the roadway medians have been constructed on such divided roadways, the roadway medians have been accepted by the City, and the roadway medians are ready for standard median landscaping and irrigation. Notwithstanding the provisions of this subsection, the City shall not be required to return fees that have not been expended if roadway medians have not been constructed on divided roadways within the adjacent roadway benefit area thus preventing the purchasing, planting, growing and/or irrigation of the required standard median landscaping and irrigation. (Ordinance 2015-78 adopted 12/7/15)

(g) **Screening Requirements.**

(1) Screening adjacent to roadways.

- i. Non-residential (both commercial and multiple-family) uses adjacent to roadways. A solid masonry screening wall is required, minimum six (6) foot and maximum eight (8) foot, when used to screen the use from any roadway.
- ii. Maintenance easement. A three (3) foot wide maintenance easement shall be provided on any boundary line where a required screening wall or devise may be installed currently or in the future, to allow access for repairs or replacement.
- iii. Residential fences adjacent to roadways. All wood residential fences that face a street must be minimum of six (6) feet in height and constructed of cedar board-on-board with a decorative cap and support poles facing the inside of the lot. Residential fences that only face the interior of the lot are not required to be board-on-board construction.
- iv. Conflict of fences. No parallel, adjacent fencing is allowed. When a non-residential use is proposed adjacent to an existing residential wooden fence, the wooden fence shall be removed and the masonry screening wall becomes the mutual boundary line between the properties.

(2) Screening between land uses.

- i. Non-residential and multiple-family uses adjacent to single family detached zoning districts or uses.
 - a. A solid masonry screening wall is required, minimum eight (8) feet in height, along the property line.
 - b. In some cases, at the Director's discretion, a decorative iron or wrought iron screening walls may be allowed in lieu of a solid masonry screening wall. This decorative iron or wrought iron screening shall have masonry columns to be spaced no greater than thirty (30) feet on center, along with medium-sized evergreen plants that will grow to a minimum height of six (6) feet within two (2) years of planting.
 - c. In some cases, at the Director's discretion, enhanced wooden fences constructed of cedar board-on-board with a decorative cap, and support poles facing the inside of the lot may be allowed.
 - d. In some cases due to topography or other natural land features, at the Director's discretion, industrial quality metal fencing or welded wire fence panels may be allowed, such as *DesignMaster*® fencing products.
- ii. Non-residential uses adjacent to other similar non-residential zoning districts or uses. No screening wall is required.
- iii. Uniformity. Each development shall have a uniform screening wall in terms of materials and height, subject to approval by the Director during the site plan process.

- iv. Maintenance easement. A three (3) foot wide maintenance easement shall be provided on any boundary line where a required screening wall or device may be installed currently or in the future, to allow access for repairs or replacement.
- (3) Site elements required to be screened. The following site elements shall be screened from the public view:
 - i. Mechanical & utility equipment.
 - a. Ground located equipment. A solid masonry “wing” wall of sufficient height to effectively screen the equipment.
 - b. Roof-mounted equipment. Roof-mounted equipment shall be screened from view from the adjacent right-of-way. Appropriate screening includes wall extensions, such as a parapet wall.
 - ii. Trash & recycling enclosures. Screening enclosures shall consist of a solid masonry wall or architectural element of the building that is a minimum six (6) feet in height with a solid metal gate (primed and painted) that is to remain closed at all times other than servicing.
 - a. Double trash & recycling enclosures shall be a minimum of twenty-five (25) by fourteen (14) feet in size.
 - b. Single trash & recycling enclosures shall be a minimum of twelve (12) by fourteen (14) feet in size.
 - c. The number of enclosures required for each development shall be determined by staff.
- (4) Screening adjacent to open space, creeks, or other view corridors. Notwithstanding the obligation of a developer to construct a solid masonry screening wall surrounding the property, when portions of that property are adjacent to a dedicated open space, natural land feature such as a creek, or other notable views such as a golf course, the screening shall be decorative iron with masonry columns to be spaced no greater than thirty (30) feet on center or industrial quality metal fencing or welded wire fence panels, such as DesignMaster® fencing products, with Director approval.
- (5) Prohibited screening elements. No screening wall visible from a public street shall be:
 - i. Screening walls shall not be located within any required visibility triangle;
 - ii. Screening walls shall not be constructed with any of the following materials: Surface painted or coated concrete, chain-link, concertina wire, barbed wire, corrugated metal, or fiberglass panels.
 - iii. In no case shall a screening wall be placed parallel and in the immediate vicinity of an existing residential fence causing a close back-to-back fence arrangement. When a residential fence exists at the time of commercial development, the required masonry screening wall shall replace the residential fence, with access easements provided for maintenance to be shown on the associated plat.

Sec. 10.03.077.....LOT AND BLOCK DESIGN.

- (a) **Zoning Compliance.** All lots shall conform to the zoning district requirements, unless located in the ETJ in which they shall comply with any interlocal agreements between the City and Denton or Collin County.
- (b) **Residential Lots Adjacent to Drainage Areas.** Lots shall be exclusive of any portion of a natural drainage area (i.e., major creek, stream, tributary, etc.), maintenance access, and/or erosion hazard setback, as defined in Section 10.03.102, *Definitions*. Retaining walls may be allowed on lots adjacent to natural drainage areas, as approved by the Director of Engineering.
- (c) **Lot Shape.** The City reserves the right to disapprove any lot which, in its opinion, will not be suitable or desirable for the purpose intended, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties and/or create an irregular building envelope. The following requirements shall also apply:

- (1) Lots shall be generally rectangular in shape; sharp angles between lot lines shall be avoided.
- (2) Flag lots are prohibited (See Diagram 10.03.113).
- (3) Irregularly shaped lots shall have sufficient width at the building line to meet minimum lot width and frontage requirements for the appropriate zoning district (if applicable), and shall provide the minimum building pad required by zoning without encroachment into front, side or rear yard setbacks or into any type of easement.

(d) **Lot Lines and Legal Buildable Lots.**

- (1) Side Lot Lines. Side lot lines shall be generally perpendicular to street right-of-way lines to the greatest extent possible (side lot lines may vary from 80° to 100° angles from the street frontage - see Diagrams 10.03.115 and 10.03.116). The Director of Development Services may grant a minor modification if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement.
- (2) Lot Lines and Jurisdictional Boundaries. All lot lines, to the greatest extent possible, shall align along county, school district, and other jurisdictional boundary lines such that lots are fully within one county, school district, or other jurisdiction. The Director of Development Services may grant a minor modification to this requirement if a county, school district, or other jurisdictional boundary line will bisect a lot, provided that the entire residential dwelling or main structure is constructed entirely within one county, school district, or other jurisdiction (i.e., the structure does not “straddle” school district or jurisdictional boundary line even though the lot line may straddle the jurisdictional line).
- (3) Legal Buildable Lots. Any portion of a lot that is non-buildable for any reason shall be clearly shown as such on the Preliminary and Final Plats. A typical detail shall be submitted along with the Preliminary and Final Plats, and shall verify that the buildable portion of such a lot can accommodate a dwelling or main structure that complies with applicable City zoning regulations (if located within the City limits) and building codes (if located either within the City limits or the ETJ).

(e) **Lot Orientation Restrictions. Major and Minor Arterials.**

- (1) No single-family, two-family, or townhome lots shall front onto or have a driveway onto Major or Minor Arterials or any street with a right-of-way of sixty (60) feet or greater, as described within the *Engineering Design Standards*, unless the house was existing prior to the roadway being designated as such on the City’s *Master Thoroughfare Plan*.
- (2) No residential lots shall face a Collector or higher designation street.

(f) **Lot Frontages.**

- (1) Street Frontage.
 - i. *Adequate Frontage.* Each lot shall have access to a street (or an approved public way) by having frontage on such a street that is not less than fifty (50) feet at the street right-of-way line, or as otherwise specified in the *Zoning Ordinance* or a Planned Development (PD) Ordinance, if applicable. Lots fronting onto an eyebrow or bulb portion of a cul-de-sac shall also have a minimum frontage of forty (40) feet at the building setback line, unless approved by the Director of Engineering.
 - ii. *Frontage Exception.* For non-residential developments ten (10) acres or greater, the lots may be platted to a private street or access easement instead of a dedicated street.
- (2) Double Frontage.
 - i. *Single-Family, Two-Family and Townhome Lots.* Double frontage lots are prohibited, except that single-family, two-family or townhome lots may back or side onto a Collector street or larger thoroughfare, as described within the *Engineering Design Standards*, with appropriate screening. Where lots back or side onto a Collector street or larger thoroughfare, no driveway

access is allowed onto the thoroughfare from the rear or side of the lot.

- ii. **Establishment of Building Lines.** Where any lot has frontage on more than one (1) street, a front building line shall be established for each street, regardless of orientation of the structure.
- (3) **Lots Facing Other Lots.** Whenever feasible, each residential lot shall face the front of a similar lot, or shall face or side onto a park or open space if one exists or is planned (see Section 10.03.081, *Applicability and General Requirements*). In general, an arrangement placing adjacent lots at right angles to each other should be avoided. The Director of Development Services may grant a Minor Variance, in accordance with Section 10.03.086, *Variances*, if unusual circumstances exist on the subject property or on adjacent property that make it difficult to comply with this requirement.
- (g) **Lots in Relation to Parks/Open Space.** All lots that are located directly across a street from a park/open space shall face or side onto the park/open space, where feasible.
- (h) **Large Lots and Tracts.** If the lots or tracts of land in a proposed development are large enough to suggest possible further subdivision in the future, or if portions of the property are not subdivided or developed immediately, then the Preliminary Plat shall show how such large tracts or remainder portions of the property can be subdivided into conforming lots at a later time, and shall also show how streets can be extended and how median openings can be aligned and shared in the future.
- (i) **Lot and Block Numbering.**
 - (1) All lots within each phase of a development are to be numbered consecutively within each block. Each block shall have an alphabetical designation (e.g., “Block A, B, C” etc.). Each lot shall have a numeric designation (e.g. Lot 1, 2, 3, etc.).
 - (2) Different phases shall begin with different block numbers – in other words, a single block may not straddle more than one construction phase.
 - (3) Subsequent replat numbering shall be indicated with an “R” suffix for the first revision (e.g. from Lot 3 to Lot 3R) and any additional replatting changes to the lot shall be indicated with a numeric suffix following the “R” designation (e.g. Lot 3R-1) and continue numerically as changes occur (Lot 3R-2, Lot 3R-3, etc.).
- (j) **Building Setback Lines.** Building setback lines shall be shown only on residential Preliminary and Final Plats within Celina’s ETJ. Building setback lines need not be shown on any plats for commercial development.
- (k) **Addressing.** The Director of Development Services, in conjunction with the Geographic Information Systems department, shall assign addresses that are in compliance with standards established by the *U.S. Postal Service*.
- (l) **Other Block Requirements.** See the *Engineering Design Standards*.

Sec. 10.03.078..... OTHER SUBDIVISION REGULATIONS.

(a) Easements.

- (1) **Easements Shown on Plats.** The type, size, and location of easements shall be determined by the Director of Engineering. All existing and proposed easements shall be shown on the Preliminary, Final Plats, and Replats. All easements shall be labeled on the plat and dedicated for the specific purpose intended (e.g., “City Utility Easement,” “City Drainage Easement,” “CoServ Electric Easement,” etc.).
- (2) **Off-Site Easements.** Off-site easements that are necessary to fulfill City requirements or are required by the City shall be dedicated to the City by the Conveyance Plat or Final Plat and shall be

approved as to size and location by the Director of Engineering. In certain circumstances, a separate instrument may be accepted to dedicate required off-site easements, if approved by the Director of Engineering. If the abutting property is already platted, then a Replat of that property shall be required to establish the new off-site easement.

- (3) Maintenance Easements. When a retaining wall is proposed for construction, the associated plat must show a minimum three (3) foot maintenance easement on both sides of the proposed wall.

(b) **Reservations.**

- (1) Permitted Uses. No land contained in the proposed subdivision shall be reserved for any use other than a use permitted by the Zoning Ordinance for the district in which the land to be reserved is located or for future roadways as shown on the *Master Thoroughfare Plan*.
- (2) Designation on Plat. The specific use for which each parcel of land is to be reserved must be shown on the plat by an appropriate label or description. Provision for abandonment of a reservation in the future as may be appropriate must likewise be shown on said plat.
- (3) Parks and Open Space. The location and size of parks and open space areas shall be in conformance with this Article 10.03.080, *Parks & Open Space*, and the *Zoning Ordinance*. All areas retained as floodway shall be reserved for public use, unless other provisions are approved by the City Council.
- (4) Schools. The location and size of school sites shall be in conformance with the *Comprehensive Plan* and the recommendations of the applicable school district.
- (5) Public Facilities. The location and size of sites for public buildings, major utility facilities, and related community facilities shall be in conformance with the *Comprehensive Plan* and the recommendations of the Director of Development Services.

(c) **Monuments & Markers.**

- (1) General Placement. Monuments consisting of a minimum three-eighths (3/8) inch diameter steel rods, at least twenty-four (24) inches in length shall be placed at all:
 - i. Lot and block corners (wherever a lot line bearing changes);
 - ii. Intersection points of alley and block lines; and
 - iii. Curve and tangent points along block, lot, and right-of-way lines within the subdivision.
- (2) Subdivision Monumentation. At least two (2) property corners shall be marked with monuments of three (3) dimensional coordinates established from the City's *Engineering Design Standards*. The corners so marked should be at opposing ends of the property unless otherwise approved by the Director of Engineering.

- (d) **Subdivision Names**. New subdivisions shall be named so as to prevent conflict or "sound-alike" confusion with the names of other subdivisions. Subdivisions with similar names (e.g., Preston Lakes and Preston Hills) shall be located in proximity to each other, not in different areas of the City. Subdivision names shall be reviewed and approved by the Director of Development Services to ensure that the proposed subdivision name will not cause confusion or misdirection, especially for emergency responders.

(e) **Franchise Utility Policy.**

- (1) General Requirements. The Director of Engineering may require easements for poles, wires, conduits, gas, telephone, cable TV, internet, or other utility lines if necessary or advisable in the opinion of the Director of Engineering.
- (2) Locations. Utility easements may be located as follows:
 - i. Utilities shall be located in the alley rights-of-way along the rear property lines of lots or tracts whenever an alley is provided.
 - ii. Utilities shall be located in easements adjacent to the street rights-of-way along the front of lots or tracts whenever an alley is not provided. Utility easements shall be a minimum width

of seven and a half feet (7½') unless specifically reduced by the Director of Engineering.

- (3) **Ground-Mounted Equipment.** Ground-mounted equipment shall not be placed in visibility, access or maintenance easements.
 - i. All ground-mounted equipment within view of a public street right-of-way shall be screened from the adjacent street by minimum five (5) gallon evergreen shrubs, or larger, placed three (3) feet on center on the side facing the right-of-way, as well as along both sides of the equipment such that it will be fully screened from view from the street.
 - ii. Planting materials selected shall be such that will grow at least to the height of the equipment height, and will provide a continuous and generally solid/opaque living screen, within two (2) growing seasons from the date planted. The planting material shall be selected from the list of approved materials set forth in the City's Zoning Ordinance.
- (4) **Installation and Financing.** The subdivider shall arrange with the City and with utility companies franchised to serve the area in which the subdivision is located for the construction costs of streets and alleys, utility lines and other public improvements. The subdivider shall also arrange for the sequence of work so that underground utilities shall be installed in those portions of streets intended for vehicular traffic before such streets shall be surfaced. If the several improvements required herein have not been installed or constructed prior to submission of the Final Plat, then the Final Plat shall bear a restriction that no lot shall be occupied and that no municipal services shall be extended thereto until the specified utilities and improvements have been constructed as required.
- (f) **Fiber Optic Network Conduit and Fiber Optic Cable.** All residential and multiple-family subdivisions must install fiber optic capability before receiving a Certificate of Occupancy. In addition, the developer must inform the City of the provider chosen to serve the development and specify both the overall speed and the speed to each individual house or unit.
- (g) **Retaining Walls.** On any development, whether residential or non-residential, the slopes located at the perimeter of the property shall be graded so that there shall be no retaining walls necessary between the development being constructed and future adjacent developments, unless approved by the Director of Engineering.
- (h) **Amenity Lot Irrigation.** Residential subdivisions containing 500 lots or more shall irrigate their common area lots from on-site wells or detention/retention devices.

SEC. 10.03.079REQUIRED SUBDIVISION AMENITIES.

- (a) **Description & Definition.** The term "amenity" is defined within Section 10.03.102, *Definitions*, of this Ordinance.
- (b) **Requirements.** Where amenities are proposed in conjunction with a development, such amenities shall be reviewed and approved in accordance with the following:
 - (1) Plans and illustrations, along with a written statement of such concepts, shall be submitted for review and approval with the construction plans.
 - (2) Plans for amenities shall be incorporated into the Screening Plan and Landscape Plans, when applicable, for submittal as part of the construction plans.
 - (3) Structural elements shall be sealed by a licensed professional engineer and shall be approved by the City.
 - (4) Any screening or retaining wall shall be located in a common area lot or within a wall-maintenance easement (minimum three (3) feet wide) to facilitate repair as needed.
 - (5) A Site Plan, reviewed and approved in accordance with the *Zoning Ordinance*, is required for private recreational facilities, amenity centers and parks.

- (6) City review and approval of plans for amenities shall be required prior to issuance of a Letter of Final Acceptance for the subdivision improvements (refer to Section 10.03.046, *Inspection, Maintenance & Acceptance of Public Improvements*).
 - (7) All open space, landscaped areas, common areas, screening walls, subdivision signs, and other amenities proposed and/or built with a residential development shall be owned and maintained by the HOA. Should any private/public financing partnership be in place, the common areas, open space, and amenities may benefit from such lawful financing reimbursements or payments. At no time shall the ownership of any open space, landscaped areas, entry features, common areas or other amenities associated with the development pass to the City, unless specifically approved by the City Council.
 - (8) Every residential unit must be located within two (2) miles of an outdoor siren early warning system.
 - (9) Every residential and multiple-family development shall have, at the minimum, security cameras located at entrances to the community.
- (c) **Design of Amenities.** The design of amenities shall conform to the following:
- (1) Entry features shall be constructed entirely on privately owned property (i.e., not within public right-of-way), and shall not suspend over a public right-of-way, unless otherwise approved by a license agreement approved by the City. The primary entry feature, with identifying monument sign and/or other identifying branding or focal point, shall be placed within a separate HOA-owned (i.e. common area) lot within a divided entry access point. An entry feature having a water pond, fountain, or other water feature shall only be allowed if approved by the Director of Engineering and the Fire Chief.
 - (2) No entry feature, other than screening walls or extensions of screening walls, may be constructed on any portion of a single-family, two-family, or townhome lots. All such features shall be constructed on lots that are platted as “non-buildable” common-area lots and dedicated to an HOA for private ownership and maintenance.
 - (3) Entry features shall not encroach into visibility easements or otherwise impair pedestrian, cyclist or driver visibility.
 - (4) Private recreation facilities, if provided in a development, shall, to the greatest extent possible, be centrally located within the overall development. (See Diagram 10.03.117)
- (d) **Homeowners Association (HOA) Requirements.**
- (1) Purpose. The purpose for the establishment of an HOA (also referred to as “Association”) for residential developments is to create an organization that owns and is responsible for maintaining commonly owned properties and amenities including, but not limited to, private rights-of-way, club houses, recreational facilities, open space lots, and riparian areas used for the communal good of the development’s property owners and residents. The ownership and maintenance of said property and amenities shall be organized and established to exist in perpetuity.
 - (2) Applicability. An HOA shall be established for any development that contains any of the following: a minimum of six (6) housing units, a private amenity (such as a clubhouse or pool), private street, a major creek or tributary, or thoroughfare screening. For purposes of this section, the terms “Homeowners Association,” “HOA,” and “Association” are interchangeable with the term “Property Owners’ Association” for multi-family and non-residential developments.
 - (3) Elements Requiring an HOA. Any one (1) or more of the following elements created as part of the development shall require formation and continued operation of a mandatory HOA:
 - i. Amenities. Where proposed in conjunction with a development, the word “amenity” shall be as defined in Section 10.03.102, *Definitions*, and shall include, but not be limited to, the following:
 - a. Amenity center (e.g., private swimming pool, club house, conference or assembly rooms,

- tennis courts, etc.);
 - b. Private recreational facility;
 - c. Entry features, including signage and screening walls and other perimeter fencing;
 - d. Open space;
 - e. Ponds and detention features;
 - f. Water fountains or features;
 - g. Hike & bike trails; and
 - h. Other commonly owned facilities.
 - ii. *Major Creeks*. As defined in Section 10.03.102, *Definitions*, and as generally regulated by Section 10.08.02(j), *Major Creeks*, of this Ordinance, major creeks that run adjacent to or within a subdivision shall be maintained by the HOA.
 - iii. *Private Streets*. (Also see Sections 14.03.301(i) and (j) of the Zoning Ordinance) As defined in Section 10.03.102, *Definitions*, and as generally regulated by Section 10.03.073(c), *Private Streets*, of this Ordinance, private streets shall be owned and maintained by the HOA. This shall include all infrastructure including streets, alleys, sidewalks and other appurtenances within designated access easements, as well as associated structures as follows:
 - a. Security station structures and equipment (including gates, access card readers, perimeter security fencing, etc.);
 - b. Greenbelts; and
 - c. Other infrastructure necessary for vehicular circulation and neighborhood security.
- (4) Maintenance Agreement. All detention facilities shall be owned and maintained by the HOA and the HOA Board shall enter into a maintenance agreement with the City to ensure that adequate maintenance will be forthcoming over the life of the facility.
- (e) **Procedure for Establishing an HOA**. The establishment of a required HOA shall occur in conjunction with the recordation of the subdivision Final Plat, and shall generally be established as follows:
- (1) Documents Submitted for Review. The declaration, covenants and other necessary documents establishing the HOA shall be submitted to the City for conformance with this and other applicable ordinances prior to submission of the Final Plat, and prior to issuance of a Letter of Final Acceptance for the development. HOA documents shall include descriptions of any amenities, private streets, stub streets, thoroughfare screening, major creeks or tributaries, and other areas or structures for which the Association has maintenance responsibility, and shall outline the organization and board of the Association.
 - (2) Approval by City Attorney. All HOA documents shall be reviewed by the City Attorney prior to recordation of the Final Plat. The applicant shall reimburse the City for all related legal costs incurred by the City for review of the HOA documents. This reimbursement shall be paid in full prior to recordation of the Final Plat.
 - (3) Recordation. All HOA documents shall be recorded in Denton or Collin County prior to or with the recordation of the Final Plat. All copies of the HOA documents shall be submitted to Development Services along with the appropriate County fees and current tax certificates (with raised seals) for staff to complete the Final Plat recordation process.
 - (4) Additional Phases. An additional phase to an existing subdivision is not required to establish a separate and distinct HOA, provided that:
 - i. The existing, recorded Association documents are amended to incorporate the area of the new subdivision phase and to adopt the responsibility of its amenities, private streets, major creeks and tributaries, thoroughfare screening, and other areas for which the HOA is responsible for maintenance.
 - ii. The applicant shall provide a draft of the amended covenants to the City Attorney for review

prior to the recordation of the associated plat.

- (5) Revisions to HOA Documents. As revisions are made to the HOA documents, a copy of the revised documents shall be forwarded to the Director of Development Services for the City's files.

- (f) **Notice to Purchasers.** The developer shall be required to post notice in a prominent place at all model homes and sales offices stating the following:

- (1) That an HOA has been established for the subdivision;
- (2) That membership in the HOA is mandatory for all lot owners;
- (3) That the developer and/or builder is required to provide to any potential buyer, upon their request, a complete copy of the Association documents and a five (5) year projection (at a minimum) of HOA dues, income, and expenses; and
- (4) Any other assessment on the property which may have resulted from a PID, TIRZ, or other public/private financial agreement with the City, including the duration of said assessment and manner of collection.

- (g) **General Requirements.** The following shall be set forth in the HOA documents:

- (1) A statement that membership in the Association is mandatory for all owners of property within the subdivision;
- (2) A listing of all required maintenance responsibilities, and where possible, the lot numbers, legal descriptions, street names, etc. as shown on the approved plat for areas to be the responsibility of the Association;
- (3) By-laws related to the governance of the Association;
- (4) Covenants for maintenance assessments, which shall run with the land;
- (5) Responsibility for liability insurance and local taxes;
- (6) Statement that the authority for enforcement of Association rules and regulations is solely the responsibility of the Association and is not, in any way, the responsibility of the City;
- (7) Authority for the Association to secure funds from its members sufficient to meet its responsibilities. This authority shall include the ability to collect dues, to increase dues, to charge special assessments (such as fees associated with a Public Improvement District), and to place liens against property for failing to pay dues, assessments, and fines.
 - i. Dues shall be calculated based on a cost projection for the maintenance of all amenities and based on eventual build-out of the subdivision;
 - ii. Dues shall not be based on calculations which include monies from the developer which will not be provided following the transfer of the Association from the developer to the lot owners.
 - iii. Dues shall be required to be disclosed to all lot owners at the time of property purchase by the lot owners.
- (8) Provision that no amendment of the Association documents relating to maintenance of amenities, private streets, major creeks and tributaries, thoroughfare screening, any other Association-maintained area or facility, or related reserve funds (as applicable) shall occur without prior City approval;
- (9) Written release of liability for maintenance to benefit the City; written indemnification of the City outlining that under no circumstances shall the City be liable to the Association or any individual property owner or their respective heirs, executors, administrators, devisees, personal representatives, successors or assigns for any damages, injuries (including death), and/or liability resulting from any amenity, on the private streets, within or adjacent to any Major Creek or tributary, associated with any thoroughfare screening or common landscaping, or from any other Association-owned and maintained area or facility;
- (10) Written assurance of adequate funds based on an accredited cost projection analysis within a

specific reserve account of the Association for the maintenance and removal of amenities as determined by the City; and

- (11) Written consent giving the City the authority to take appropriate actions for violations as set forth in Section 10.03.079(h), *Violations, Revocations and Liens*.
- (12) Other City requirements as applicable.

(h) **Supplementary Requirements.** The HOA shall also comply with the following regulations, where applicable:

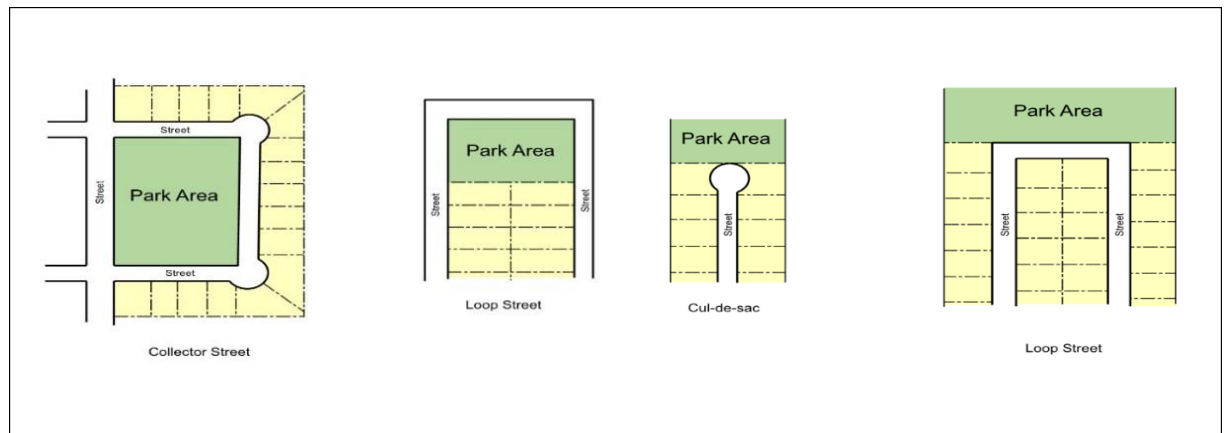
- (1) Compliance with the Zoning Ordinance. Association documents shall not overrule the landscaping or other provisions of the *Zoning Ordinance* by penalizing or restricting water conserving landscapes, or by requiring landscape materials that do not comply with *Zoning Ordinance* landscape requirements.
- (2) Compliance with the Neighborhood Design Guidelines. Association documents shall comply with the adopted *Neighborhood Design Guidelines*.
- (3) Amenities. The following regulations shall apply to any subdivision that includes an amenity, as described in Section 10.03.078, *Required Subdivision Amenities*, and defined in Section 10.03.102, *Definitions*:
 - i. Where amenities are proposed in conjunction with a development, the applicant shall comply with those regulations outlined in Section 10.03.078, *Required Subdivision Amenities*, of this Ordinance.
 - ii. All developments that require the provision of common open space shall submit covenants to maintain open space, recreational areas, and other commonly owned facilities for review with the Final Plat application.
- (4) Private Streets. Whenever a public street becomes private following plat recordation, an HOA is required to be established, if not already in existence, that would be responsible for owning and maintaining the converted streets and rights-of-way. The following regulations shall apply to any subdivision that includes private streets, except those that exist prior to the effective date of this Ordinance.
 - i. The Association shall own and be responsible for the maintenance of private streets and appurtenances (such as alleys, storm sewers, sidewalks, barrier-free ramps, street lights and signs, etc.) and shall provide for the payment of dues and assessments required to maintain the private streets and appurtenances.
 - ii. The Association documents shall state that if the approval of the Specific Use Permit for the Private Street Development is revoked or the private streets are otherwise converted to public streets, the reserve fund shall become the property of the City (see the City's *Engineering Design Standards* for conversion process).
 - iii. In addition to any other requirements set forth in this section, the HOA's documents shall specify the following:
 - a. That the streets within the development are private, that they are owned and maintained by the Association, and that the City has no obligation to maintain, repair or reconstruct the private streets.
 - b. A statement that the City may, but is not obligated to, inspect private streets and require repairs necessary to ensure that the same are safe for travel and are being maintained to City standards.
 - c. A statement that the Association may not be dissolved without the prior written consent of the City Council, which consent shall not be withheld by the City if it determines that an adequate reserve fund exists, and the streets and alleys are in satisfactory condition for conversion to public streets, as determined by the Director of Engineering.

- d. That failure to bring the subdivision into compliance with these regulations may cause the City to revoke the approval or the Specific Use Permit for the Private Street Development and take appropriate action.
 - iv. The HOA documents shall note that certain City services may not be provided in Private Street Developments. The services that may not be provided include, but are not limited to: police enforcement of traffic and parking ordinances and preparation of accident reports. Depending on the characteristics of the proposed development, other services may not be provided.
 - v. The HOA documents shall contain a provision that requires the Association to provide unrestricted access to emergency vehicles, utility personnel, the U.S. Postal Service, and governmental employees, agents or representatives in the performance of their official duties. All access gates shall be designed and constructed in accordance with emergency access design standards listed in the *Engineering Design Standards*, and shall be equipped with an emergency access controlled gate opening system (e.g. Opticom® or Knox-Box®) or with another emergency operating system that is acceptable to the Fire Chief.
- (5) Major Creeks, Tributaries, Ponds and Water Features (100-Year Floodplain). For single-family and two-family residential developments, the area within the 100-year floodplain shall be owned and maintained by a Homeowners Association, subject to City approval. The Final Plat shall reflect, and the Association documents shall provide:
 - i. City access for emergency vehicles, equipment and personnel and for the improvement and maintenance of the 100-year floodplain in the event they are not being properly maintained, as determined by the Director of Engineering; and
 - ii. Should the Association fail to maintain the floodplain area to the standards of the City, the Association shall reimburse the City for all costs incurred by the City for adequate maintenance.
- (i) **Violations, Revocations & Liens.**
 - (1) The City will notify the HOA of violations of any of the regulations specified within this section.
 - (2) Failure to bring the subdivision into compliance with these regulations may cause the City to revoke the specific approval of the Association or take other remedies outlined in this section.
 - (3) The City shall have all liens, assessments and enforcement rights granted therein to the Association, and the City shall have the ability to enforce the liens and assessments, and avail itself of any other enforcement actions available to the City pursuant to State law and/or City regulations.
 - (4) Should the Association fail to carry out its duties as specified in this Ordinance, the City shall have the right and ability, after due notice to the Association, to perform the duties required by this or any other Ordinance, regulation or agreement with the City in order to bring the Association into compliance therewith. The City shall have the right and ability, after due notice to the Association, to assess the Association for the full amount owed and/or assess the property owners on a pro rata basis for all costs incurred by the City in performing said duties if the Association fails to do so. Said assessment shall constitute a lien, in favor of the City, upon the properties for which the assessment is made.

Article 10.03.080.....PARKS & OPEN SPACE

SEC. 10.03.081 PARK LAND REQUIREMENTS FOR NEW RESIDENTIAL DEVELOPMENTS

- (a) **Purpose.** This Section is intended to meet the goals and objectives of the City to meet the additional needs created by new residential development.
- (b) **Scope.** The provisions of this Article shall apply to all new residential development within the City for which a Final Plat or Preliminary Plat is required to be submitted to the City for approval.
- (c) **Exemptions.** The provisions of this Article shall not apply to the following:
 - (1) Senior living facilities and senior care facilities, including assisted living facilities, senior congregate care facilities, memory care facilities and nursing homes. However, independent living and retirement communities or age-restricted housing developments shall be subject to the provisions of this Article.
 - (2) Residential development for property to be located on a lot of record that was approved prior to the effective date of the ordinance from which this article derives.
 - (3) A record plat, minor plat, or replat which was approved prior to the effective date of the ordinance from which this article derives.
 - (4) Residential development constructed or to be constructed in accordance with a building permit issued prior to the effective date of the ordinance from which this article derives.
- (d) **Park Design Requirements: Neighborhood and Linear Parks and Connections to Parks.**
 - (1) Parks must be easy to access and open to public view to benefit area development, enhance the visual character of the City, protect public safety and minimize conflict with adjacent land uses.
 - (2) The following standards shall be used in designing parks and adjacent development:
 - i. Where physically feasible, parks shall be bounded by streets, or by other public uses (*e.g.* a school, library, recreation center).
 - ii. Where residential lots are directly adjacent to a park, lots must be oriented to side and not back to the park. In this instance, cul-de-sac and looped streets must be used to access the lots and park.
 - iii. Residential lots may back to a park only when the site's physical character (*e.g.*, shape,



topography, drainage) does not reasonably permit an alternative design or the layout of the subdivision complements the use of the park (*e.g.*, lots backing to a golf course). Lots backing to a park shall only be allowed upon a recommendation from the City Manager or designee and approval by the Planning & Zoning Commission.

- iv. A proposed subdivision adjacent to a park may not be designed to restrict reasonable access

- to the park from other area subdivisions.
- v. Street connections to existing or future adjoining subdivisions may be required to provide reasonable access to parks.
- vi. Alleys shall not abut a park.
- vii. Public access to a park shall not be less than fifty (50) feet at the curb and in width to the Base Floodplain and/or Maintenance and/or Access Dedication and shall not be part of a residential lot. The Developer shall install a Hike & Bike trail connection from the street to the Hike & Bike trail/park prior to final acceptance of the subdivision. This trail must be blocked from motor vehicle traffic. However, the Developer may request to escrow funds for the contracted amount prior to final acceptance of the subdivision with City approval. The escrow amount will remain in place until the trail has been completed and accepted by the City.
- viii. A twenty (20) foot level surface shall be provided for all public Hike & Bike trails. The twenty (20) foot wide level surface can be provided within and/or outside of the Base Floodplain and/or Access Dedication. The parkway for the public street may count towards the twenty (20) foot wide level surface.
- ix. All proposed Hike & Bike trails shall be shown on the Preliminary Plat. The Parks and Recreation Department shall make the final determination of the placement of the public Hike & Bike trail at the time of the Final Plat.
- x. No development shall interrupt future trail routes or otherwise hinder efficient public access to or from an existing or future planned trail. Gated and other limited access developments shall be designed such that they facilitate, and do not impede, through public access, emergency ingress and egress, usage and enjoyment of public trails.
- xi. Streets abutting a park shall be built in accordance with the Thoroughfare Plan, the standards of this Ordinance, and all other applicable construction standards and/or ordinances, as they exist or may be amended. However, the City may require any residential street built adjacent to a park to be constructed to collector street width to ensure access and prevent traffic congestion.
 - a. When park land is acquired, the City shall reserve sufficient land to provide the additional right-of-way required for an abutting collector size street, sixty (60) feet of right-of-way, unless otherwise approved by the City.
 - b. The proposed street alignment fronting on City parks is subject to City approval. Land owners shall also provide street access to all Major Creeks and/or Access Dedications.

Sec. 10.03.082..... PARK LAND DEDICATION REQUIREMENTS.

- (a) **Land Conveyance or Payment in Lieu of Land Required.** The owner of any property to be developed for residential or multiple-family purposes shall convey land for park purposes or make a payment of money in lieu of land, or a combination of both, to the City at the time of platting to provide for the recreational needs created by such development, in accordance with the provisions of this article (the "park land dedication fee").
- (b) **Proposed Number of Dwelling Units.** All plats, lots of record, replats, site plans or proposed improvements of land for new residential development shall indicate the number of proposed dwelling units to be constructed or placed within the development on such plat, lot of record, replat, or site plan.
- (c) **Determination or Requirements.** In reviewing any lot of record, plat, site plan, or proposed improvements of land for a new residential development (including townhome or multi-family developments), the City Manager or designee shall make a determination of whether a conveyance of land, payment of money in lieu of land or a combination of both shall be made to meet the requirements of this article.
- (d) **Factors Considered.** In making a determination of which type of dedication, or combination thereof, shall

be made, the City Manager or designee shall evaluate what would be in the best interest of the City, based upon relevant factors that may include, but not be limited to, the following:

- (1) Whether the proposed land to be conveyed for park purposes would be suitable as a regional, neighborhood, linear, community, or city park;
- (2) Any adopted park plan or sub-area plan for the area in which the development is located;
- (3) Whether the proposed land to be conveyed for park purposes is adjacent to an existing or proposed school site.
- (4) Whether there is sufficient existing public or private park land in the area of the proposed development;
- (5) Whether the park needs of the area where the proposed development is located would be best served by expanding or upgrading existing parks;
- (6) Whether the land is located adjacent to a greenbelt park which is intended to be preserved in its natural state; and
- (7) Whether the development of a park in the location proposed reflects the guidelines of the *Comprehensive Plan*.

(e) **Dedication: Conveyance of Land Requirements.** The City Manager or his designee shall make the determination regarding whether a conveyance of land shall be accepted in whole or in part or whether it would be more beneficial to the City to accept the market-based cash equivalent. When the City elects to accept the conveyance of land to meet the Park Land Dedication requirement, the following provisions shall apply:

- (1) Amount.
 - i. The required conveyance of land shall be one (1) acre of land per fifty (50) residential single-family units, or a dollar amount per square foot of the land in lieu of land dedication, as listed in the Master Fee Schedule.
 - ii. The required conveyance of land for multi-family units shall be a flat per unit fee, as listed in the Master Fee Schedule.
- (2) Manner and Method. Plats required to be submitted to the City for approval shall show thereon a fee simple conveyance to the City of the land required for park purposes as a condition to approval of such plat by the Commission. The City may further require the conveyance of the park property by general warranty deed. As a condition to acceptance of the plat or deed by the City, the Subdivider shall provide the City with an owner's title policy of insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the City.
- (3) Credit for Private Recreation Facilities. Where private recreation facilities are built for the residents for the subdivision or development, a credit may be granted with a recommendation from the City Park Board and approval by the City Council. The value of these private recreation facilities shall be determined by the City Council, but shall not exceed fifty percent (50%) credit of conveyance.
- (4) Credit for Prior Dedications. Where a gift of land was made prior to the effective date of the ordinance from which this article is derived by the owner of land required to convey land under the provisions of this article, the former gift of land shall be credited on a per-acre basis toward the required conveyance provided by this article when the City Council finds that:
 - i. The gift was made within five (5) years of the effective date of this ordinance;
 - ii. The land given was within one-half mile of the new development for which land is required to be conveyed;
 - iii. The land given is not being presently used for purposes incompatible with park purposes and is suitable for park purposes; and
 - iv. A credit may be given for on-site improvements that are compatible with long-range development plans for the proposed park.
 - v. The credit provided for herein shall not be transferable and shall only be given to the donor

of the land who is the owner of the property being developed for which a conveyance of land is required by this article, unless said prior conveyances were included as a part of an executed facilities and/or development agreement between the City and the developer.

- (5) Credit for Conveyance of Floodplains. In cases where floodplain and or property is proposed to be conveyed to satisfy the Park Land Dedication requirements, a credit will be given based upon the following formula or ratio: three (3) acres of floodplain shall equal one (1) acre of land outside the floodplain, if approved by the Park Board.
- (6) Suitability of Land for Neighborhood Parks, Community Parks, or Linear Parks. The Park Board shall be the arbiter of what land is suitable for park land dedication, subject to final approval by the City Council. A proposed conveyance of land shall not be considered suitable for Neighborhood Parks, Community Parks, or Open Space purposes if it has one or more of the following characteristics:
 - i. Located within the 100-year floodplain, as shown on the latest flood insurance rate map or Floodplain Ordinance adopted by the City on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. The City may accept no more than the twenty percent (20%) floodplain land, unless a greater percentage of land within the floodplain is determined in the best interest of the City.
 - ii. The proposed dedication is less than seven and a half (7.5) acres for a neighborhood park or less than twenty (20) acres for a community park, unless the proposed dedication is located in such a manner in which it could be combined with other dedications to create a park of adequate size.
 - iii. It has unusual topography or slope or has utility easements that render it unsuitable for organized recreational activities or passive park needs, depending on the City's intended use for the property.
 - iv. It does not, or would not, front an improved public street or would not be readily accessible, in whole or in part, to the public.
- (f) **Dedication: Payment in Lieu of Land Provisions**. Where the City Manager or designee determines that a payment of money in lieu of land shall be made, the following provisions shall apply:
 - (1) Determining the Amount of Payment.
 - i. Any payment of money required to be paid shall be in an amount equal to the average per-acre value of the whole property included within the residential development or the amount set forth in the Fee Schedule, as it currently exists or may be amended, whichever is greater.
 - ii. In determining the average per-acre value of the total land included within the proposed residential development, the City Manager or designee may base its determination on one or more of the following:
 - a. The most recent appraisal of all or part of the property made by the county central appraisal district; or
 - b. Confirmed sale prices of all or part of the property to be developed, or comparable property in close proximity thereof, which has occurred within two (2) years immediately preceding the date of determination; or
 - iii. Where, in the judgment of the City Manager or designee, Section 10.03.082(f)(1)(i) or 10.03.082(f)(1)(ii) above would not, because of changed conditions, be a reliable indication of the current value of the land being developed, an independent appraisal of the whole property obtained by the City and paid for by the Developer; or
 - (2) Time of Payment. Any payment of money required herein shall be paid as a condition to the approval of any Final Plat or replat. Payment shall be made prior to the filing of the plat unless otherwise stated in an agreement approved by the City Council.
 - (3) Park Land Dedication Fund. All cash payments paid to the City in accordance with this Section shall

be deposited in a separate Park Land Dedication Fund. The City shall account for all such payment with reference to each development for which the payment is made.

- (4) Use of Funds. Any payments made to the park development fund must be used for the acquisition and development of parks, Hike & Bike trails, or public open space located within the City.

(g) **Compliance, Penalties, Sanctions and Redeterminations.**

- (1) Requirements to be Satisfied Prior to Development. It shall be unlawful for any person who is required to convey land, or pay money in lieu of land, as required by this article, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any development to which this article applies until the required conveyance of land or payment of money in lieu of land is made to the City in accordance with this article.
- (2) Permits and Services to be Withheld. No building permits shall be issued for, and no permanent utility services shall be provided to any land within any land within any development to which this article applies until the required conveyance of land or payment of money in lieu of land is made to the City in accordance with this article.
- (3) Redetermination of Requirements for Proposed Additional Dwelling Units. After the City Council has made a determination of the requirements of this article, or after the requirements of this article have been met, based upon the proposed number of residential dwelling units for any land to which this article applies, any person who desires to construct a number of dwelling units in excess of the number of dwelling units for which the requirements of this article were determined or met must submit to the City Council a revised calculation for the total number dwelling units in the development. If the additional number of dwelling units changes the density of the development, a zoning change may be required. If the additional dwelling units are accepted by the City through a process determined by the City Manager or his designee, the developer shall either convey the additional park land through a plat or replat or shall pay a fee in lieu of park land for the additional dwelling units at the issuance of the first building permit for all the additional units, regardless of whether all of the units are being constructed at one time.

Sec. 10.03.083..... PARK IMPROVEMENT FEES

(a) **Purpose.**

- (1) A park improvement fee ("park fee") is hereby imposed on residential development for the purpose of ensuring that City, community, neighborhood, and linear park facilities are available and adequate to meet the needs created by new residential development.
- (2) The park fee is imposed in conjunction with and in addition to requirements for the dedication of neighborhood and linear park land and the construction of neighborhood and linear park improvements for which contributions the Property Owner may be reimbursed from proceeds of park fees imposed, as provided in Section 10.03.083(f), *Use of Park Improvement Fee*.
- (3) Park improvement fees are collected on a per unit basis prior to the issuance of a building permit and are listed in the Master Fee Schedule.

- (b) **Applicability of Park Fee.** In all cases in which parkland is dedicated or cash is paid in lieu of parkland dedication, the subdivider shall also pay to the City a sum of money, as set forth by Section 10.03.083(d), *Amount of Park Improvement Fee*. This subsection does not apply to activities involving the replacement, reconstruction, remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure or to permits required for accessory uses, unless such activity results in a change in the type or increase in the number of dwelling units.

- (c) **Imposition of Park Fee.** Imposition of the park fee does not alter, negate, supersede or otherwise affect any other requirements of City, county, state or federal legislation or regulations that may be applicable to a residential development, including City zoning and/or subdivision regulations that may impose open

space and park requirements and standards.

- (d) **Amount of Park Improvement Fee.** The established park fee for single-family, duplex, townhome and multifamily dwelling units as listed in the Fee Schedule.
- (e) **Timing and Processing of Park Improvement Fees.**
 - (1) The park improvement fee shall be a paid by the home builder prior to the issuance of a Building Permit.
 - (2) The amount of the park improvement fee for single-family, two-family, and multi-family units is set forth in the City's Master Fee Schedule, as it currently exists or may be amended.
 - (3) All park improvement fee payments shall be segregated in a separate fund to be spent only for the improvement of park facilities, funding of staff, or purchase of park land within the City.
 - (4) The City shall maintain and keep financial records for park improvement fees, which shall show the source and disbursement of all fees collected.
- (f) **Use of Park Improvement Fees.** Park fees must be used for the following purposes:
 - (1) To acquire, develop, and provide equipment for Parks.
 - (2) To repay Developers for the reasonable costs of any park improvements constructed and accepted by the City.
- (g) **Additional Voluntary Park Improvements.** A developer may request permission to construct, at his own expense, additional park improvements. The City may accept or reject voluntary dedications of park land and/or additional park improvements. Such voluntary dedications and/or improvements shall be considered for approval by the Park Board. All improvements in public parks and open spaces shall be consistent with the design criteria and objectives of the City and any adopted park plan, and shall, upon installation, become the property of the City. Prior to constructing such additional park improvements, the developer shall enter into a development agreement with the City that defines, among other things, the work to be performed, construction schedules, improvement costs, performance surety, the amount to be reimbursed by the City (if any), and the timing of such reimbursement (if any).
- (h) **Appeals and Variances.**
 - (1) The Developer may appeal the following decisions of the City Manager to the Board of Adjustment:
 - i. The applicability of the park fee;
 - ii. The amount of the fee due; or
 - iii. The amount of refund due, if any.
 - (2) The Developer must file a notice of appeal with the City Council within thirty (30) days following the determination by the City Manager. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the park fee due as calculated by the City Manager, the development application shall be processed. The filing of an appeal shall not stay the collection of the fee due, unless a bond or other sufficient surety has been filed.
 - (3) The Board of Adjustment may grant variances from any requirements of this Chapter, upon written request by a Property Owner, following a public hearing, and only upon a finding that a strict application of such requirement would result in a substantial hardship that is not common to similarly situated property owners.
- (i) **Park Fee as Additional and Supplemental Requirement.** The Park Fee is in addition and supplemental to and not in substitution of Park Land dedication or fees in lieu of land conveyance, or any other requirements imposed by the City on the residential development of the land.

Sec. 10.03.084.....HIKE & BIKE TRAIL REQUIREMENTS.

- (a) **Hike & Bicycle Trail Master Plan.** Hike & Bike trails located within or adjacent to the development shall

be constructed at the developer's expense in accordance with any adopted master plan, and as amended.

- (b) **Requirements.** Hike & Bike Trails, especially those providing access to and along a Major Creek and other open spaces, shall be in accordance with the following design criteria unless otherwise approved by the Director of Parks & Recreation and the Director of Development Services:
- (1) A minimum twenty-five (25) foot wide level ground surface shall be provided for a twelve (12) foot wide public Hike & Bike trail, where required. The twenty-five (25) foot wide, level ground surface may be provided within and/or outside of the 100-year floodplain.
 - (2) The parkway of a public street may count toward the twenty-five (25) foot wide, level ground surface, upon approval of the Director of Parks & Recreation.
 - (3) Low water crossings for the Hike & Bike trail may be allowed upon approval from the Director of Engineering and the Director of Parks & Recreation.
 - (4) The Hike & Bike trails shall be designed so as to minimize visibility blind spots from public streets for public safety purposes.
 - (5) Construction plans for the development shall include engineered drawings of trail cross-sections in accordance with the City's *Engineering Design Standards*.
 - (6) Hike & Bike trails shall be shown on the Final Plat and dedicated as "trail easements."
- (c) **Locations & Easements.** Locations of all trails shall be consistent with the locations designated in any adopted master plan, and are subject to approval by the Director of Parks & Recreation and the Director of Development Services.
- (1) The Director of Parks & Recreation and the Director of Development Services shall have the authority to determine the placement of future Hike & Bike Trails at the time of Conveyance Plat or Preliminary Plat review and approval.
 - (2) No development shall interrupt future trail routes or otherwise hinder efficient public access to or from an existing or future planned Hike & Bike Trail. Gated and other limited access developments shall be designed such that they facilitate, and do not impede, through public access, emergency ingress and egress, usage, and enjoyment of public trails.
 - (3) Residential developments that own, by means of an HOA, open space, must provide a pedestrian access easement to allow future Hike & Bike Trails to transverse the property.
- (d) **Trails Along Major Creeks & Greenways.**
- (1) Hike & Bike trails shall be located adjacent to Major Creeks or greenways whether shown on the master trails plan or master parks plan or not. These trails shall be staked in the field by the developer, provide stub outs to any local sidewalk system and approved by both the Director of Parks & Recreation and the Director of Development Services prior to the submittal of a Conveyance Plat or Preliminary Plat.
 - (2) The location of the trail shall be specified on the Conveyance Plat or Preliminary Plat as the approved location for the Hike & Bike trail, and an easement for such shall be shown on the Conveyance or Preliminary Plat and the associated Final Plat for any portions of the trail that traverse private property.
- (e) **Trails in Relation to Golf Courses.** When a trail system is extended through a golf course, improvements shall be made to protect and provide separation between users of the trail system and the golfers, at the developer's expense. Such improvements include, but are not limited to, a series of berms and trees to help protect trail users from airborne golf balls. Upon approval of the Director of Parks & Recreation and the Director of Development Services, a golf cart path of sufficient width to accommodate both golf carts and bicycles may serve as a trail.
- (f) **Future Trails and Access for New Developments.** When development is adjacent to an undeveloped property, a pedestrian access stub-out in conjunction with a street connection to the edge of the development shall be required to allow for future access between developments.

ARTICLE 10.03.085RELIEF PROCEDURES

Sec. 10.03.086.....VARIANCES & MINOR MODIFICATIONS.

- (a) **Purpose.** The purpose of these relief procedures is to allow an applicant to differ from a particular standard or requirement of this Ordinance that would substantially limit the applicant's ability to utilize the land in a manner requested.
 - (1) The rules and regulations of this Subdivision Ordinance are the standard requirements of the City. Suspension of any of these rules and regulations may be granted upon a good and sufficient showing by the applicant that there are special circumstances or conditions affecting the property in question, or that enforcement of the provisions of this article will deprive the applicant of a substantial property right and that such suspension, if granted, will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity.
 - (2) Each and every application for Variance shall be decided solely and entirely on its own merits and the disposition of any prior or pending application for Variance shall not be allowed to enter into or affect any decision on the application in question.
 - (3) Pecuniary interests (i.e. financial issues) standing alone shall not be justification for the granting of a Variance.
- (b) **Definitions of Levels of Relief.** The Director of Development Services shall be responsible for classifying any relief procedure as "minor" or "major." Minor modifications may be acted upon by the Director of Development Services or the Director of Engineering. Variances, as required by State Law, and as defined in Section 10.03.102, *Definitions*, of this Ordinance, require consideration by the Board of Adjustment.
- (c) **Decision-Makers & Appeals.**
 - (1) Minor Modifications. A minor modification is acted upon by the Director of Development Services or the Director of Engineering. An appeal to a decision on a minor modification by the Director of Development Services or the Director of Engineering (as applicable) shall be considered by the Board of Adjustment. The Board of Adjustment will be the final decision maker.
 - (2) Variances. A variance is acted upon by the Board of Adjustment. An appeal to a variance decision by the Board of Adjustment shall be considered by a District or County Court.
- (d) **Applicability.**
 - (1) An applicant may request relief from a particular standard or requirement applicable to a Conveyance Plat, Preliminary Plat, Construction Plans, Final Plat, or a Replat. The relief petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement. An applicant may, if desired, submit more than one relief petition if there are several standards or requirements at issue.
 - (2) A petition for relief shall not be accepted in lieu of a vested rights petition (Section 10.03.087, *Vested Rights*). If there is a question as to whether a vested rights petition is required instead of a petition for relief, such determination shall be made by the Director of Development Services.
- (e) **Variance Submission Procedure.**
 - (1) A request for relief shall be submitted in writing by the applicant with the submittal of a Conveyance Plat, Preliminary Plat, Construction Plans, Final Plat, or Replat, as applicable. No relief may be considered or granted unless the applicant has made such written request and paid the applicable fee.
 - (2) The applicant's request shall state the grounds for the relief request and all of the facts relied upon by the applicant. Failure to do so will result in denial of the associated plat application.
- (f) **Variance Criteria.**
 - (1) A variance to regulations within this Ordinance may be approved only when, in the Board of

Adjustment's opinion, undue hardship will result from strict compliance to the regulations.

- (2) The Board of Adjustment shall take into account the following factors:
 - i. The nature of the proposed land use involved and existing uses of the land in the vicinity;
 - ii. The number of persons who will reside or work in the proposed development; and
 - iii. The effect such variance might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
 - (3) No variance shall be granted unless the Board of Adjustment finds:
 - i. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land; and
 - ii. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the Variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
 - iii. That the granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Ordinance.
 - (4) A variance may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Financial hardship to the applicant shall not be deemed to constitute undue hardship.
 - (5) No variance shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the applicant.
 - (6) The Board of Adjustment shall not authorize a variance that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan, or *Comprehensive Plan* of the City.
 - (7) Any falsification of information by the applicant shall be cause for the variance request to be denied. If the variance request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the variance, and shall be grounds for reconsideration of the variance request.
- (g) **Burden of Proof.** The applicant bears the burden of proof to demonstrate that the requirement for which a variance is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the applicant. The applicant shall submit the burden of proof with the original submittal.
- (h) **Decision.** The decision-maker shall consider the variance petition and, based upon the criteria set forth in Section 10.03.086(g), *Variance Criteria*, shall take one of the following actions:
- (1) Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
 - (2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Ordinance.
- (i) **Notification of Decision on Petition.** The applicant shall be notified of the decision on the variance by the Director within fourteen (14) calendar days following the decision.
- (j) **Appeal Process.**
- (1) Initiation of an Appeal. The applicant or City Staff may appeal a variance decision. A written letter of appeal shall be submitted to the Director of Development Services within fourteen (14) calendar days following the decision by the Board of Adjustment, as allowed by State law.
 - (2) Appeal to District or County Court. The written appeal petition shall be brought before the Court of Record for final decision
- (k) **Minor Modification Procedure.** The Director of Development Services shall determine what criteria apply for any relief petition that is considered "minor" in nature on a case-by-case basis. Appeals to his decision

shall be heard by the Board of Adjustment.

- (l) **Effect of Approval.** Following the granting of a minor modification or variance, the applicant may submit or continue the processing of a plat or construction plans, as applicable. The minor modification or variance granted shall remain in effect for the period the plat, concept plan, or construction plans are in effect, and shall expire upon expiration of any of those applications. Extension of those applications shall also result in extension of the minor modification or variance. The approval of a minor modification or variance relieves the applicant of the imposition of the particular standard or requirement for which a minor modification or variance was sought following the finding of just cause for such minor modification or variance to be allowed. A variance shall not be approved solely based on monetary interests. Minor modifications or variances are heard on a case-by-case basis and do not establish precedent.

Sec. 10.03.087.....VESTED RIGHTS.

- (a) **Purpose.** The purpose of a vested rights petition is to determine whether an application should be processed under the terms of a previous ordinance, to provide a process for determination of possible vested status, and to determine when certain permits are subject to expiration.
- (b) **Applicability.**
 - (1) A vested rights petition may be submitted for any application authorized under this Ordinance.
 - (2) A vested rights petition cannot be submitted by an applicant along with submission of a request for a text amendment to this Ordinance, a Zoning Map amendment, or any other request for a legislative decision by the City Council.
- (c) **Submission.** A vested rights petition shall be submitted to and officially filed with the City's responsible official (see Section 10.03.023(g), *Application Submittal Process* in accordance with State law. Submission of a vested rights petition shall be deemed as an automatic variance of the applicant's right, and the City's obligation, to process and act upon applications as required by State law and as provided in Section 10.03.087(e), *Form of Petition*, of this Ordinance. Submission of such petition shall stay further proceedings on the related application until a final decision is reached on the vested rights petition.
- (d) **Effect.** If a properly submitted vested rights petition is approved in whole or in part, the responsible official shall then process the original application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards existing at the date vesting is established, or shall extend the validity of the original application that would otherwise be subject to expiration pursuant to this Ordinance.
- (e) **Form of Petition.** The vested rights petition shall allege in writing that the applicant has a vested right for some or all of the land subject to the application under State law that requires the City to review and decide the application under standards that were in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
 - (1) A written vested rights petition form, with a notarized original signature of the property owner;
 - (2) A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
 - (3) A copy of each approved or pending application that is the basis for the contention that the City may not apply current standards to the application;
 - (4) The official filing date of the application;
 - (5) The date the subdivision for which the application was submitted was commenced;
 - (6) Identification of all standards otherwise applicable to the application from which relief is sought;
 - (7) Identification of any current standards which applicant agrees can be applied to the application at issue;
 - (8) A narrative description of how the application of current standards affect proposed landscaping,

- open space or park dedication, shown on the application for which the petition is filed;
- (9) A copy of any prior vested rights determination involving the same land; and
- (10) Whenever the applicant alleges that an application subject to expiration should not be terminated, a description of the events constituting progress toward completion of the subdivision for which the application was approved. The applicant shall reimburse the City for all related legal costs for review of the vested rights petition. This reimbursement shall be paid in full prior to any decision on the petition.

(f) **Timing for Filing Petition.** A vested rights petition shall be filed with an application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any already approved application when filed pursuant to Section 10.03.089, *Dormant Projects*. Where more than one (1) application is authorized to be filed simultaneously by this Ordinance, the petition may be filed simultaneously for each application.

(g) **Processing and Decision.**

- (1) Responsible Official. The responsible official for a vested rights petition is the same as that for processing the application with which the petition is associated, except where a petition is submitted pursuant to Section 10.03.027, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*. Where multiple applications are submitted, and there is more than one (1) responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the vested rights petition. The City Attorney shall also be notified of the vested rights petition following its filing and acceptance for processing. The applicant shall reimburse the City for all related legal costs for review of a vested rights petition. This reimbursement shall be paid in full prior to filing of the Final Plat.
- (2) Action and/or Decision by Responsible Official.
 - i. If the responsible official is the decision-maker on the original related application, that official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and recommendation.
 - ii. The applicant shall be notified of the decision within fourteen (14) calendar days following the date the vested rights petition was filed at the City.
 - iii. The responsible official may defer making a decision on the vested rights petition and instead forward the petition to the Commission for a decision, in accordance with the process outlined in Section 10.03.087(g)(3), *Decision by Planning & Zoning Commission*.
- (3) Decision by Planning & Zoning Commission. If the original application is to be decided by the Commission, or if the responsible official defers making a decision on a vested rights petition, the responsible official for that type of application shall submit a report in the form of a recommendation on the vested rights petition to the Planning & Zoning Commission. The Commission shall render a decision on the vested rights petition within thirty (30) calendar days following the date the petition was filed with the City. The Commission's decision on a vested rights petition shall be upon a simple majority vote of the full Commission's voting members.
- (4) Decision by City Council. Where the City Council is the final decision-maker on the related application, or for any petition submitted pursuant to Section 10.03.089, *Dormant Projects*, the responsible official for that type of application shall submit a report in the form of a recommendation on the vested rights petition to the City Council. The Council shall render a decision on the vested rights petition within thirty (30) calendar days following the date the petition was filed with the City. The City Council's decision on a vested rights petition shall be upon a simple majority vote of the full Council's voting members, and shall be final.
- (5) Appeal of Decision. The applicant may appeal to City Council the responsible official's or

Commission's decision on the vested rights petition by submitting written notice of appeal to the applicable responsible official within fourteen (14) calendar days following the date of such decision. The City Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal by the City. Approval of an appeal by the City Council shall only be upon a favorable vote of at least four (4) of the Council's voting members, and shall be final (see Section 10.03.087(k), *Appeal*).

- (6) **Effect on Related Applications.** A final decision on the vested rights petition or appeal under this section must be achieved prior to further processing, and prior to any consideration of, or decision on, the related application. Upon such final resolution and decision on a vested rights petition, the responsible official shall commence processing, review and consideration for the related application as provided in this Ordinance.

(h) **Criteria for Approval.**

- (1) **Factors.** The decision-maker shall decide the vested rights petition based upon the following factors:
- i. The nature and extent of prior applications filed for the land subject to the petition;
 - ii. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - iii. Whether any prior approved applications for the property have expired or have been terminated in accordance with State law or local ordinances;
 - iv. Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed application;
 - v. Whether any statutory exception applies to the standards in the current Subdivision Ordinance from which the applicant seeks relief;
 - vi. Whether any prior approved applications relied upon by the applicant have expired;
 - vii. For petitions filed pursuant to Section 10.03.027 of this Ordinance, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*, whether any of the events in Section 10.03.027 have occurred;
 - viii. Any other applicable provisions of State law.
- (2) **Conditions.** If the claim of vested rights is based upon a pending application, subject to standards that have been superseded by current standards of this Ordinance, the decision-maker may condition any relief granted on the vested rights petition on the approval of the pending application.

(i) **Action and Record of Action.**

- (1) **Action.** The decision-maker may take any of the following actions:
- i. Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards; or
 - ii. Grant the relief requested in the petition, and direct that the related application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - iii. Grant the relief requested in part, and direct that certain identified current standards be applied to the related application, while standards contained in identified prior regulations also shall be applied; or
 - iv. For petitions filed pursuant to Section 10.03.027, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*, specify the expiration date or the conditions of expiration for the related application(s).
- (2) **Record.** The responsible official's report and the decision on the vested rights petition shall be recorded in writing in an order identifying the following:
- i. The nature of the relief granted, if any;
 - ii. The related applications upon which relief is premised under the petition;

- iii. Current standards which shall apply to the related application for which relief is sought, if applicable;
 - iv. Prior standards which shall apply to the related application for which relief is sought, including any procedural standards, if applicable;
 - v. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
 - vi. To the extent feasible, subsequent related applications that are subject to the same relief granted on the petition; and
 - vii. For petitions filed pursuant to Section 10.03.027, *Expiration for Projects Approved Prior to the Adoption of Subdivision Ordinance*, the date of expiration of the related application.
- (j) **Associated Applications Following Final Decision.**
 - (1) Following the City's final decision on the vested rights petition, the applicant shall, if necessary, revise the related application such that it conforms to the City's decision on the vested rights petition.
 - (2) The decision-maker on the related application shall review and consider the revised application in accordance with the procedures for deciding that type of application, as outlined in this Ordinance, and in conformity with any relief granted.
 - (3) If the relief granted on the vested rights petition is consistent with the related application on file, no revisions shall be necessary, and the related application shall be deemed officially filed at the time of the final decision on the vested rights petition.
- (k) **Appeal.**
 - (1) Initiation of an Appeal. The applicant may appeal the decision of the Commission by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the date of the Commission's decision.
 - i. For a City Council-initiated appeal, the Council shall consider and act on whether it will appeal the Commission's decision at its first regular meeting (for which there is time to include such appeal on its posted agenda, as required by State law) that occurs after the Commission meeting at which the decision was made.
 - ii. Written notice of the City Council's vote to appeal shall be submitted to the Director of Development Services within seven (7) calendar days following the City Council's vote to appeal the decision.
 - iii. For an applicant-initiated appeal, a letter stating the reasons for the appeal, citing the specific applicable sections of the Subdivision Ordinance, shall be submitted by the applicant.
 - iv. The Director of Development Services may, on his/her own initiative, appeal the decision of the Commission by scheduling an appeal on the City Council's next regular meeting (for which there is time to include such appeal on its posted agenda as required by State law) that occurs after the Commission meeting at which the decision was made.
 - (2) Council Decision. The City Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify or reverse the decision of the Commission by simple majority vote. The decision of the City Council is final.
- (l) **Expiration & Extension.**
 - (1) Expiration. Relief granted on a vested rights petition shall expire on occurrence of one of the following events:
 - i. The applicant fails to submit a revised application that is consistent with the relief granted, if any, within sixty (60) calendar days following the final decision on the vested rights petition;
 - ii. The application for which relief was granted on the vested rights petition is denied; or

- iii. The application for which relief was granted on the vested rights petition expires.
- (2) Extension. Extension of the date of expiration for the application for which relief was granted on a vested rights petition shall result in extension of the relief granted on the vested rights petition for the same time period.

Sec. 10.03.088.....ROUGH PROPORTIONALITY.

- (a) Notwithstanding anything in this Ordinance to the contrary, if the City requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs pursuant to this Ordinance, the developer's portion may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer retained by the City. Municipal infrastructure improvements have the meaning set forth in the TEXAS LOCAL GOVERNMENT CODE Section 212.904, as that term is interpreted by the Texas Attorney General and Texas courts.
- (b) The dedication or construction of an infrastructure improvement imposed by the City as a condition of plat or site plan approval in accordance with the City's adopted subdivision and development regulations shall be deemed to be the City's determination, upon the advice of a professional engineer duly licensed in this state and retained by the City, that such requirements, together with any impact fees due for the development, are roughly proportionate to the impacts created by the development on the City's municipal infrastructure.
- (c) A developer who disputes the determination made under subsection (b) above, may appeal to the City Council. Prior to filing the appeal, the developer shall notify the Director of Development Services, in writing, of the pending dispute. The Director shall send the developer their written response, reviewed and approved by the Engineering Division or other professional engineer on behalf of the City, to the proportionality issues raised by the developer and in so doing may revise the dedication or construction requirement(s) at issue. If the developer is not satisfied with the Engineering Division's response, they may file an appeal to the City Council with the City Secretary. At the appeal, the developer may present evidence and testimony under procedures adopted by the City Council.
- (d) The City may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.
- (e) For municipal infrastructure improvements for which the City has enacted impact fees, the measure of rough proportionality shall be the maximum impact fee per service unit then in effect for that category of infrastructure improvements, as may be amended from time to time, unless an alternative measure is approved by the Director of Engineering or his designee. To the extent that the impact fee charged against a new development, as may be amended from time to time, is less than the maximum impact fee per service unit, such difference is hereby declared to be founded on policies unrelated to measurement of the impacts of the new development on the City's infrastructure systems. The maximum impact fee per service unit may be used in evaluating any claim by a property owner that the dedication of land for right-of-way or construction of an infrastructure improvement within an impact fee service area, which is imposed as a condition of development approval pursuant to the City's subdivision or development regulations, together with the imposition of an impact fee, is disproportionate to the impacts created by the development on the City's infrastructure system for that category of infrastructure improvements.
- (f) After hearing any testimony and reviewing the evidence, the City Council shall make its determination within thirty (30) days following the final submission of any testimony or evidence by the developer. The Council shall decide whether requirements imposed by this Ordinance is roughly proportional to the nature and extent of the development proposed. In reaching such determination, the Council shall take

into account the information in the evidence supplied by the applicant, the measure of proportionality in Subsection (e) or any alternative measure proposed by the Director of Engineering or his designee, the total costs to the City for supplying infrastructure capacity to the proposed development and all developments associated with the original plat of which the proposed development is a part, and the extent to which requirements imposed by the City benefit the proposed development.

- (g) If the City Council finds that the requirement is not roughly proportional to the nature and extent of the development being proposed, it may take any of the following actions:
 - (1) Waive in whole or in part a dedication or construction requirement imposed by the City's development regulations and/or reduce the amount of impact fees due; or
 - (2) Direct that the City participate in the costs of acquiring or constructing such a municipal infrastructure improvement pursuant to standard participation policies; or
 - (3) Require some combination of such measures.

Sec. 10.03.089.....DORMANT PROJECTS.

- (a) **Definitions.** For purposes of this Chapter only:
 - (1) Initial permit means any of the following types of approvals granted under this Subdivision Ordinance, or any predecessor subdivision or development-related ordinance that was in effect prior to the adoption of this Ordinance: Preliminary Plat, construction plans, Construction Release, Variances to any requirement in this Subdivision Ordinance, or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of development, lots or improvements on a site intended for development.
 - (2) Final permit means a Final Plat approved under this Subdivision Ordinance, or any predecessor subdivision or development-related ordinance that was in effect prior to the adoption of this Ordinance.
- (b) **Expiration of Permits.** Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date, two (2) years prior to the adoption date of this Subdivision Ordinance shall expire on the effective date of this Subdivision Ordinance.
- (c) **Reinstatement.** The property owner of the land subject to an initial permit that expires under Section 10.03.089, *Dormant Projects*, may petition the Commission to reinstate such permit by filing a written petition within sixty (60) calendar days following the effective date of this Subdivision Ordinance. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:
 - (1) As of two (2) years prior to the effective date of this Subdivision Ordinance, one of the following events had occurred:
 - i. A final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the approved initial permit and was approved by the City, or was filed and was subsequently approved by the City;
 - ii. An application for a final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness consistent with State law.
 - iii. Costs for development of the land subject to the initial permit, including costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
 - iv. Fiscal security was posted with the City to guarantee performance of obligations required under this Subdivision Ordinance, including the construction of required improvements associated with the proposed development, for all or a part of the land subject to the

- approved initial permit; or
 - v. Utility connection fees or impact fees for all or part of the land subject to the approved initial permit were paid to the City.
- (2) After two (2) years prior to the adoption date of this Subdivision Ordinance, but before the expiration date specified in Section 10.03.089(b), *Expiration of Permits*, one of the following events had occurred:
- i. A final permit was approved for all or part of the land subject to the approved application, and remained in effect for such land on such expiration date; or
 - ii. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.
- (d) **Commission Action on Reinstatement.** The Commission may take one of the following actions:
- (1) Reinstatement the expired initial permit without an expiration date, if it finds that the applicant has met any of the criteria listed in Section 10.03.089(c), *Reinstatement*;
 - (2) Reinstatement the initial permit for all or part of the land subject thereto, if it finds that the applicant has met any of the criteria listed in Section 10.03.089(c), *Reinstatement*, subject to such expiration dates or other conditions that ensure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Commission may require that development of such remaining land is subject to standards enacted after approval of the initial permit;
 - (3) Deny the reinstatement petition, if it finds that the applicant has failed to meet any of the criteria in Section 10.03.089(c), *Reinstatement*, or
 - (4) Reinstatement the permit for only that part of the land subject to a pending final permit application, if it finds that the applicant has met the criteria in Section 10.03.089(c), *Reinstatement* and the pending application subsequently was approved, and deny the reinstatement petition for the remaining land subject to the expired initial permit.

ARTICLE 10.03.090AMENDMENTS; FEES; VIOLATIONS; CONFLICTS

Sec. 10.03.091.....TEXT AMENDMENTS.

The City may initiate changes to the Subdivision Ordinance through a call for public hearing. Any case that considers amending the Subdivision Ordinance is considered during a public hearing by the Planning & Zoning Commission, which will make a recommendation on the case to City Council. City Council will consider the Commission's recommendation during a public hearing, upon which the City Council will make a decision whether to direct staff to prepare an Ordinance amending the section(s) of the Subdivision Ordinance.

Sec. 10.03.092.....FILING FEES & CHARGES.

- (a) **General.** Fees shall be paid to the City when any application authorized by this Ordinance is submitted to Development Services. Each of the fees, as provided in Section 10.03.092(c), *Calculations & Charges*, shall be paid in advance, and no action of the Commission, the City Council, or any other City board or commission shall be valid until all required fees have been paid. Fees paid for the review and consideration of plats and applications under this Ordinance are non-refundable.
- (b) **Consequence of Non-Payment of Fees.** Fees that are not paid within thirty (30) days of the date they are due shall cause any action or application to be null and void.
- (c) **Calculations & Charges.** Fees and charges shall be calculated in accordance with the following:
 - (1) All fees shall be as established by City ordinance, as amended.
 - (2) These fees shall be charged on all plats and applications authorized by this Ordinance, regardless of the action taken by the decision-making authority and whether the application is approved, denied, withdrawn, or otherwise closed.

ARTICLE 10.03.100 DEFINITIONS, USAGE AND INTERPRETATION

Sec. 10.03.101.....USAGE & INTERPRETATION.

- (a) **Usage.** The definitions within this Article 10.03.102 are intended to provide descriptions for words and terms used within this Subdivision Ordinance. Absent any conflict, words and terms used in this Subdivision Ordinance shall have the meanings ascribed thereto in this Article 10.03.101.
- (b) **Conflicts.** When words and terms are defined herein, and are also defined in other ordinance(s) of the City, they shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in Section 10.03.102 and subject to the terms of this Article shall control.
- (c) **Present & Past Tenses.** Words used in the present tense include the future; words in the singular number include the plural number, and words used in the plural number include the singular number.
- (d) **Usage of Shall & May.** The words shall and must are mandatory and not directory. The word may is directory and not mandatory.
- (e) **Words Not Defined.** For any definition not listed in this Article 10.03.112, the definition found within the latest edition of Webster's Dictionary shall be used.
- (f) **Certain Terms & Words.** Certain terms and words are to be used and interpreted as described and/or defined within the sections of this Subdivision Ordinance wherein they apply to certain regulations.
- (g) **Words of Gender.** Words of masculine gender shall include the feminine gender and vice versa.

Sec. 10.03.102.....DEFINITIONS.

The following definitions shall apply to terms and words used within this Subdivision Ordinance:

100-Year Hazard Setback. An erosion hazard setback is to reduce the potential for any damage to a private lot or street right-of-way caused by the erosion of a stream bank. The erosion hazard setback shall be determined as follows: for stream banks composed of material other than rock, locate the toe of the natural stream bank and project a 4:1 line sloping away from the bank until it intersects finished grade. From this intersection, add fifteen (15) feet away from the bank. This shall be the limit of the erosion hazard setback.

100-Year Floodplain. 100-Year Floodplain is defined as a flood having a one percent (1%) chance of being equaled or exceeded in any given year, based upon a fully developed watershed and the City's criteria to accommodate a 100-year storm in a Major Creek (<http://www.celina-tx.gov/DocumentCenter/View/1416>).

Abutting. Also defined as adjacent, adjoining and contiguous to. It may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, or open space.

Access. A means to enter a property or the ability to traverse a property (such as in the use of a mutual access easement).

Acreage, Gross. Means the total acreage included within the boundary line of a particular subdivision, tract, parcel, lot, etc. without any exclusions.

Acreage, Net. Means the acreage included within the boundary line of a particular subdivision, tract, parcel, lot, etc., but excluding all public ways.

Alley. A minor right-of-way, generally dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for utility service purposes.

Amending Plat. See *Plat, Amending*.

Amenity. Aesthetic or other physical improvements added to a development that increase its quality, desirability, and/or marketability to the public, and that are described within Section 10.03.079(c)(1), *Elements requiring a HOA*, of this Ordinance.

Appeal. A request for review of and relief from any decision applying a provision of this Ordinance.

Applicant. The person or entity responsible for the submission of an application. The applicant must be the actual owner of the property for which an application is submitted, or shall be a duly authorized representative of the property owner. Also, see *Developer*.

Application. The package of materials, including but not limited to an Application Form, exhibits, completed checklist, Tax Certificates or other proof of ownership, construction plans, special drawings or studies, and other informational materials, that is required by the City to initiate City review and approval of a development project.

Application, Complete. See *Complete Application*.

Application Form. The written form (as provided by and as may be amended by the City) that is filled out and executed by the Applicant and submitted to the City along with other required materials as a part of an application.

Approval. Approval constitutes a determination by the official, board, commission or City Council responsible for such determination that the application complies with the minimum provisions of this Ordinance. *NOTE*: Such approval does not constitute approval of the engineering or surveying contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.

Arterial. A general term for a street or thoroughfare (see *Street*), which has a more specific meaning when used in conjunction with a class distinction, such as Major, Minor, Type A, Type B, etc. Each class provides a certain degree of continuity, capacity and accessibility to adjacent land uses.

Arterial, Major. A thoroughfare designed to accommodate cross-city traffic movement, distributing traffic to and from minor thoroughfares and collector streets. Major Thoroughfares are divided roadways that typically have an ultimate width of six lanes. Such streets shall also be as described within the *Engineering Design Standards*, and as shown on the Thoroughfare Plan Map. Also is referred to as "Type A-1."

Arterial, Minor. A thoroughfare designed to accommodate neighborhood-to-neighborhood (intra-city) traffic movement, distributing traffic to and from collector streets. Minor Thoroughfares are divided roadways that typically have an ultimate width of four (4) lanes with a median to accommodate turn lanes and landscaping. Such streets shall also be as described within the *Engineering Design Standards*, and as shown on the Thoroughfare Plan Map. Also is referred to as "Type B."

Block. A grouping of buildings that are partially or fully surrounded by one or more streets. Lots separated only by an alley are within the same block.

Building. Any structure intended for shelter, occupancy, housing or enclosure for persons, animals or property. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Building Line. A line parallel, or approximately parallel, to any front lot line at a specific distance therefrom, marking the minimum distance from the front lot line that a building may be erected.

Building Permit. An official certificate issued by the City through the Chief Building Official that indicates conformance with or approved conditional variance from City regulations and authorizes construction of buildings or other described construction on the premises for which it is issued.

Build-to Line. A parallel or approximately parallel line to any front property line at a specific distance determined by zoning district, marking the maximum distance from the front property line that a building may be erected. This distance is generally used in urban areas where wide sidewalks abut the building facades.

Building Official. The person so designated by the City Manager to provide oversight for and have responsibility of the Building Inspections; such official issues Building Permits and Certificates of Occupancy and enforces the Zoning Ordinance, Building Code, and any applicable provisions of this Subdivision Ordinance. This term shall also include

any designee of the Building Official.

Centerline, Streets or Alleys. An imaginary line erected midway between the bounding right-of-way lines of a street or alley. Where the bounding right-of-way lines are irregular, the centerline is to be determined by the Director of Engineering.

Certificate of Occupancy. An official certificate issued by the City through the Chief Building Official that indicates conformance with or approved conditional variance from City regulations and authorizes legal use of the premises for which it is issued; may be referred to as an Occupancy Permit.

Certified Land Division. A map, drawing or chart delineating parcels of land offered for rent or lease for other than agricultural uses and which: is not required by state statute to be filed in the map and plat records of the county; does not involve or require the dedication of public streets or alleys; and has been certified by the City Council as having met the conditions of this chapter. A certified land division shall be treated as a subdivision plat under these regulations, except that it is properly certified for filing with the City Secretary rather than the county clerk. In addition, a plat of the property indicating legal boundaries and any public dedications and easements shall be prepared, reviewed by staff, approved by the City Council, and filed with the Denton or Collin County Clerk.

City. The municipal corporation of the City of Celina, Texas.

City Attorney. The person(s) so designated by the City Council to provide oversight for and have legal responsibility for the City. This term shall also include any designee of the City Attorney.

City Council. The duly elected governing body of the City of Celina, Texas.

City Manager. The person so designated by the City Council, or the City Manager's designee.

City Official or Administrator. Any person, elective or appointive, or any employee, or any board or commission authorized or constituted by City ordinance or state law to act on behalf of the municipality.

Code. Shall mean the entire City of Celina's Code of Ordinances.

Commencement. The date of the official start of the development of the project – usually considered at the initial disturbance of soils.

Commission. The Planning & Zoning Commission of the City of Celina. See *Planning & Zoning Commission*.

Comprehensive Plan. The City's officially adopted *Comprehensive Plan* which includes policies, in written and graphic form, on (but not limited to) thoroughfares, land use, parks, open space, hike and bicycle trails, and other facets of the City's physical form; such policies govern the future development of the City and consist of various components governing specific geographic areas, functions, and services of the City.

Construction Plans. The drawings and technical specifications that conform to this Ordinance and all other applicable ordinances of the City. Construction plans, including bid documents, contract conditions, and escrow agreements, where applicable, provide a graphic and written description of the character and scope of the work to be performed in construction of a development.

Construction Release. Official authorization by the City, through the Director of Engineering, that indicates conformance with City regulations and authorizes construction of improvements or other described construction, in conformance with approved construction plans, on the premises for which it is given.

Crosswalk. A public right-of-way, four (4) feet or more in width between property lines, which provides pedestrian circulations.

Day, Business. Shall be defined as Monday through Friday, excluding City-recognized holidays.

Day, Calendar. Each day of a particular calendar year.

Dead End Street. A street, other than a cul-de-sac, with only one (1) outlet.

Deed Restriction. A limitation on the use of land set forth or referred to in the title deed of such land. Such limitations run with the land and are binding upon present and subsequent owners of the land. Deed restrictions are not enforced by the City.

Developer. A person or entity, limited to the property owner or duly authorized representative thereof, who proposes to undertake or undertakes the division or improvement of land and/or other activities covered by this Subdivision Ordinance so as to constitute a *subdivision*, including the preparation of a plat showing the layout of the land and the public improvements involved therein. The word *developer* is intended to include the terms *subdivider*, *property owner*, and, when submitting platting documents, *applicant*.

Development. Any activities related to the platting or physical subdivision of land including the construction, reconstruction, conversion, or enlargement of buildings or structures; the construction of impervious surfaces (e.g., parking lots); the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including grading, drainage, storage, paving, clearing, filling, and/or removal of vegetation or soil, and any mining, dredging, excavation or drilling operations.

Development Agreement. A legally binding document authorized and in accordance with Section 212.172 of the TEXAS LOCAL GOVERNMENT CODE between the City and a property owner whenever public improvements to serve a development are deferred until after Final Plat approval and recordation. Such document outlines the developer's acknowledged responsibility to complete and warranty improvements and to provide financial security for such improvements.

Development Application. An application for any type of plat or construction plan/drawing authorized or addressed by this Subdivision Ordinance. Also may be referred to as a *permit* within the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 245.

Director of Development Services. The person so designated by the City Manager to provide oversight for and have responsibility of the Development Services Department. As used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Development Services.

Director of Engineering. The person so designated by the City Manager to provide oversight for and have responsibility of the Engineering Department. As used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Engineering.

Director of Parks & Recreation. The person so designated by the City Manager to provide oversight for and have responsibility of the Parks & Recreation Department. As used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Parks & Recreation.

Director of Planning. The person so designated by the City Manager to provide oversight for and have responsibility of the Planning Department. As used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Director of Planning.

Driveway. A paved entranceway serving primarily vehicles that allows for access to a lot or facility, and is intended for vehicular movements between the roadway and any portion outside the street right-of-way.

Dwelling Unit. Any building, structure or mobile home, or part thereof, which is designed, used or intended to be used for human occupancy as the living quarters, of one housekeeping unit or family.

Easement. A specific right in a particular area of real property that exists because of an express or implied agreement between the landowner and another party that grants the right to use or access the land area, but

not ownership.

Engineer. A person who has been duly licensed by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas. (Also known as *Professional Engineer, Registered Engineer, Registered Professional Engineer, or Licensed Engineer.*)

Engineering Design Standards. A document adopted by the City that is intended to establish standards for the design and construction of public facilities within the City of Celina.

Entry Turnaround. An esplanade opening or other accommodation provided at the entrance to a private street development in order to allow vehicles denied access to reenter the public street with a forward motion without unduly disturbing other vehicles at the entrance.

Erosion Hazard Setback. A defined area adjacent to a stream on which development is prohibited due to significant hazards associated with a flood situation unless major channel stabilization has occurred.

ETJ. See *Extraterritorial Jurisdiction.*

Exemption. A specified reason why a particular development is not subject to the requirements to plat or to a specific provision of this Ordinance.

Extraterritorial Jurisdiction (ETJ). The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distance as stipulated in CHAPTER 42 OF THE TEXAS LOCAL GOVERNMENT CODE, according to the population of the City, and in which area the City may regulate subdivisions and enjoin violation of provisions of this Subdivision Ordinance.

Facilities. Infrastructure and other structures that support a development including, but not limited to, water distribution lines, sanitary sewer collection lines, storm sewer lines and other storm water management devices, thoroughfares, sidewalks, private utilities, etc.

File/Filed/Filing. See *Official Filing Date and Submission.*

Fire Chief. The person so designated by the City Manager to provide oversight for and have responsibility of the Fire Department. As used for responsibility and review purposes within this Subdivision Ordinance, this term shall also include any designee of the Fire Chief.

Fire Lane. See definition in the City's adopted Fire Code.

Green Belt. An open space area consisting primarily of natural features that may be located in a floodplain or along a creek channel, be used as a buffer between land uses, or be used as an open space linkage between various land uses.

Habitat Study. A completed research project that gathers and compiles information pertinent to the natural habitat for threatened or endangered species and habitats used for nesting birds listed in the Migratory Bird Treaty Act.

Hike & Bike Trail. A paved and maintained pathway for pedestrians and bikers that serves as a linkage for access to recreational and educational areas and facilities.

Homeowners Association (HOA). A community association that is organized within a development in which individual owners share common interests and responsibilities for open space, landscaping, amenities or facilities, and which operates under recorded land agreements. This term also includes Property Owners' Associations (POAs) and Property Management Corporations (PMCs) which are more typically formed for multi-family and nonresidential developments.

Improvement. Any man-made fixed item that becomes part of or placed upon real property.

Improvement, Public. Any improvement, facility or service together with its associated public site, right-of-way or easement necessary to provide transportation, storm drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the City ultimately assumes the responsibility, upon a Letter of Final Acceptance being issued, for maintenance, operation and/or ownership.

Infrastructure. Facilities and services needed to sustain industrial, residential, commercial and all other land use activities. The term infrastructure includes but is not limited to water, sewer lines, and other utilities, streets and roads, communications, and public facilities, such as fire houses, civic buildings, parks, and schools.

iSWM. The acronym for integrated Storm Water Management, which is a guide for the construction and design of developments. This guide is intended to help mitigate the impact of developments on storm water runoff by considering such runoff during early site planning and design phases and was created by the North Central Texas Council of Governments (NCTCOG).

Landscape Buffer. An area of permanent vegetation that is adjacent to a residential subdivision, non-residential property, vacant land, but not thoroughfare.

Land Planner. Any person skilled in the art and science of arranging and designing the layout of land so as to create adequate and desirable building sites, a coordinated street system, and space appropriate to the efficient removal of stormwater and the provision of public services and utilities, all consistent with long range goals and the objectives of the *Comprehensive Plan*. A land planner may be trained in any of several specialties; and, where appropriate to his experience, the term may include architects, engineers, landscape architects, and surveyors.

Lot. An undivided tract or parcel of land that is or may be offered for sale, conveyance, or improvement and is occupied or intended to be occupied by a building or group of buildings. A lot has its principal frontage on a public street or on an officially approved private street, as shown on a plat of record or described by metes and bounds.

Lot Depth. The horizontal distance measured perpendicularly between two (2) points on the front lot line and two (2) points on the rear lot line which creates an area that meets (or exceeds) the zoning district's minimum width and depth requirements. Lot depth shall not include easements that are located behind the front building line that impair the use of the lot surface as a yard.

Lot Frontage. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot Lines. The lines bounding a lot as defined herein. May also be referred to as a *Property Line*.

Lot Line, Front. The narrower side of the lot abutting a street. Where two (2) lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be designated as the *Front Lot Line*, and therefore the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line and lies along the same general directional orientation as the front and rear lot lines, said line shall be considered a front lot line in establishing minimum setback lines. (see Zoning Ordinance, Appendix A, Illustrations).

Lot Line, Rear. The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero. (see Zoning Ordinance, Appendix A, Illustrations).

Lot Line, Side. Any lot line not the front or rear lot line.

Lot of Record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Denton or Collin County or a lot subdivided by metes and bounds description prior to February 1984.

Lot Width. The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line that is closest to the front lot line.

Lot, Corner. A lot which has at least two (2) adjacent sides abutting for their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five degrees (135°).

Lot, Double Frontage. A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Flag. A lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width. May also be referred to as a Panhandle Lot.

Lot, Interior. A lot other than a corner lot.

Lot, Key. A corner lot that is designed such that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.

Major Arterial. See *Arterial, Major*.

Maximum. For the purposes of this Ordinance, “the maximum” is the amount that is the upper limit allowed by this ordinance less than the maximum may be allowed, unless otherwise specified.

Metes and Bounds. A method of describing the boundaries of land by directions and distances from a known point of reference.

Minimum. For the purposes of this Ordinance, “the minimum” is the amount that is the least amount required of a developer but more than the minimum may be provided, unless otherwise specified.

Minor Modification. A minor change to the standards, but not the intent, of this Subdivision Ordinance, which involves Director’s approval unless otherwise noted.

Mobile Home Park. A tract of land designed, used or intended for the renting or leasing, but not sales, of sites for the location, occupancy, or accommodation of one or more mobile home dwellings.

MS4. The acronym for the City’s Municipal Separate Storm Sewer System.

Official Filing Date. Defined as the date on which the plat has met all the requirements of the Subdivision Ordinance following staff or administrative review, fees have been paid, and that plat is scheduled for final approval by the Planning & Zoning Commission by placement on the Commission agenda.

Off-Site (also known as “off-premises”). Any premises not located within the area of the property to be subdivided, whether or not in common ownership with the applicant submitting an application.

Open Space. Any land parcel or natural area that is set aside, dedicated, designated or reserved for public use and enjoyment, or for private use and enjoyment of owners and occupants of the land adjoining or neighboring such open space area.

Ordinance (also referred to as “this Ordinance”). Refers to this Subdivision Ordinance of the City, as may be amended in the future.

Park. An area developed for active or passive play and recreation that includes open space, sports courts or fields, play equipment, and trails.

Park, Community. A park of approximately 40 to 100 acres, serving an area two (2) to three (3) miles in diameter, serving a population of approximately 20,000 persons and encompassing the service areas of four or more neighborhood parks. Community parks may typically contain lighted athletic facilities for more active play purposes, such as ball fields for football, softball, baseball and soccer, and a recreation center or swimming pool. These parks may be located adjacent to existing or proposed greenbelt areas and proposed junior and senior high school sites.

Park, Neighborhood. A park of approximately 10 to 20 acres, serving an area one (1) to two (2) miles in diameter

and serving a population of approximately 5,000 persons. Neighborhood parks should be designed to service a specific neighborhood area and may include playground apparatus and other space for active recreational purposes, along with some areas for passive use. Whenever possible, neighborhood parks should be located adjacent to existing or proposed greenbelt areas and proposed elementary school sites.

Parks, Recreation, and Open Space Master Plan. The City's officially adopted Plan that includes policies in graphic and text form; such policies govern the future development of the City's park system, open space, and recreation programs, including the hike-and-bike trail system.

Pavement Width. The portion of a street available for vehicular traffic. Where curbs are paved, it is the portion between the face of the curbs.

Pedestrian Access. A specifically designated place, path, means, or way by which pedestrians shall be provided safe, adequate, and usable circulation through the interior of a property or development.

Permit. A license, certificate, approval, registration, consent, permit, contract or other agreement for the construction or provision of service from a utility owned, operated, or controlled by the City, or other form of authorization required by law, rule, regulation, order, or ordinance, which has been approved by the City, that a person or entity must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought, and for which the application for the permit or information required to be submitted for consideration provides notice of the project to the City.

Person. Any individual, association, firm, corporation, governmental agency or political subdivision.

Planning & Zoning Commission (also referred to as the "Commission"). A decision-making body appointed by the City Council which is responsible for subdivision and plat approval, as permitted by State law, and which has any other authority conferred upon it by the City Charter, this Ordinance, or other regulations of the City.

Plat. A map, drawing or exhibit which shows the exact layout and proposed construction of a proposed development into one (1) or more lots, blocks, streets, parks, school sites, easements, alleys and/or any other elements as required by this Ordinance, including any engineering or construction standards for related improvements, and which conforms to all requirements of this Ordinance and any other applicable City ordinance, and which is subject to approval by the Planning & Zoning Commission, unless otherwise specified.

Plat, Amending. A map, drawing or exhibit that modifies a recorded final plat, record plat, or minor plat in accordance with the provisions of this Chapter.

Plat, Conveyance. A map, drawing or exhibit which conforms to Section 10.03.032, *Conveyance Plats*, of this Subdivision Ordinance for the purpose of sale or conveyance. A conveyance plat may be the first step in the development of a project, especially if the project will be developed in phases and off-site easements need to be platted prior to the final platting of the entire tract.

Plat, Final. A map, drawing or exhibit which conforms to Section 10.03.034, *Final Plats*, of this Subdivision Ordinance and is submitted to the City for consideration for final approval by the Planning & Zoning Commission. The plat illustrates that the subdivision of land is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities and the installation of or provision for public improvements. Once approved, such plat is submitted to the County Clerk of Denton or Collin County for recording.

Plat, Minor. A map, drawing or exhibit dividing land into no more than four (4) lots that meets the submission and approval requirements of Section 10.03.035, *Minor Plats*, of this Ordinance. The Director of Development Services may approve such plat. Such plat is also considered a Final Plat.

Plat, Preliminary. A map, drawing or exhibit which conforms to Section 10.03.033, *Preliminary Plats*, of this Subdivision Ordinance and is submitted to the City for consideration for initial approval by the Planning & Zoning Commission. Such plat is not to be recorded, but illustrates the general layout of a proposed subdivision, the

adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the applicable requirements of this Ordinance. Such plat is reviewed and decided prior to approval of a Final Plat.

Plat, Replat. The re-subdivision of all or part or all of any block or blocks of a previously platted subdivision, addition, lot or tract, that is beyond the definition of an Amending Plat and which does not require the vacation of the entire preceding plat. Such plat also conforms to Section 10.03.036, *Replats*, of this Subdivision Ordinance. A Replat may function as a Final Plat for a property.

Progress (towards completion). Shall have the same meaning set forth in Section 245.005(c) of the TEXAS LOCAL GOVERNMENT CODE, as it exists or may be amended, unless another meaning is specified.

Project. An endeavor over which the City exerts its jurisdiction and for which more than one (1) permit is required to initiate, continue, or complete the endeavor.

Property Owner. The legally recognized proprietor of the land for which an application is being submitted. (Also, see *Developer*)

Property Owners Association. An organization similar to a Homeowners' Association that is established for the ownership, care, and maintenance of private streets and other private commercial facilities.

Public Improvement. See *Improvement, Public*.

Public Way. An officially approved, privately maintained street or roadway, constructed to City street standards, open to unrestricted and irrevocable public access, serving two (2) or more lots that provides the primary means of access and providing fire lane and utility easements.

Record Drawings. A group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements that have been verified by the contractor as their installation or construction occurs during development. The record drawings shall reflect the construction plans (or working drawings) used, corrected, and/or clarified in the field.

Residential Development. The actual or proposed use of land for one or more buildings or structures that are designed or intended to be used, in whole or in part, as dwelling units.

Responsible Official. The City staff person who has been designated by the City Manager to perform one or more of the specific tasks (this term also includes designees).

Right-of-Way. A use of land dedicated by plat or metes and bounds to and for use by the public, which is separate and distinct from the lots and parcel abutting it, and which is not included within the dimensions or areas of such lots or parcels. The term *right-of-way* generally describes an area used for the provision of streets and utilities. Unless otherwise specified, the term *right-of-way* shall refer to a public right-of-way.

Riparian Study. An ecologically-based study that addresses the three (3) major components of a stream (channel, floodplain and transitional upland fringe).

Road, or Roadway. See *Street*.

Roadway Landscape Easement. An area of permanent vegetation that is adjacent to a thoroughfare that may include utility easements, sidewalks, and be crossed by drives providing ingress and egress.

Screening. A barrier intended to separate and limit visibility between that which is on either side of the barrier, for example, a thoroughfare and adjacent land uses.

Security Station (i.e. guard house). A building and gate system to control vehicular access to private street developments, which may be a mechanical device or a manned structure.

Stacking Area. A vehicle setback measured from a point on a building designed for drive-up service and the area

assigned for queuing.

Street. A roadway for vehicular traffic and other public uses, whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. An alley is not considered a street.

Street, Centerline. An imaginary line designated midway between the bounding right-of-way lines of a street or alley.

Street, Collector (also feeder streets, secondary thoroughfares, etc.). A paved roadway that provides vehicular circulation within neighborhoods and from minor streets to major thoroughfares. Due to similarity of traffic volume and wheel loadings, streets through commercial and industrial areas are frequently constructed to the same design as collector streets.

Street, Cul-de-Sac. A roadway having but one outlet to another street, and terminated on the opposite end by a vehicular turn-around.

Street, Dead-End. A roadway, other than a cul-de-sac, with only one outlet.

Street, Improved. A roadway that has been constructed or reconstructed to meet the City's minimum standards regarding right-of-way width, pavement width, and/or pavement type, as defined in the *Engineering Design Standards*.

Street, Local Residential (also Minor Thoroughfares or streets, etc.). A paved roadway that is primarily used for providing direct vehicular access to abutting residential property.

Street, Local. A roadway that is intended to provide a high level of access to adjacent developments and, generally, a low level of mobility. Such streets shall also be as described within the *Comprehensive Plan* and *Engineering Design Standards*.

Street, Major Thoroughfare (also arterial streets, primary thoroughfares, etc.). A paved roadway that provides vehicular movement from one neighborhood to another, to distant points within the urban area or to freeways or highways leading to other communities.

Street, Mews. A mews street is a grassy, landscaped area on which houses or housing units may face in lieu of facing a paved street (See Section 10.03.073(f), *Mews Streets*, for regulations).

Street, Minor Thoroughfare. A paved roadway that is primarily used for providing through access from neighborhood to neighborhood or commercial areas.

Street, Private. A privately owned roadway within a subdivision for which the private owners assume full responsibility for maintenance and control and which has not been dedicated to the use of the public. This term is inclusive of related alleys.

Street, Stub. A roadway that has been designed to allow for the future extension of the street through subsequent subdivisions.

Street, Substandard. An existing street that does not meet the current minimum street standards of the City.

Street, Unimproved. A roadway that does not meet the City's minimum standards regarding right-of-way width, pavement width, and/or pavement type, as defined in the *Engineering Design Standards*. Most unimproved streets are former country roads that were built before an area was annexed into the City limits and/or before the City implemented thoroughfare design standards.

Subdivider or Developer. An individual, firm, association, syndicate, partnership, corporation, or other organization dividing or proposing to divide land, or making improvements to such land, so as to effect a subdivision of land.

Subdivision. The division of any lot, tract, or parcel of land into two or more lots or sites for the purpose of sale or of building development, whether immediate or future. The term includes resubdivision or replatting of an existing subdivision, building upon, or other development of land, but does not include the division of land into tracts where each resulting lot is more than five acres in size; does not involve or require any new street, alley or easement of access; and no public improvement is being dedicated. As part of a subdivision, if any lot is proposed to be five acres in area or smaller, the entire parent tract must be platted together with such other lots or tracts. When appropriate to context, the term subdivision shall relate to the process of subdividing or to the land subdivided.

Substandard. A condition of a road or other public improvement that does not meet the City's current right-of-way, design, capacity or construction standards.

Surety. A bond, letter of credit, or letter of financial guarantee from a financial institution authorized to operate in the State of Texas.

Surveyor. A person who practices the profession of surveying and is licensed by the State of Texas as a State Land Surveyor or a Registered Public Surveyor.

TCEQ. The acronym for the Texas Commission on Environmental Quality.

Thoroughfare Plan Map. A component of the *Master Thoroughfare Plan* that generally represents the proposed grid-system of major and minor thoroughfares that will support the *Future Land Use Plan*. The exact locations of future roadways cannot be determined without engineering and environmental analysis, but the Map should be used as a guide as development occurs in terms of how connections should be made and by what type of thoroughfare. The Thoroughfare Plan Map also shows existing railroads and proposed transit rail stations.

Tributary. A riparian branch that feeds (i.e., flows into) a Major Creek, as identified and defined in the City's Riparian Study, as amended.

TxDOT. The acronym for the Texas Department of Transportation.

Utility Easement. An easement dedicated to the public for access, construction, reconstruction, and maintenance to water lines, sanitary sewer lines, storm sewers, and those franchises granted permission by the City, utility district, or county to occupy the easement.

Utility, Private. Services, and any related facilities (e.g., distribution lines), not customarily provided by the City or public entities; such services generally include electricity, natural gas, and telecommunications.

Utility, Public. Services, and any related facilities (e.g., distribution lines), typically provided by the City, County, or publicly owned entity; such services include potable water distribution, wastewater collection, and storm water management.

Variance. An exception to a particular standard or requirement of the Subdivision Ordinance that is granted because compliance with the Ordinance requirements would substantially limit the applicant's ability to utilize the land in a manner requested and requires Board of Adjustment approval.

Vegetative Study. A study in which the main purpose is identification and consideration of unique vegetative communities that are important for conserving biotic diversity and are rare due to conversion to other land uses.

Violation. Any failure to comply fully with this Subdivision Ordinance.

Wetland Delineation Study. A study in which the main purposes are to determine jurisdictional wetlands and to ensure compliance with SEC. 404 OF THE CLEAN WATER ACT and other applicable regulations of the U.S. Army Corps of Engineers.

Wetland. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient

to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Zoning Ordinance. The City of Celina Zoning Ordinance.

Sec. 10.03.103.....COMMONLY USED ABBREVIATIONS.

BOA. Board of Adjustment

CA Factor. Coefficient of Run-Off and Drainage Area

CC. City Council

CCN. Certificates of Convenience and Necessity

CCRs. Conditions, Covenants, and Restrictions (limitations placed on homeowners by the subdivision itself)

DRC. Development Review Committee (made up of representatives of various City departments who review development applications.

ETJ. Extraterritorial Jurisdiction (the geographical area outside the city limits that the city is allowed to annex into the city limits – the distance from the city limit boundary is set by the state and relates to population)

GIS. Geographical Information Systems (mapping)

HOA. Homeowners' Association

MFF. Minimum Finished Floor Elevation (relates to floodplain)

NCTCOG. North Central Texas Council of Governments

P&Z. Planning & Zoning Commission

ROW. Right-of-Way (the paved roadway, grassy area adjacent to the roadway, and the center median)

TCEQ. Texas Commission on Environmental Quality

TIA. Traffic Impact Analysis (a study of the future impact of a particular set of circumstances, such as a new subdivision, on the entire traffic network)

UE. Utility easement

WME. Wall maintenance easement

Table 10.03.111: Applications - Responsible Officials, Initial Decision-Makers, and Appeals

Type of Application or Petition	Approval Authority	Appeal
<u>Amending Plat</u> <i>Section 10.03.037</i>	Development Services Director	P&Z Commission
<u>Construction Plans</u> <i>Section 10.03.041</i>	n/a	n/a
<u>Construction Plans, Extension</u> <i>Section 10.03.041(h)</i>	n/a	n/a
<u>Construction Release</u> <i>Section 10.03.041(i)</i>	n/a	n/a
<u>Conveyance Plat</u> <i>Section 10.03.032</i>	P&Z Commission	City Council
<u>Development Agreement</u> <i>Section 10.03.044</i>	City Council	n/a
<u>Final Plat</u> <i>Section 10.03.034</i>	P&Z Commission	City Council
<u>Minor Plat</u> <i>Section 10.03.035</i>	Development Services Director	P&Z Commission
<u>Plat Vacation</u> <i>Section 10.03.038</i>	P&Z Commission	City Council
<u>Alley or ROW Vacation</u> <i>Section 10.03.039</i>	City Council	n/a
<u>Preliminary Plat</u> <i>Section 10.03.033</i>	P&Z Commission	City Council
<u>Preliminary Plat Approval, Extension</u> <i>Section 10.03.033(k)</i>	Development Services Director	n/a
<u>Replats</u> <i>Section 10.03.036</i>	P&Z Commission	City Council
<u>Variances to Subdivision Ordinance</u> <i>Section 10.03.086</i>	Board of Adjustment	Court of Record
<u>Minor Modifications to Subdivision Ordinance</u> <i>Section 10.03.086</i>	City Staff	Board of Adjustment
<u>Vested Rights Petition</u> <i>Section 10.03.087</i>	City Staff	City Council

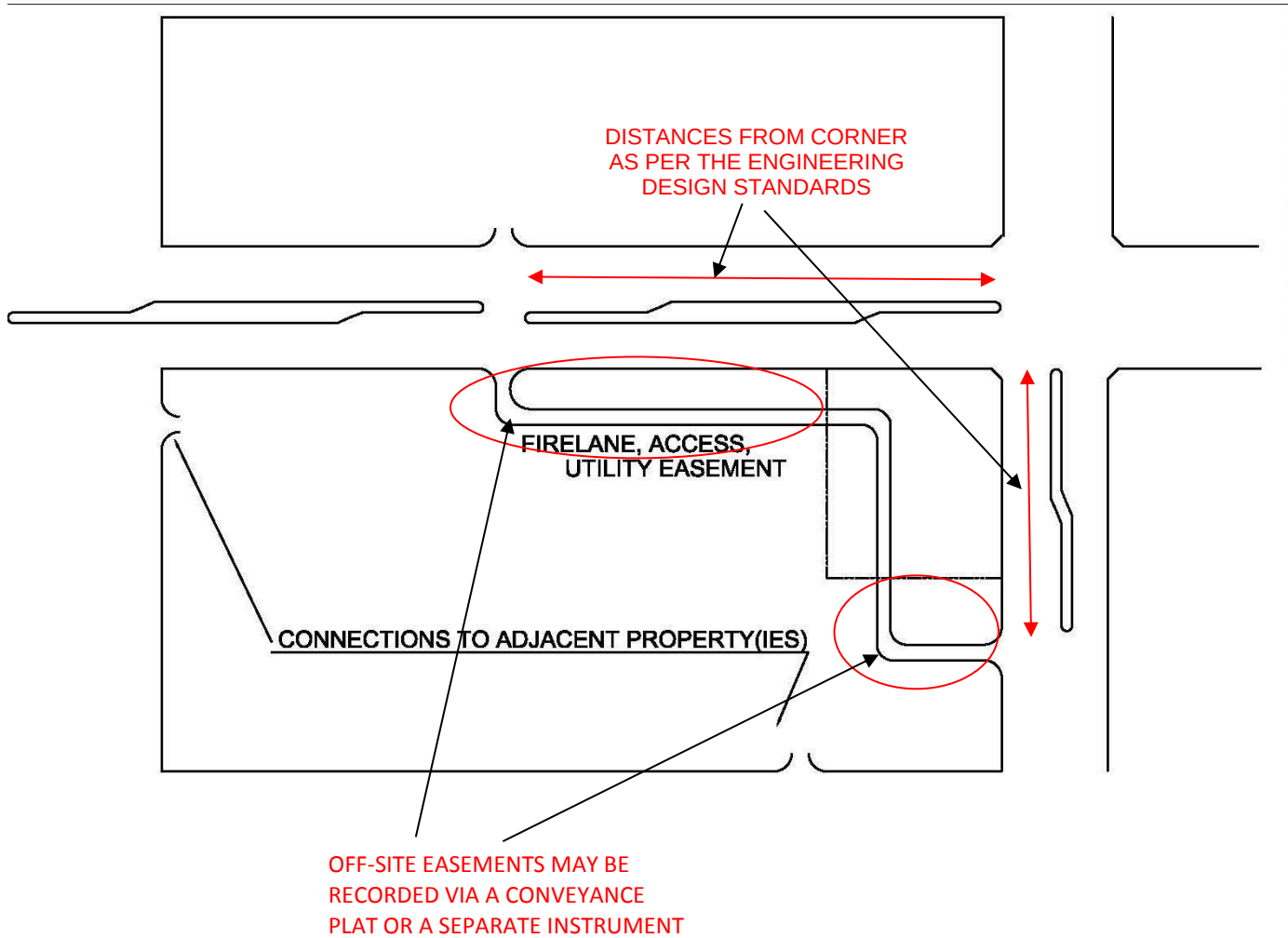
Diagram 10.03.112: Median & Cross Access

Diagram 10.03.113 - Flag Lots

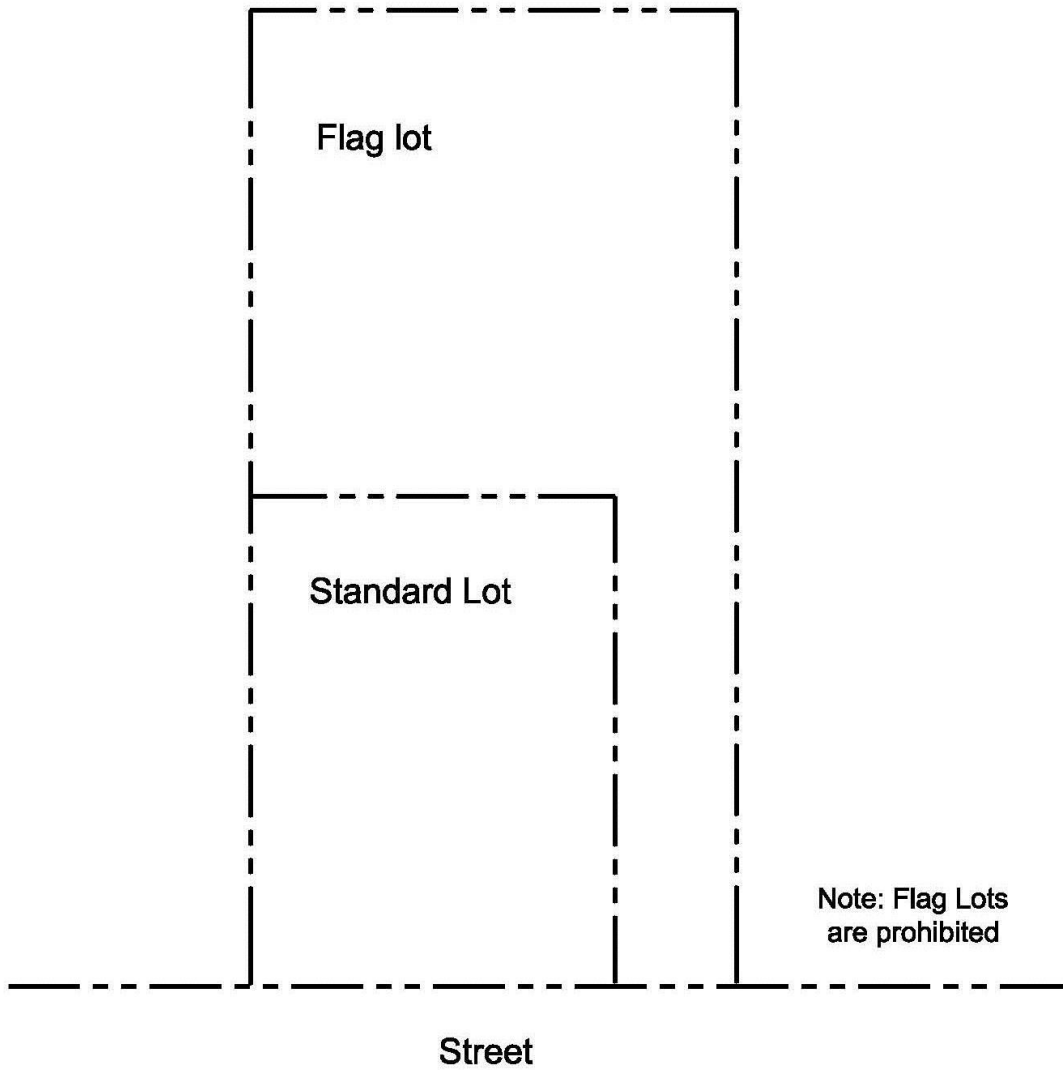


Diagram 10.03.114 - Determining Lot Depth on an Irregular-Shaped Lots

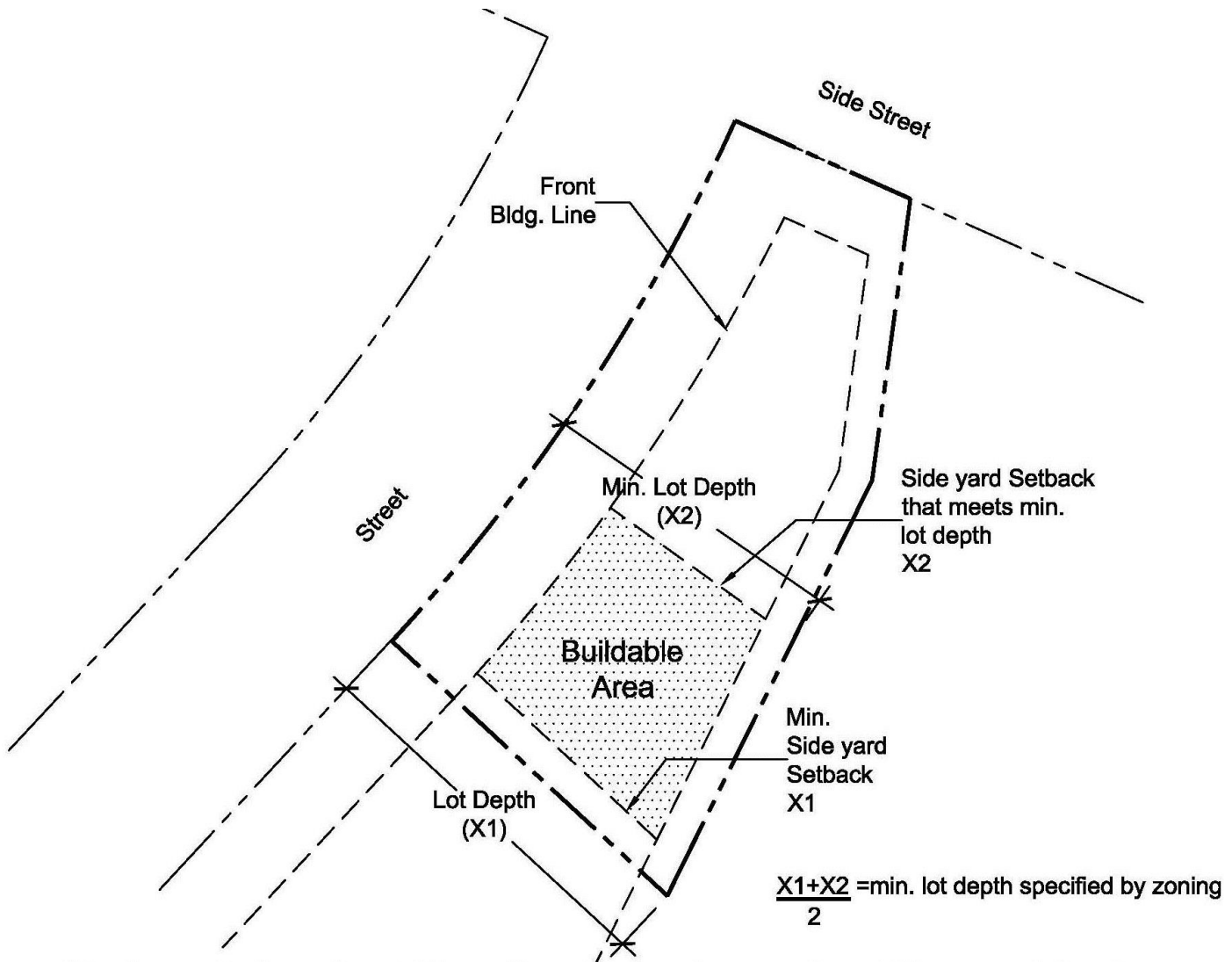


Diagram 10.03.115 - Lot Street Frontage – Curved Streets

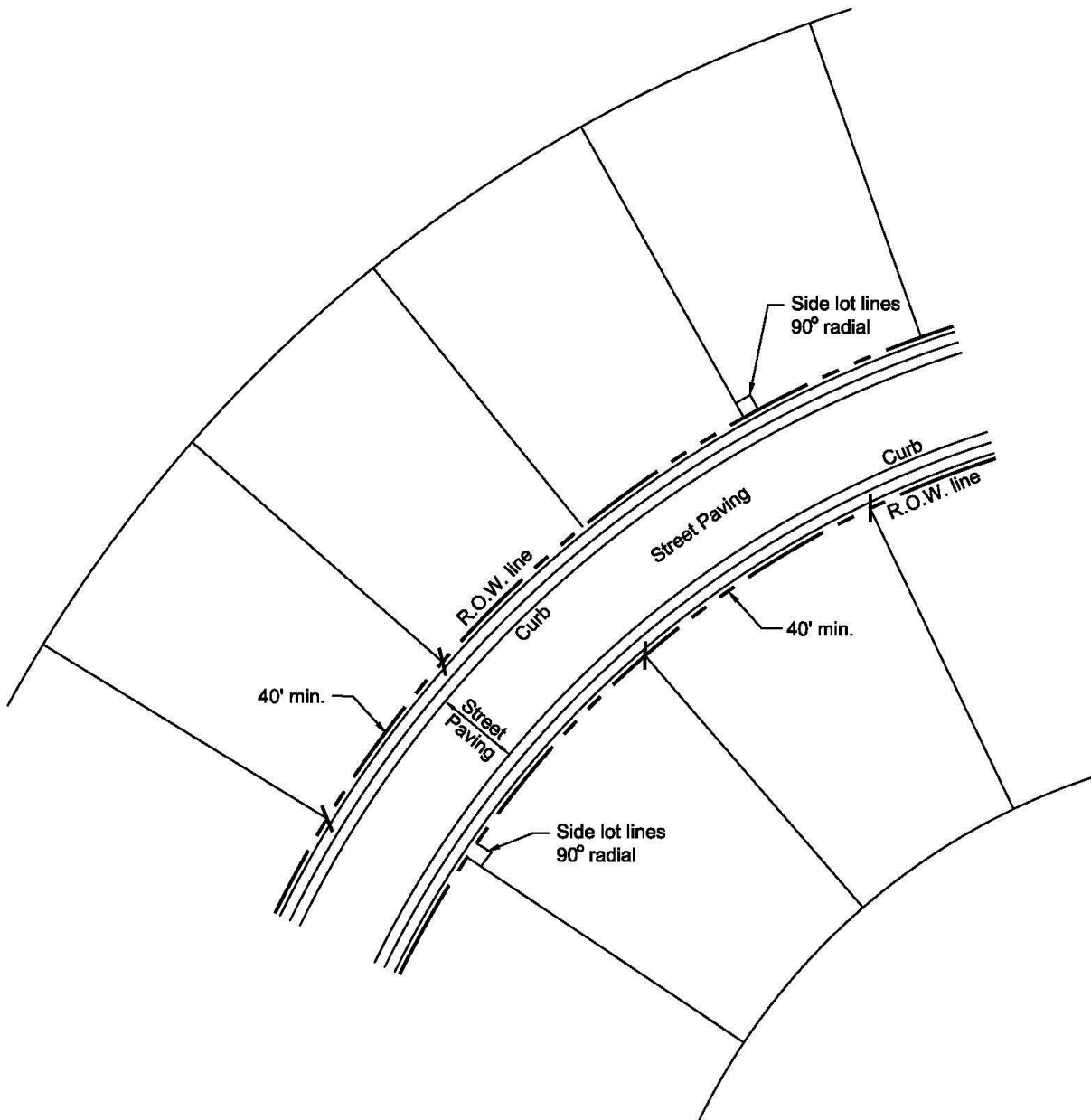


Diagram 10.03.116 – Lot Frontage - Cul-de-Sac Lots, Minimum Dimensions

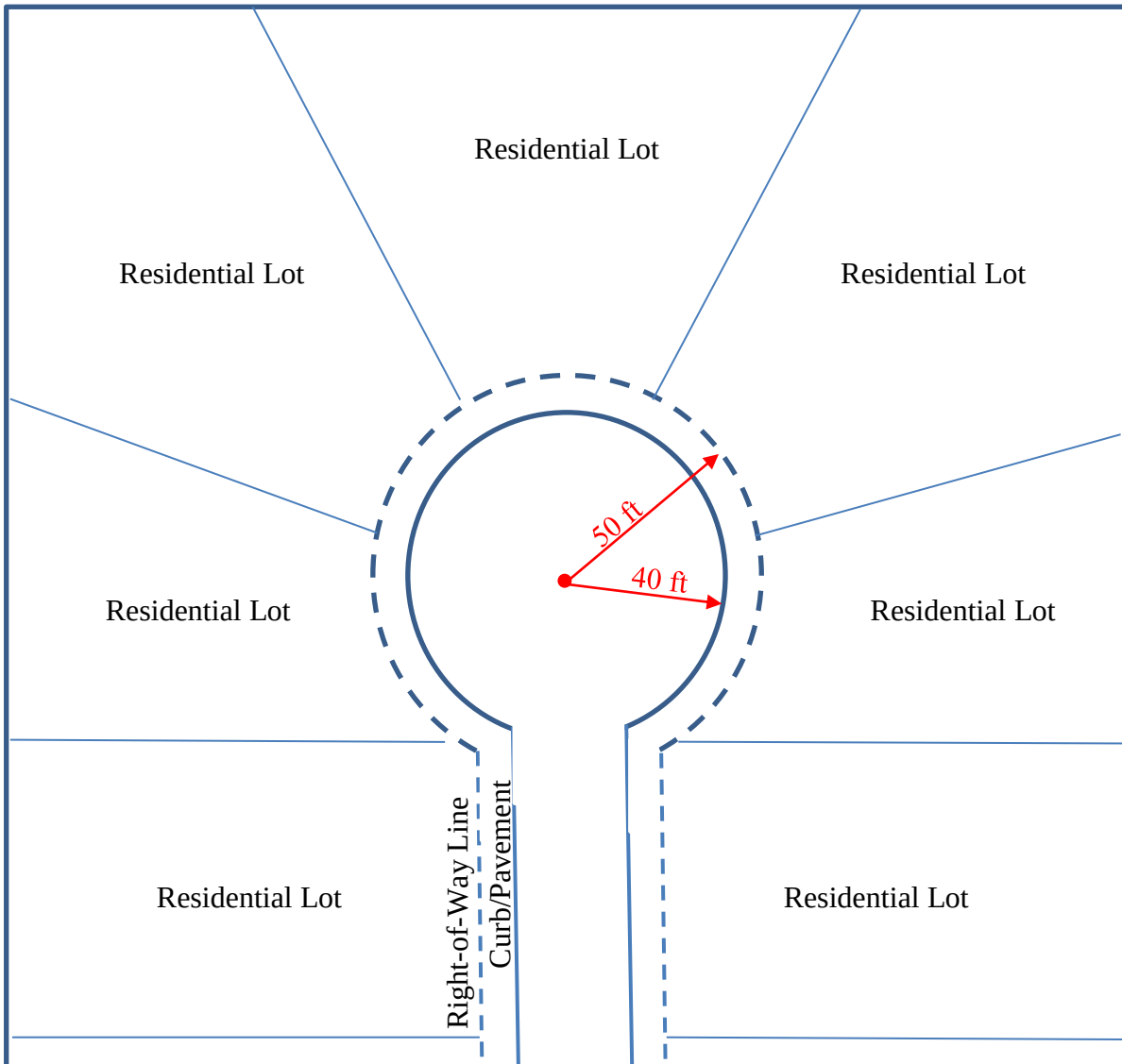


Diagram 10.03.117 - Centrally Located Amenity Center

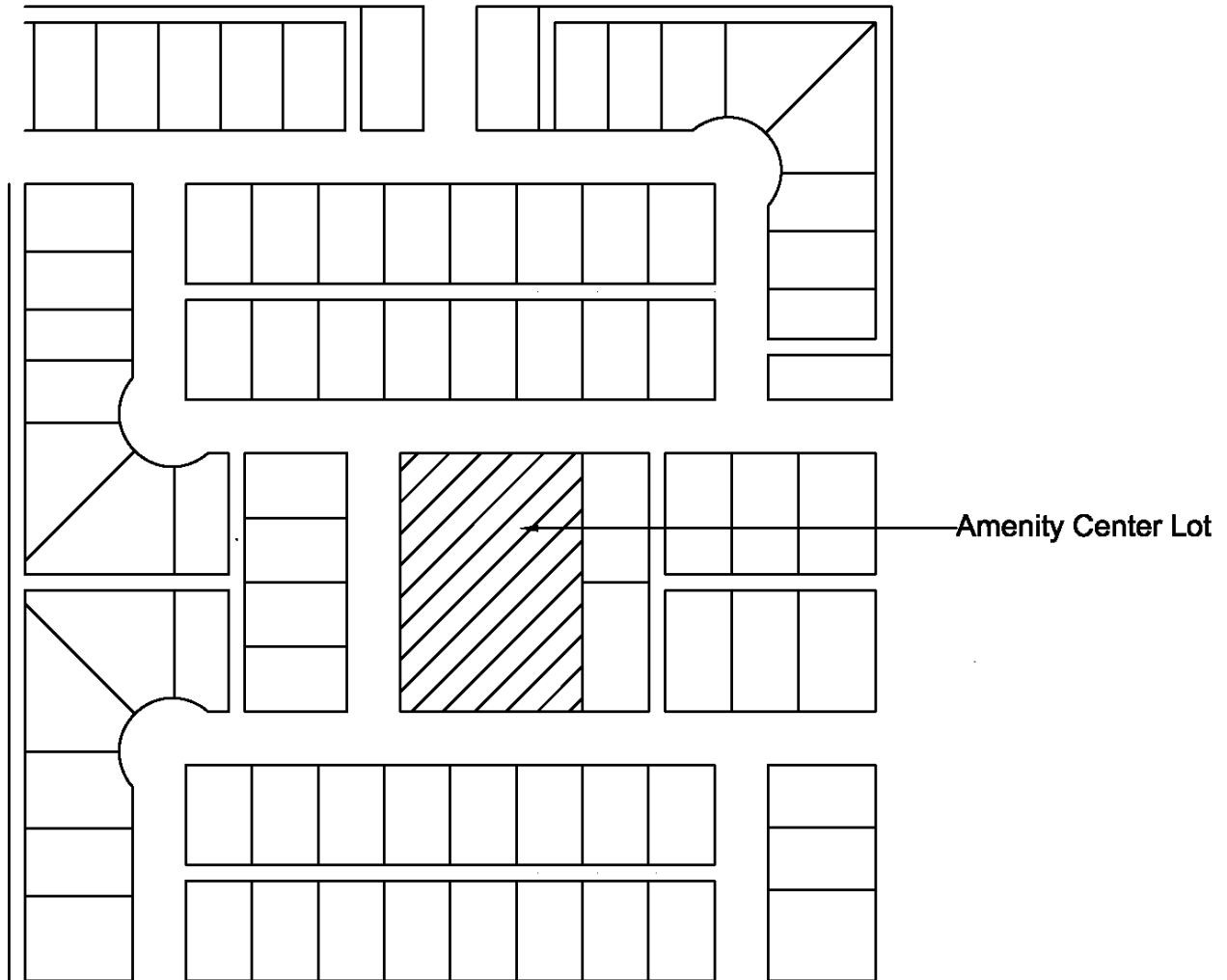
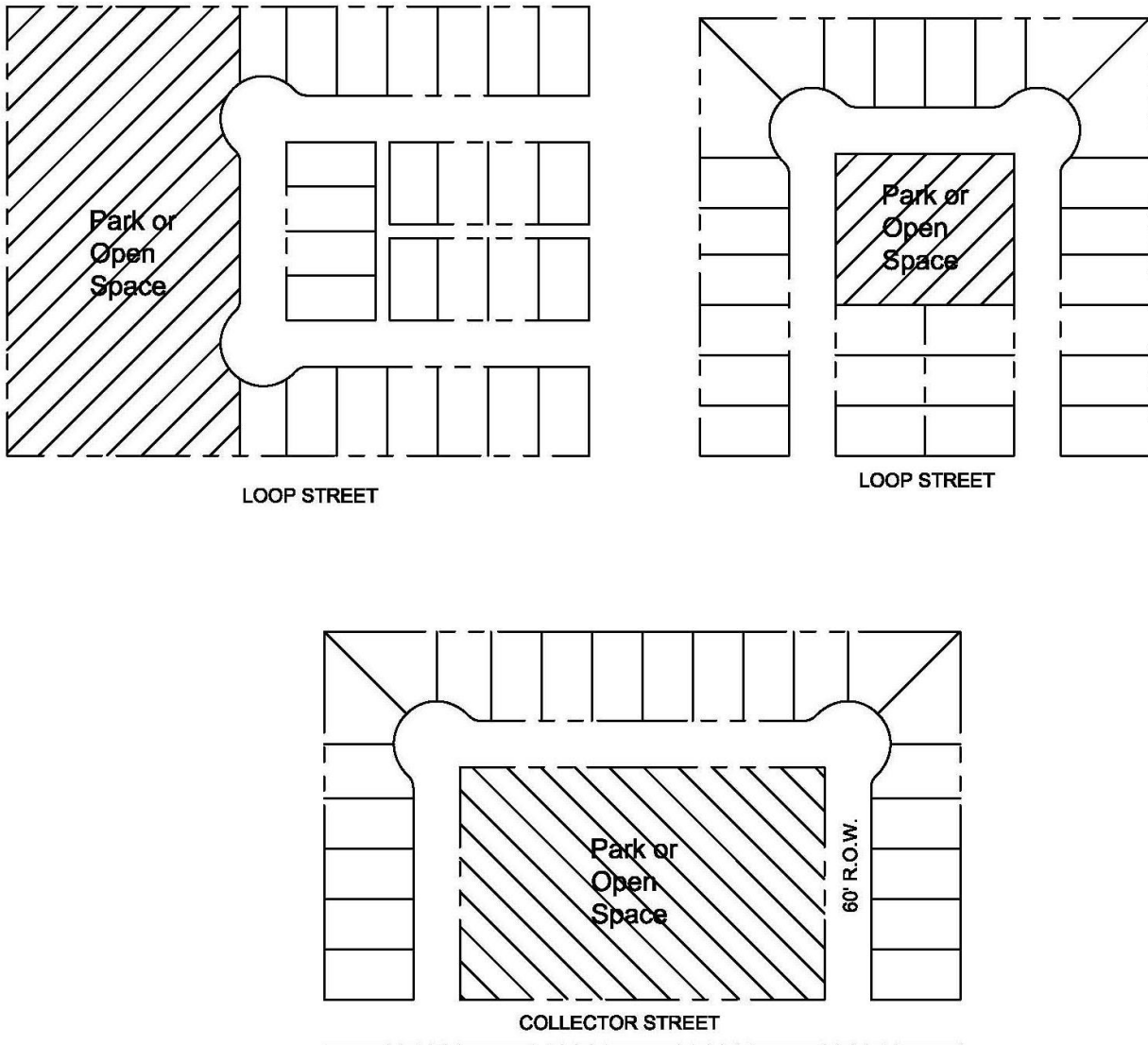


Diagram 10.03.118 - Access & Lot Orientation to Parks and/or Open Space



ATTACHMENT B
Proposed Subdivision Ordinance Revisions
(strike-through = deletions; red font = new wording)

Section 10.03.001, Authority, Purpose & Applicability: add the following to section (h), Special Provisions:

“(1)The City of Celina does not issue permits for the installation of septic tanks in the ETJ but may issue permits for installation of septic tanks within the corporate city limits. Permits for septic tanks are limited to lots that are greater than one (1) acre in size exclusive of the house footprint and **not located within 600 feet of a City sewer line, unless otherwise allowed by the Director of Engineering based up projected loads and use.**”

Section 10.03.021, Pre-submittal Meeting: Remove

~~“Date and Time of DRC Meeting. DRC meetings are held on Wednesday morning beginning at 9:00 a.m. the first hour is for internal review of cases and from 10:00 a.m. until noon, the staff will assist applicants with questions and issues regarding their case. These dates and times may be modified by the Director of Development Services.”~~ and renumber the subsequent sections.

Section 10.03.022, Application Contents. Delete section (d), *Modifications of Applications Prior to Approval*.

Section 10.03.023, Application Submittal Process: Revise the title by removing “*Official Filing Date, 30-Day Waiver*” and replace this entire section with the following:

- (a) **“Initiation by Owner.** An application required under this Subdivision Ordinance may be initiated only by the owner of the land subject to the application, or by the owner's duly authorized representative. If the applicant is a representative of the property owner, the application shall include a written and notarized statement from the property owner, such as a duly executed Power of Attorney, authorizing the representative to file the application on the owner's behalf.
- (b) **Applicability.** The procedures within this Chapter shall apply to all applications that are required by the City and submitted in accordance with this Subdivision Ordinance.
- (c) **Official Filing Date.** The 30-day time period established by State law and by this Subdivision Ordinance shall begin on the “Official Filing Date.” The Official Filing Date is further defined as the date on which the plat has met all the requirements of the Subdivision Ordinance following staff or administrative review, fees have been paid, and that plat is scheduled for final approval by the Planning & Zoning Commission by placing the plat on the Commission agenda.
- (d) **Owners Dedication Language.** Refer to the Development Handbook (available online) for the appropriate owner dedication language to include on the plat and all other plat signature block wording and form.”

Remove references to 30-Day Waiver in the following sections:

Section 10.03.013(a), Director of Development Services:

~~(2) Waiver of right to 30 day action;~~

Section 10.03.031(e), Zoning:

- i. The applicant may request approval from the Director of Development Services to submit a plat application simultaneously with the zoning change request, in which case the application for the zoning amendment shall be acted upon first. **provided that the application is accompanied by a properly executed Waiver of Right to 30 Day**

~~Action (due to the additional timeframe necessary to advertise and process zoning applications).~~

Section 10.03.033(e), Preliminary Plats, Action by the Planning & Zoning Commission and Section 10.03.034(h), Final Plats, Action by the Planning & Zoning Commission:

Act within thirty (30) calendar days following the official filing date of the Preliminary Plat application ~~(unless the applicant submits a waiver of right to 30-day action as outlined in Section 10.03.023(d), Waiver of Right to a 30-Day Action).~~ If no decision is rendered by the Commission within the thirty (30) day period ~~described above or such longer period as may have been agreed upon by the applicant and the City officials,~~ the Preliminary Plat, as submitted, shall be considered to be approved.

Section 10.03.035(e), Minor Plats, Action by Director of Development Services.

The Director of Development Services shall:

- (1) Determine whether the Minor Plat meets the regulations of this Subdivision Ordinance.
- (2) Act within thirty (30) calendar days following the official filing date of a completed application for a Minor Plat ~~(unless the applicant submits a waiver of right to 30-day action as outlined in Section 10.03.022(d), Waiver of Right to 30-Day Action).~~ If no decision is rendered by the Director of Development Services, or if the Director has not deferred the application to the Planning & Zoning Commission for decision, within the thirty (30) day period ~~described above or such longer period as may have been agreed upon,~~ the Minor Plat, as submitted, shall be deemed to be approved.
- (3) The Director of Development Services is authorized to make one of the following actions:
 - i. Approve the Minor Plat;
 - ii. Approve the Minor Plat with conditions, which shall mean that the Minor Plat shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Defer the Minor Plat to the Commission for consideration prior to expiration of the required 30-day approval period ~~unless a waiver of right to 30-day action is submitted.~~

Section 10.03.037(f), Amending Plats, Action by Director of Development Services.

The Director of Development Services shall:

- (1) Determine whether the Amending Plat meets the regulations of this Subdivision Ordinance.
- (2) ~~Act within thirty (30) calendar days after the application is deemed complete per Section 10.03.03(c), Determination of Completeness.~~
- (3) The Director of Development Services is authorized to take one of the following actions:
 - i. Approve the Amending Plat;
 - ii. Approve the Amending Plat with conditions, which shall mean that the Amending Plat shall be considered to have been approved once such conditions are fulfilled; or
 - iii. Defer the Amending Plat to the Commission for consideration prior to expiration of the required 30-day approval period ~~unless a waiver of right to 30-day action is submitted in accordance with Section 10.03.023(d), Waiver of Right to 30-Day Action.~~

Section 10.03.086(e)(2), Variances & Minor Modifications,

- (2) The applicant's request shall state the grounds for the ~~relief~~ **a Variance** request and all of the facts relied upon by the applicant. Failure to do so will result in denial of the associated plat application. ~~unless the applicant submits a waiver in accordance with Section 10.03.2(d), Waiver of Right to 30-Day Action.~~

Remove references to the Texas Local Government Code. Replace Texas Local Government Code and specific references to sections of that code with the words “**State law**” in the following sections:

Section 10.03.034, *Final Plats*, (d) Complete Applications for Final Plats in the ETJ

Section 10.03.034, *Final Plats*, (i) Standards for Approval (2 places)

Section 10.03.034, *Final Plats*, (j) Approval of Final Plats

Section 10.03.035, *Minor Plats*, (g) Approval of Minor Plats

Section 10.03.036, *Replats*, (i) Approval of Replats

Section 10.03.037, *Amending Plats*, (i) Effect of Approval

Section 10.03.038, *Plat Vacation*, (f) Approval of Plat Vacations

Section 10.03.087, *Vested Rights*, (c) Submission

Section 10.03.087, *Vested Rights*, (h) Criteria for Approval

Section 10.03.089, *Dormant Projects*, (c) Reinstatement

Section 10.03.025, *Public Hearings Required for Certain Replats*: Remove this section in its entirety and renumber the subsequent sections.

Section 10.03.031, *Subdivision Procedures & Plat Types*: Add to Section (b), Improvements Required the following:

“(b) Improvements Required.

- (1) Responsibility for Improvements. All of the improvements required under these regulations, or improvements specified in the *Comprehensive Plan* of the City, or improvements which, in the judgment of the Director of Engineering, are necessary for the adequate provision of streets, utilities, drainage, services, and facilities to the subdivision and to the surrounding areas of the City, shall be constructed at the sole expense of the developer, unless otherwise provided for and approved by City Council. All improvements required by this ordinance shall be constructed and accepted by the Director of Engineering prior to filing the associated plat, unless otherwise specified in a binding contractual Development Agreement approved by City Council. Payment for any and all improvements that are not to be made at the time of the primary construction of the subdivision or development shall be made a part of the signed and executed Development Agreement.
- (2) Plats Prior to Development. Plats may not be used as a mechanism to establish boundaries without the dedication of required infrastructure, such as public utilities easements, right-of-way dedication, and any other requirement of this Subdivision Ordinance. Platting of property is reserved for those properties that are anticipating immediate development, with the exception of Conveyance Plats.”

Section 10.03.033, *Preliminary Plats*: Add a sentence to section 10.03.033(b) to read as follows:

“A Preliminary Plat is not required when the proposed development is a single phase and/or less than 300 lots, if the Concept Plan associated with a Development Agreement or Planned Development contains sufficient data as required by the Engineering Department, or at the discretion of the Director of Engineering.” and renumber the subsequent sections.

Section 10.03.036, *Replats*, remove in its entirety current 10.03.037, Residential Replats, and renumber the subsequent sections. Revise this section as follows:

“Sec. 10.03.036, Replats.

(a) Applicability and Terminology.

- (1) The procedures outlined in this section and in subsequent Sections 10.03.037, *Residential Replats*, and 10.03.038, *Amending Plats*, shall apply only if a property owner seeks to change any portion of a plat that has been

filed for record with Denton or Collin County.

- (2) The term "Replat" includes changes to a recorded Final Plat, whether the change is effected by replatting without vacation or replatting by vacating the recorded plat (Section 10.03.039, *Plat Vacation*) and approving a new application.
- (b) City Action Required. Unless otherwise specified, any change to a recorded plat shall be subject to approval by the Planning & Zoning Commission.
- (c) Construction Management. If the subdivision, as replatted, requires construction of additional public improvements, the provisions of the Development Agreement between the City and the developer shall apply (see Section 10.03.044, *Development Agreements*). If the subdivision as replatted does not require any appreciable alteration or improvement of utility installations, streets, alleys, building setback lines, etc., then no additional construction plans shall be required.
- (d) Application and Approval Procedures. Unless otherwise specified, application and all related procedures and approvals, including recordation, for a Replat shall be the same as specified for a Final Plat.
- (e) Partial Replat Application. If a Replat is submitted for only a portion of a previously platted subdivision, the Replat must reference the previous subdivision name and recording information, and must state on the Replat the specific lots which that are being changed along with a detailed "Purpose for Replat" statement.
- (f) ~~Replats other than Residential Repats Requiring a Variance or Exception. All Repats requiring a variance or exception must be considered as a public hearing item. In these cases, notification in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing is required. In addition, written notices of the proposed residential replat requiring a Variance or Exception shall be mailed to all property owners located within 200 feet of the subject property a minimum of fifteen (15) days prior to the public hearing. Notice of the public hearing shall also be posted with the agenda at the City Hall and on the City's website within the prescribed time limits, as required by State law. However, those replats that are not residential in nature do not require any public notification, whether to adjacent property owners or in the newspaper of record.~~
- (g) Special Requirements for Residential Repats. State law offers an option for notification for residential replats. Cities may opt to notify residents in one of the following manners:
 - (1) Written notices of the proposed residential replat shall be mailed to all property owners located within 200 feet of the subject property a minimum of fifteen (15) days prior to the public hearing. In addition, a notice shall be published in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing; OR
 - (2) As a courtesy to the neighboring property owners, written notices of the approved residential replat shall be mailed to all property owners located within 200 feet of the subject property a minimum of fifteen (15) days following the decision by the Planning & Zoning Commission. In this case, no public hearing is required and the plat may be considered on the Consent Agenda.
- (h) Special Requirements for Non-Residential Repats. Non-residential replats do not require noticing by newspaper or to adjacent property owners. However, a public hearing shall be held on any non-residential replat that requires a Variance or Exception.

- (i) Approval of Replats. The Planning & Zoning Commission is authorized to approve, approve with conditions, or disapprove Replats. Upon approval, a certificate stating that the Replat has been reviewed and approved by the Planning & Zoning Commission shall be provided to the applicant, as required in the Texas Local Government Code, Section 212.0115(b).
- (j) Effect of Approval. Upon approval and recording of the Replat, it is controlling over the previously recorded plat for the portion replatted."

Section 10.03.037, Residential Replats. Remove this section in its entirety and renumber the following sections.

Section 10.03.038, Plat Vacation: Remove the phrase marked through, as follows:

"(c) **Notice.** Published notice of the public hearing on the Plat Vacation application shall be given in accordance with ~~Section 10.03.025, Public Hearings, and~~ State law. The hearing shall be conducted by the Planning & Zoning Commission.

Add a sentence to section 10.03.038(h), *Effect of Approval*, to read as follows:

"(4) Once a plat is duly vacated, according to the regulations above, the property lines of the adjacent properties shall extend to the centerline of the plat, unless specific arrangements between or among the adjacent property owners has been agreed upon."

Section 10.03.039, Right-of-Way Vacation: Add a new section 10.03.039 to read as follows:

- (a) "Purpose. From time to time, as the City's vehicular circulation needs and traffic patterns change, rights-of-way previously dedicated to, or acquired by, the City for public travel may no longer be necessary. Therefore, in accordance with the Texas Transportation Code § 311.007, the City may choose to vacate, abandon, or close a street or alley on its own accord or upon receipt of a petition of property owners adjacent to, abutting or directly served by the right-of-way sought to be closed and/or abandoned.
- (b) Notice. Prior to the vacation of a public street or alley right-of-way, a public hearing shall be held by the City Council. Written notices of the proposed right-of-way vacation or abandonment shall be mailed to all property owners located within 200 feet of the subject property a minimum of ten (10) days prior to the public hearing. In addition, a notice shall be published in the official newspaper of the City a minimum of fifteen (15) days prior to the public hearing.
- (c) Review by Director of Development Services. The Director of Development Services shall:
 - (1) Initiate review of the right-of-way vacation application and materials submitted.
 - (2) Request written comments from other City departments, such as Engineering, Public Works, Fire Department, and Parks & Recreation, if deemed necessary.
 - (3) The Director shall consider issues of utility placement, traffic access, and the number of property owners in favor or against the request.
- (d) Retention of Easements. The applicant for a right-of-way vacation or alley abandonment shall verify with the appropriate entity that the right-of-way to be vacated is free of all public and private utilities including, but not limited to water, sanitary sewer, storm sewer, electricity, gas, and franchise utilities. If public or private utilities are present within the right-of-way, a utility easement of an appropriate size and location, as determined by the Director of Engineering,

will be retained. A drainage easement may also be retained, as determined by the Director of Engineering.

- (e) Action by the City Council. If the City Council chooses to vacate or abandon a portion of the City's right-of-way, an ordinance shall be adopted and said ordinance shall be filed for record with the county clerk. A metes & bounds description or a visual depiction or exhibit showing the location and limits of the vacated right-of-way shall be attached to the ordinance.
- (f) Effect of Approval.
 - (1) The City Council, at its discretion, shall have the right to retain all or specific portions of right-of-way or easements being considered for vacation or abandonment.
 - (2) Once a right-of-way is duly vacated, according to the regulations above, the property lines of the adjacent properties shall extend to the centerline of the right-of-way.
 - (3) Zoning of the adjacent properties shall also automatically extend to the centerline of the right-of-way"

Section 10.03.064, *Other ETJ Regulations*. Add a new section, as follows:

Sec. 10.03.064.....Other ETJ Regulations.

- (a) Minimum Lot Size without Platting. Any subdivision of land within the ETJ must be platted unless the resulting subdivided lots are a minimum of ten (10) acres each, each subdivided lot has access to a public street, and no public improvements are being dedicated. This regulation is to encourage platting of land within the ETJ.
- (b) No Land Uses Shown on Plats. Proposed land uses may not be shown on plats within the ETJ, unless specifically allowed by the Director. Proposed land uses that may be shown on plats prior to the adoption of this ordinance do not in any way establish zoning or vest any rights to the use of the property in the future.

Section 10.03.065, *Tree Preservation in the ETJ*. Add a new section, as follows:

Sec. 10.03.065, Tree Preservation in the ETJ.

- (a) Purpose. The purpose of this section is to encourage the preservation of mature trees which, once removed, cannot be replaced by equivalent trees, to preserve the health and viability of retained trees during construction, and to control the removal of protected trees when necessary. It is the intent of this section to achieve the following:
 - (1) Prohibit the indiscriminate clearing of property;
 - (2) Protect and increase the value of residential and commercial properties within the City;
 - (3) Maintain and enhance a positive image for the attraction of new business enterprises to the City;
 - (4) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the City; and
 - (5) Help provide needed shaded areas in order to provide relief from the heat by reducing the ambient temperature.
- (b) Construction Regulations.
 - (1) Tree pruning restrictions. No protected tree shall be pruned in such a manner which significantly disfigures the tree or in a manner which would reasonably lead to the death of a tree, except where such pruning is necessary for the safety of the public or to maintain utility service. Utility companies may prune trees as necessary to re-establish disrupted utility service. The practice of "topping" trees, either ornamental or canopy, is absolutely prohibited except

when necessary for utility provision, public safety or some other official nuisance.

- (2) Fill and grading. The area within the drip line of a protected tree shall not be filled or graded.
 - (3) Maintenance after development. If any of the trees required to be retained or trees planted as a part of this division should die within a period of one year after completion of the activities associated with construction, the owner of the property shall replace the trees within six (6) months at a ratio of three-to-one (3:1) with an approved large canopy tree from the recommended plant materials chart, which is the same size as the tree removed.
- (c) Regulations Prior to Construction.
- (1) Tree flagging. All protected trees on the subject property within forty (40) feet of a construction area or surface improvements such as driveway, walks, etc., shall be flagged with bright fluorescent colored vinyl tape wrapped around the main trunk at a height of five (5) feet or more such that the tape is highly visible to workers operating construction equipment. This shall not include the flagging of protected trees adjacent to ROW within approved residential subdivisions during the construction of the roadway.
 - (2) Protective fencing. Solid, protective fencing a minimum of three (3) feet in height will be located at the drip lines of all protected trees that border the limits of construction. In situations where a protected tree is located within the immediate area of intended construction, protective fencing will be located at or beyond the drip line.
- (d) Regulations During Construction. The following activities shall be prohibited within the limits of the critical root zone of any protected tree, subject to the requirements of this division:
- (1) Material storage. No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
 - (2) Equipment cleaning/liquid disposal. No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This would include paint, oil, solvents, asphalt, concrete, mortar or similar materials.
 - (3) Tree attachments. No signs, wires or other attachments, other than those of a protective nature shall be attached to any protected tree.
 - (4) Vehicular traffic. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within a critical root zone for purposes of clearing underbrush, emergency restoration of utility service, or routine mowing operations.
 - (5) Grade changes. No grade changes (cut or fill) shall be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the Director.
 - (6) Impervious paving. No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree.
 - (7) Removal of protective fencing. Protective fencing may only be removed from the construction site at the time of the installation of additional, permanent landscaping features.
- (e) Permanent Construction Methods & Standards.

- (1) Boring. Boring of utilities under protected trees may be required in certain circumstances. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.
- (2) Trenching. All trenching where possible shall be designed to avoid trenching across the critical root zone of any protected tree. This shall not inhibit the placement of necessary underground services such as electric, telephone, gas, etc.
- (3) Root pruning. It is recommended that all roots two (2) inches or larger in diameter which are exposed as a result of benching or other excavation be cut off square with a sharp medium tooth saw and covered with pruning compound within two (2) hours of initial exposure.
- (f) **Fees**. Any fees for removal or destruction of trees pursuant to this Section are listed in the Master Fee Schedule.

Section 10.03.071, General Subdivision Policies. Add a new section 10.03.071(c), **Provision of Utilities**. All electrical, cable, and other telecommunications systems shall be located underground with the exception of regional transmission lines.

Section 10.03.072, Water & Wastewater, Drainage Requirements & Environmental Standards. Replace the current sections (f) through (k) in their entirety and replace with new sections (f) through (k), as follows:

- (f) **“Stormwater.**
 - (1) Adoption. This Ordinance is in compliance with the adopted Floodplain Regulations Ordinance and Engineering Design Standards Ordinance of the City of Celina.
 - (2) Purpose & Scope. The purpose of policies and design standards set forth herein is to ensure adequate stormwater drainage and flood control within the City of Celina. The policies and standards are included in the most recent version of the *City of Celina, Texas Engineering Standards* manual (“*Engineering Standards*”) and are intended to protect public health and safety, to prevent property damage due to flooding, to equitably distribute the cost of necessary drainage improvements, and to minimize the maintenance cost of drainage facilities constructed. Any development or improvement of property affecting storm drainage and flood control in the City of Celina is subject to the provisions of this Ordinance.
 - i. The development of land shall consider all drainage elements normally used in the engineering standards of design.
 - ii. Evaluation of stormwater runoff characteristics shall consider development conditions of the watershed as specified in the *Engineering Standards*.
 - iii. Stormwater design shall evaluate flow rate, volume, and velocity characteristics considering the maximum results from a design storm as specified in the *Engineering Standards*.
 - (3) Standard Provisions for Storm Drainage. All construction for storm drainage in the development or improvement of real property within the City of Celina shall conform to the requirements set forth in the *Engineering Standards*.
 - (4) Responsibility of Owner or Developer for Storm Drainage.
 - i. The owner or developer of property to be developed or used shall be responsible for all storm drainage flowing through or abutting such

property. This responsibility includes the drainage directed to that property by prior development as well as the drainage naturally flowing through the property by reason of topography. It is the intent of this Ordinance that provision be made for storm drainage in accordance with Section 10.03.071(f)(2) and the *Engineering Standards*, at such time as any property effected is proposed for development use.

- ii. Where the improvement or construction of a storm drainage facility is required along a property line common to two (2) or more owners, the owner hereafter proposing development or use of his property, shall be responsible for the required improvements at the time of development, including the dedication of all necessary right-of-way or easements, to accommodate the improvements.
 - iii. Where a property owner proposed development or use of only a portion of his property, provision for storm drainage in accordance with Section 10.03.071(f)(2) and the *Engineering Standards*, shall only be required in that portion of the property proposed for immediate development or use, except as construction or improvements of a drainage facility outside that designated portion of the property is deemed essential to the development or use of that designated portion.
 - iv. The owner or owners shall dedicate to the City the required drainage easements. Minimum easement requirements are set forth in the *Engineering Standards*. Final determination of easement requirements shall be made by the Director of Engineering.
 - v. In the event that an owner or developer desires to impound stormwater by excavation, filling or construction of a dam within a property, thereby creating a lake, pond, or lagoon as a part of the planned development of that property, the following provisions shall apply:
 - a. An engineering plan for such construction, accompanied by complete drainage design information, prepared by a registered professional engineer, shall have been approved by the Director of Engineering;
 - b. The owner or developer shall have agreed to retain under private ownership the lake, pond, or lagoon constructed, and to assume full responsibility for the protection of the general public from any health or safety hazards related to the lake, pond, or lagoon constructed;
 - c. The owner or developer shall have agreed to assume full responsibility for the maintenance of the lake, pond, or lagoon constructed;
 - d. The obligations herein shall run with the land and shall be a continuing obligation of the owner or owners of such land;
 - e. The requirements of the Texas Water Code pertaining to impoundment of surface water are complied with including the design, construction and safety of the impounding structure;
 - f. On any existing structure, the owner will furnish a study or design prepared by a professional engineer for the City for approval.
- (5) Responsibility and Participation of the City in Storm Drainage Improvements.

- i. The City may, in its sole discretion, participate in the cost of such improvements as are required by this Ordinance.
 - ii. The City may, in its sole discretion, participate in any project of improvements by the levy of a special assessment against the lands to be enhanced in value by such improvements.
 - iii. The City may acquire drainage easements necessary for such improvements by acceptance of dedication, purchase, or condemnation.
 - iv. The City may, upon acquisition of the drainage easement and the completion of improvements as hereinabove provided, assume full responsibility for the maintenance of such drainage facilities.
- (6) Engineering Design. The design of all storm drainage facilities in the development or improvement of real property shall be in accordance with the requirements set forth in the *Engineering Standards* and the following requirements:
- i. Storm sewer inlets shall be provided along paved streets at such intervals as are necessary to limit the depth of flow according to the requirements set forth in the *Engineering Standards*.
 - ii. A closed storm sewer system shall generally be required to accommodate a run-off exceeding the street capacity, as provided above and as specified in the *Engineering Standards*. Design of open channel systems in lieu of a closed system shall adhere to the requirements set forth in the *Engineering Standards*.
 - iii. The criteria for drainage improvements as hereinabove set forth in paragraphs i. and ii. of this section shall be applicable to publicly owned lands solely at the discretion of the City of Celina.
 - iv. Excavation, fill and grading operations within the city limits shall be undertaken only after a proper permit has been obtained from the City.
- (7) Easements. Drainage easements shall be dedicated for public drainage features in accordance with requirements of this Ordinance and the *Engineering Standards*.
- (8) Stormwater Quality. Designs for new development shall manage stormwater in a manner that protects water quality by addressing the development's potential to cause erosion, pollution, siltation, and sedimentation in the Municipal Separate Storm Sewer System (MS4) and natural waterways. The goal is to maintain after development, to the maximum extent practical, the predevelopment characteristics in the waterway, which ultimately receives stormwater runoff from the development. It is the developer's responsibility to ensure that designs for new development meet the stormwater management requirements in the General Permit for Stormwater Discharges Associated with Construction Activities (TXR150000) issued by the TCEQ and its successor agencies. This permit includes the requirement for measures that will be installed during construction to control pollutants in stormwater discharges after construction operations have been completed.
- (9) Minimum Finish Floor Elevations. The Director of Engineering may require minimum finish floor elevations (MFF) to provide flood protection on certain lots contained within the subdivision. The MFFs shall be shown on the plat. These elevations shall incorporate the most current floodplain management criteria or other criteria as necessary to avoid damages. The minimum finish floor elevation shall conform with the requirements set forth in the Floodplain Ordinance and the *Engineering Standards*. The following note or

an amended version appropriate to the specific plat shall be added to any plat upon which the Director of Engineering requires the establishment of minimum finish floor elevations:

“The City reserves the right to require minimum finish floor elevations on any lot contained within this addition. The minimum elevations shown are based on the most current information available at the time the plat is filed and are subject to change.”

- (10) Off-Site Drainage. When any proposed development requires off-site grading where stormwater runoff has been collected or concentrated, it shall not be permitted to drain onto adjacent property except in existing creeks, channels, storm sewers or streets. In such a case, a drainage easement shall be dedicated and shall be of a width sufficient to comply with the criteria outlined in this Ordinance and the *Engineering Standards*.
- (11) Building or Structure Set-Back Requirement. Any building or structure constructed, reconstructed, or relocated adjacent to an open drainage channel shall conform to the set-back requirements established in the *Engineering Standards*.
- (12) Construction Over Drainage Facilities. No building or structure shall hereafter be constructed, reconstructed, or relocated over or across any storm drainage facility, unless specifically approved by the Director of Engineering and pursuant to the criteria established in the *Engineering Standards*.
- (13) Stormwater Storage. Temporary storage of stormwater on-site is allowable pursuant to the criteria established in the *Engineering Standards*.
- (g) Preliminary Stormwater Management Plan.
 - (1) A preliminary stormwater management plan (SWMP) shall be prepared for all developments in accordance with the *Engineering Standards*. The purpose of the SWMP is to identify permanent water quality feature opportunities for the development.
 - (2) The preliminary SWMP shall be prepared in coordination with the preliminary drainage plan on all projects where both are required. The preliminary SWMP and the preliminary drainage plan may be shown on the same sheet.
 - (3) The preliminary SWMP must comply with the standards and criteria outlined in this Ordinance, the *Engineering Standards*, and the Floodplain Ordinance. The plan may satisfy the stormwater management portion of the SWPPP that is required for construction activities; however, the SWMP is not a substitution for the SWPPP. The City’s review of the preliminary SWMP does not constitute acceptance of the final SWMP or the final development plans.
 - (4) The developer shall provide a preliminary SWMP for the area proposed for development. For amended plats or plats with a previously accepted preliminary SWMP, the accepted preliminary SWMP shall be enforced unless a revised preliminary SWMP is required.
 - (5) Electronic copies of the preliminary SWMP plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. The plan shall be labeled as “Preliminary.” Upon acceptance of the plan, the plan shall be signed, sealed, and dated by the engineer, or shall contain a statement showing the engineer’s name and license number and affirming the plan was prepared under the direction of the engineer and that the plan is preliminary. At the discretion of the Director of Engineering, an earthwork permit may be issued prior to the plat being filed so long as a

floodplain development permit, if necessary, and a SWPPP have been approved. The developer takes the financial risk of grading the tract prior to final approval of the plat and construction plans.

(h) Preliminary Drainage Plan.

- (1) The Director of Engineering may require a Hydrologic and Hydraulic Analysis and reserves the right to review.
 - (2) This plan shall show the watershed affecting the development and how stormwater will be conveyed to, through, and from the development. It must comply with the standards outlined in this Ordinance and the drainage design criteria found in the *Engineering Standards*. The preliminary drainage plan is a guide for the detailed drainage design. The review of the preliminary drainage plan does not constitute final drainage plan approval or authorize a variance to this Subdivision Ordinance.
 - (3) For any property involved in the development process, a preliminary drainage plan shall be provided, at the developer's expense, for the area proposed for development. For property with a previously accepted preliminary drainage plan, the accepted preliminary drainage plan may be submitted and enforced unless a revised preliminary drainage plan is required by the City due to lot reconfiguration or other conditions created by the new plat. The Director of Engineering may waive the requirement for a preliminary drainage plan if the submitted plat is not anticipated to cause any significant change in runoff characteristics from a previously accepted drainage study or for single residential properties where no drainage problems are anticipated. If the applicant requests a variance in writing, a copy of any previous drainage plan shall be provided.
 - (4) At the request of the City, the property owner shall submit additional studies, including but not limited to the following, as deemed appropriate and necessary by the City, as part of the Preliminary Plat submittal requirements. These studies shall be considered during review and approval of the Preliminary Plat. For any study required by the City that is outsourced to a third party, the cost of such study shall be passed through to the developer or applicant.
 - i. Environmental Assessment;
 - ii. Wetland Delineation Study;
 - iii. Habitat Study;
 - iv. Vegetative Study;
 - v. Erosion Hazard Setback Study;
 - vi. Storm Drainage Study;
 - vii. Riparian (i.e., Tributary) Study;
 - viii. Flood Study; and
 - ix. Downstream Assessment Study.
 - (5) Electronic copies of the preliminary drainage plan shall be submitted with the submittal of a preliminary plat, replat, or minor plat for review and acceptance. The plan shall be labeled as "Preliminary." The plan shall be stamped and dated by the engineer and be accompanied by a floodplain development application describing the hydrologic and hydraulic impacts of the development and all associated supporting data files.
- (i) Major Creeks.
- (1) Definition. Major creeks shall be defined by the most recent "Major Creek" map maintained by the City of Celina and available to developers upon request.
 - (2) Major Creek Restrictions. All major creeks shall be maintained in an open

natural condition. All major creeks are subject to the requirements set forth in the *Engineering Standards* and the additional following requirements for all types of development:

- i. The 100-year floodplain and Erosion Hazard Setback shall be dedicated on the Final Plat to the City as a single lot or shall be owned and maintained by an HOA or POA, pursuant to Section 10.03.079(d), *HOA Requirements*, of this Ordinance.
 - ii. At no time shall any portion of the 100-year floodplain encroach upon any single-family or two-family residential lot.
 - iii. The Commission may waive any of these dedication requirements for a Replat that was originally platted prior to the adoption of this Subdivision Ordinance.
- (3) Access. Public access to parks and open space shall be dedicated for maintenance purposes as required by the Director of Engineering.
- (j) Floodplain Development Requirements.
 - (1) 100-Year Floodplain Restrictions. All development proposed adjacent to or within the 100-year floodplain shall be in accordance with this Ordinance, the City's Floodplain Ordinance, and the *Engineering Design Standards*.
 - (2) Required Permits. A floodplain development permit and earthwork permit must be submitted and approved by the Director of Engineering prior to any construction on the site.
- (k) Detention & Compensatory Flood Storage Facilities.
 - (1) Intent. The City of Celina encourages the use of detention basins and compensatory flood storage areas for the benefits of the community outlined below:
 - i. *Control of flood discharges*. The intent of detention basin and compensatory flood storage design shall be to reduce flood discharges for the ultimate watershed development conditions without increasing peak discharges above the peak discharges for undeveloped watershed conditions. This storage method serves as a key strategy of the stormwater management plan.
 - ii. *Environment*. As development occurs, there is a loss of wildlife and bird life habitat. It is possible to create a natural micro-environment around ponds and storage areas that can offset this loss of habitat. These "natural" environmental pockets in conjunction with natural open space areas can help maintain the rural setting of the City. Detention ponds also benefit downstream water quality by allowing the sedimentation of pollutants.
 - iii. *Recreation*. Detention basins and storage areas offer many recreational opportunities in an urban setting; for example, a normally dry detention basin could be used for athletic fields or picnic areas, while the banks of a pond offer valuable park space.
 - iv. *Aesthetics*. As an integral part of the City of Celina, a detention basin or flood storage area needs to blend into the landscape and into the community. Measures such as gentle side slopes, planting of trees and shrubs, and other landscaping features can transform the detention facility into an attractive amenity for the neighborhood.
 - (2) Requirements.
 - i. All detention and compensatory flood storage facilities shall be designed and constructed according to the requirements set forth in the *Engineering Standards*.

- ii. Detailed engineering studies of the drainage basin according to the requirements set forth in the *Engineering Design Standards* shall be required to evaluate the timing of hydrographs from regional and on-site facilities, as well as backwater calculations to determine the effect of the detention/retention and flood storage facilities on upstream water surface elevations.
- iii. All detention and compensatory flood storage facility designs shall be performed by a professional engineer registered in the State of Texas and shall meet the requirements of Permanent Rule 31, Texas Administration Code (TAC) Chapter 299, and other requirements, as applicable."

Section 10.03.073(a), Streets Basic Policy: Add the following sentence to 10.03.073(a)(3):

- iii. "Streets at the entrance to residential, multiple-family, and non-residential developments shall have decorative pavers or stamped concrete to delineate the entrance. Single-family developments shall have a divided entrance with the median being a common area lot to be owned and maintained by the HOA. An entrance monument sign may be located on this lot."

Section 10.03.073(b), Street Design and Appurtenances: add a sentence to 10.03.073(b)(6) *Additional Street Calming Methods*, as follows:

"Speed humps/bumps are prohibited from being installed in alleys, private aisles, and any fire lanes, unless approved in writing by the Director of Engineering."

And replace the phrase in 10.03.073(b)(7) "~~paved with a permanent type of pavement~~" with the word "constructed." The remainder of the sentence is retained.

Section 10.03.073(b), Street Design and Appurtenances: Remove Table A, *Thoroughfare Types and Standards*, as this information is located in the *Engineering Design Standards*. In addition, all references to this table will be removed.

Section 10.03.073(b), Street Design and Appurtenances: Add the following sentence:

- iii. "Commercial developments shall provide off-street connections to other businesses through mutual access easements and shared access drives to thoroughfares."

Section 10.03.073(c), Street Lighting: Remove sentence 10.03.073(c)(1)(iii), regarding street lighting, as this information is located in the *Engineering Design Standards*.

Section 10.03.073(c)(3), Street Lighting Placement: Remove this section in its entirety as this information is located in the *Engineering Design Standards* and replace with a reference to the *Engineering Design Standards*, as follows:

"Street lighting placement shall be chosen and installed according to the *Engineering Design Standards*."

Section 10.03.073(d), Private Streets: Change the word "buffer" to "easement" in paragraph (d)(3)(i) and add a sentence after that paragraph as follows:

- "ii. Private Street HOA Fund. A developer requesting private streets must show that adequate funds will be set aside and held in reserve for private street maintenance and replacement costs by the associated Homeowners Association (HOA)."

Section 10.03.073, Street & Alley Standards: Replace (e)(3) with a new sentence, as follows:

“(3) Alleys Required for Single-Family Attached Residences. Alleys are required for all duplex (two-family residences) and townhomes.

Add a new section 10.03.073, *Street & Alley Standards*, as follows:

“Section 10.03.073(f) Mews Streets.

- (1) Definition. A mews street is a grassy, landscaped area on which houses or housing units may face in lieu of facing a paved street.
- (2) Minimum Width of Mews. Forty (40) feet.
- (3) Fire & Emergency Access. Since fire and other emergency vehicles must access the homes from the alley, the alley shall be a minimum of twenty-four (24) feet in width within a thirty (30) foot right-of-way.
 - i. The mews alley shall be striped as a fire lane.
 - ii. Fire hydrants shall be placed in the alley and spaced as they would on any similar residential street.
 - iii. No parking is allowed within the fire lane.
 - iv. A rear door to the home shall be provided that is a minimum of thirty-six (36) inches wide and is not through the garage. This door shall have a doorbell or means to alert the occupant.
- (4) Maximum Mews Length. The maximum mews length is 500 feet. Minor modifications may be considered by the Fire Department and Director of Engineering.
- (5) Garage Set-Back. Garages shall be set back either a minimum of twenty (20) feet to allow tandem parking or a maximum of three (3) feet where no parking, tandem or parallel, is allowed.
- (6) Trash Receptacles. Trash receptacles shall be placed on a concrete pad that is outside the limits of the fire lane.
- (7) Parking. Additional parking for visitors and delivery trucks shall be provided at the terminus of the mews street.
- (8) Vehicle Access. Dead-ended mews streets and alleys are prohibited.
- (9) Sidewalks. Sidewalks within the mews street shall be a minimum of six (6) feet in width if located at or near the center of the mews or a minimum of five (5) feet if two sidewalks are provided on each side of the mews.
- (10) Side Yards. No side yard shall be paved.
- (11) Signage. Wayfinding signs that include address numbers shall be provided at the end of the mews to direct pedestrians to the houses facing the mews.
- (12) Addressing. Individual house or unit addressing shall be provided at the entrance to the mews, with an additional street number and street name sign on each house or unit’s rear façade. Addresses shall be posted on the building prominently. Both wayfaring signs and individual house numbers shall be illuminated for nighttime viewing. All such signage is subject to the discretionary review and approval by the Fire Department.

Section 10.03.074, Sidewalks and Trail Standards: Remove sentence “Sidewalk widths are typically a minimum of five (5) feet in residential neighborhoods and ten (10) feet adjacent to arterial streets,” as this information conflicts with the *Engineering Design Standards*.

Section 10.03.074, Sidewalks and Trail Standards: Remove the marked through and highlighted portions and add the sentence in red, as follows:

“Sidewalks are required adjacent to all public streets, and shall be provided according to the regulations in the *Engineering Design Standards*, and shall stub out to the adjacent property. ~~Sidewalk widths are typically a minimum of five (5) feet in residential neighborhoods and ten (10) feet adjacent to arterial streets.~~ No meter valves or drainage

inlets may encroach into sidewalks. Bicycle and pedestrian trails shall be a minimum of ~~ten (10) to~~ twelve (12) feet in width ~~(depending on criteria developed in the master plan)~~ and be constructed of an improved surface. Any portion of a sidewalk or trail located on private property shall be shown on the filed plat. **Trails and sidewalks shall comply with any City adopted Parks or Trail Plans.** See also Section 10.03.084, *Hike & Bike Trail Requirements.*”

Section 10.03.075, Driveways, Fire Lanes, Retaining Walls, & Access. Revise (a), (b), and (d) as follows:

- (a) “Driveways, **Generally.** All driveway approaches, curbs, gutters, pavements and appurtenances necessary to provide access to properties shall be provided by the developer, shall be designed, constructed and maintained in accordance with standards in the City’s *Engineering Design Standards*, Zoning Ordinance, and Planned Development Ordinance (if applicable to the subject property).”
- (b) **Driveways, Residential.**
 - (1) **Residential driveway widths shall remain constant from the garage to the street.**
 - (2) **Residential tracts may have only one drive per lot.”**
- (c) **Fire Lanes.** Fire lanes are to be designed in accordance with the City’s adopted Fire Code and *Engineering Design Standards*. Fire lane easements shall be shown on the Site Plan (see the *Zoning Ordinance*) and on any Conveyance Plat, Preliminary Plat, or Final Plat, and shall be maintained to the City’s standards by the property owner. For safety and emergency accessibility reasons during construction, developments other than single-family detached or two-family residential subdivisions shall not be allowed to proceed with vertical structural construction above the foundation prior to:
 - (1) Completion and City inspection of all fire lanes and fire hydrants on the site (unless otherwise approved by the Fire Chief); and
 - (2) Issuance of a Building Permit for the structure.
- (d) **Retaining Walls.** Any retaining wall over four (4) feet in height requires engineered plans. Contractors shall incorporate a form liner or add a brick or stone façade. Plain concrete retaining walls are prohibited.

Section 10.03.076, Landscaping and Screening Adjacent to Roadways: Add a sentence to section (a) *Median Landscaping Improvements Required*, as follows:

“(6) **Design.** The median design shall be approved by the Director of Engineering and the City may elect to create the design for the landscaped median in house.”

Section 10.03.076, Landscaping & Screening Adjacent to Roadways: Change the numbers in (b)(3) from “~~thirty (30)~~” to “**forty (40)**” and remove the following sentence from (b) Minimum Requirements for Median Landscaping, and renumber the subsequent sections.

~~“(6) When the nose of a median is tapered to five (5) feet or less, that portion of the median shall be paved with bricks placed to align with the top of curb.”~~

Section 10.03.076, Landscaping & Screening Adjacent to Roadways: Add a new Section 10.03.076(c), “*Roadway Landscape Easements*” that reads as follows and renumber the subsequent sections.

“(c) **Roadway Landscaping Easements or Buffers.** Landscape Easements are defined as open, landscaped areas between the property line (right-of-way) and any built structure on a lot. The roadway parkway is the portion of right-of-way that is typically sodded and kept clear of trees or deep-rooted shrubs since this is often the location of underground or above-ground infrastructure, such as water and sewer lines and electrical wiring, respectively. The following landscape easement standards apply unless a more stringent standard applies due to the lot being located in an overlay district.

- (1) **Minimum Width of Landscape Easements along Roadways.**

- i. Adjacent to all six-lane divided streets and limited access roadway service roads, as shown on the Thoroughfare Plan, the landscape easements shall be a minimum forty (40) feet wide.
 - ii. Adjacent to all four-lane divided streets, as shown on the Thoroughfare Plan, the landscape easements shall be a minimum of thirty (30) feet wide.
 - iii. Adjacent to all other streets called out on the Thoroughfare Plan, the landscape easements shall be a minimum twenty (20) feet wide.
 - iv. Adjacent to residential streets and other streets not called out on the Thoroughfare Plan, the landscape easements shall be a minimum of ten (10) feet wide.
- (2) Minimum Width of Landscape Buffers between Land Uses.
- i. Adjacent to all residential zoning districts, the landscape easement of all non-residential uses shall be a minimum of thirty (30) feet wide.
 - ii. Between similar zoning districts, the landscape easement shall be a minimum ten (10) feet wide.
- (3) Intent & Application of the Ordinance. When circumstances exist that may restrict the ability of an applicant to comply with the letter of the minimum widths referenced above, the Director may allow some flexibility so long as the overall intent of the ordinance is met.
- (4) Landscaping & Screening within Easements or Buffers. Street trees, native grasses, sod, and shrubs may be planted within the landscape easement, avoiding conflicts with any utility service, as shown on the approved site plan or concept plan.
- (5) Signs Located within Landscape Easements or Buffers. Any applicant who places a monument sign within a landscape easement that may also be the location of underground or above-ground infrastructure shall be required to allow the City and/or utility company access the facilities located beneath or above the monument sign and must sign an agreement authorizing the City and/or utility company to carry out needed repairs or replacement with no obligation to rebuild or compensate the owner/applicant for the removal, repair, or loss of the sign."

Section 10.03.076, *Landscaping & Screening Adjacent to Roadways*: Remove (d)(1) and renumber the subsequent sections, as follows:

~~"(1) Residential developments shall provide a landscape easement along all roadways that are designated as Collectors or higher (see Table A in Section 10.03.073(b), *Street Designs and Appurtenances*)."~~

Section 10.03.076, *Landscaping & Screening Adjacent to Roadways*: Revise 10.03.076(e), *Fee-in-lieu* as follows:

"Fee-in-lieu. Should the Director of Engineering, at his sole discretion, determine that the immediate installation of median or roadway easement landscaping is impractical; a fee-in-lieu of construction installation shall be collected and placed in escrow at the rate listed in the current Fee Schedule. The fee-in-lieu shall be collected prior to plat filing. Said fees-in-lieu of installation shall be applied to construction, reconstruction, upgrading, and installation of median landscaping of divided roadways within the adjacent median landscape areas and any roadway easement or landscape buffers."

Section 10.03.076(f), *Screening Requirements*: Replace this subsection with a new Section 10.03.076(g), "*Screening Requirements*" that reads as follows:

- (1) "Screening adjacent to roadways.

- i. Non-residential (both commercial and multiple-family) uses adjacent to roadways. A solid masonry screening wall is required, minimum six (6) foot and maximum eight (8) foot, when used to screen the use from any roadway.
 - ii. Maintenance easement. A three (3) foot wide maintenance easement shall be provided on any boundary line where a required screening wall or device may be installed currently or in the future, to allow access for repairs or replacement.
 - iii. Residential fences adjacent to roadways. All wood residential fences that face a street must be minimum of six (6) feet in height and constructed of cedar board-on-board with a decorative cap and support poles facing the inside of the lot. Residential fences that only face the interior of the lot are not required to be board-on-board construction.
 - iv. Conflict of fences. No parallel, adjacent fencing is allowed. When a non-residential use is proposed adjacent to an existing residential wooden fence, the wooden fence shall be removed and the masonry screening wall becomes the mutual boundary line between the properties.
- (2) Screening between land uses.
- i. Non-residential and multiple-family uses adjacent to single family detached zoning districts or uses.
 - a. A solid masonry screening wall is required, minimum eight (8) feet in height, along the property line.
 - b. In some cases, at the Director's discretion, a decorative iron or wrought iron screening walls may be allowed in lieu of a solid masonry screening wall. This decorative iron or wrought iron screening shall have masonry columns to be spaced no greater than thirty (30) feet on center, along with medium-sized evergreen plants that will grow to a minimum height of six (6) feet within two (2) years of planting.
 - c. In some cases, at the Director's discretion, enhanced wooden fences constructed of cedar board-on-board with a decorative cap, and support poles facing the inside of the lot may be allowed.
 - d. In some cases due to topography or other natural land features, at the Director's discretion, industrial quality metal fencing or welded wire fence panels may be allowed, such as DesignMaster® fencing products.
- (3) Site elements required to be screened. The following site elements shall be screened from the public view:
- i. Mechanical & utility equipment.
 - a. Ground located equipment. A solid masonry "wing" wall of sufficient height to effectively screen the equipment.
 - b. Roof-mounted equipment. Roof-mounted equipment shall be screened from view from the adjacent right-of-way. Appropriate screening includes wall extensions, such as a parapet wall.
 - ii. Trash & recycling enclosures. Screening enclosures shall consist of a solid masonry wall or architectural element of the building that is a minimum six (6) feet in height with a solid metal gate (primed and painted) that is to remain closed at all times other than servicing.
 - a. Double trash & recycling enclosures shall be a minimum of twenty-five (25) by fourteen (14) feet in size.
 - b. Single trash & recycling enclosures shall be a minimum of twelve (12) by fourteen (14) feet in size.
 - c. The number of enclosures required for each development shall be determined by staff.

- (4) Screening adjacent to open space, creeks, or other view corridors. Notwithstanding the obligation of a developer to construct a solid masonry screening wall surrounding the property, when portions of that property are adjacent to a dedicated open space, natural land feature such as a creek, or other notable views such as a golf course, the screening shall be decorative iron with masonry columns to be spaced no greater than thirty (30) feet on center or industrial quality metal fencing or welded wire fence panels, such as DesignMaster® fencing products, with Director approval.
- (5) Prohibited screening elements. No screening wall visible from a public street shall be:
- Screening walls shall not be located within any required visibility triangle;
 - Screening walls shall not be constructed with any of the following materials: Surface painted or coated concrete, chain-link, concertina wire, barbed wire, corrugated metal, or fiberglass panels.
 - In no case shall a screening wall be placed parallel and in the immediate vicinity of an existing residential fence causing a close back-to-back fence arrangement. When a residential fence exists at the time of commercial development, the required masonry screening wall shall replace the residential fence, with access easements provided for maintenance to be shown on the associated plat."

Section 10.03.077, Lot & Block Design: Replace the words in paragraphs (d)(1) and (d)(2) "Minor Variance, in accordance with Section 10.03.086, Variances" with the words "minor modification" and replace the words "forty (40)" in paragraph (f)(1)(i), Adequate Frontage as follows: " Each lot shall have access to a street (or an approved public way) by having frontage on such a street that is not less than forty (40) fifty (50) feet at the street right-of-way line..."

Section 10.03.077, Lot & Block Design: Revise 10.03.077(j), *Building Setback Lines*, as follows:

"Building Setback Lines. Building setback lines shall be shown only on residential Preliminary and Final Plats within Celina's ETJ. and shall conform with the minimum setbacks for front, side and rear yards as required by the Zoning Ordinance (if within the City limits) on the basis of the respective zoning districts (e.g., single family, two-family/duplex, multi-family, commercial, retail, office, mobile home, industrial, etc.). Building setback lines need not be shown on any plats for commercial development. "

Section 10.03.078, Other Subdivision Regulations: Add a new sentence to 10.03.078(a), *Easements*, as follows:

"(3) Maintenance Easements. When a retaining wall is proposed for construction, the associated plat must show a minimum three (3) foot maintenance easement on both sides of the proposed wall."

Section 10.03.078, Other Subdivision Regulations: Remove the current section 10.03.078(f), *Fiber Optic Network Conduit and Fiber Optic Cable*, and replace with the following:

"(f) Fiber Optic Network Conduit and Fiber Optic Cable. All residential and multiple-family subdivisions must install fiber optic capability before receiving a Certificate of Occupancy. In addition, the developer must inform the City of the provider chosen to serve the development and specify both the overall speed and the speed to each individual house or unit."

Section 10.03.078, Other Subdivision Regulations: Add a new sections (g) and (h), as follows:

"(g) Retaining Walls. On any development, whether residential or non-residential, the

slopes located at the perimeter of the property shall be graded so that there shall be no retaining walls necessary between the development being constructed and future adjacent developments, unless approved by the Director of Engineering.

(h)Amenity Lot Irrigation. Residential subdivisions containing 500 lots or more shall irrigate their common area lots from on-site wells or detention/retention devices.”

Section 10.03.079, Required Subdivision Amenities: Add a phrase to 10.03.079(b)(1) and two sentences to 10.03.079(b)(8) and (9), *Requirements*, as follows:

- (1) Any screening or retaining wall shall be located in a common area lot or within a wall-maintenance easement (minimum three (3) feet wide) to facilitate repair as needed.
- (8) Every residential unit must be located within two (2) miles of an outdoor siren early warning system.
- (9) Every residential and multiple-family development shall have, at a minimum, security cameras located at entrances to the community.”

Section 10.03/079, Required Subdivision Amenities: Add a phrase to 10.03.079(d), Homeowners Association (HOA) Requirements as follows:

- “(2) Applicability. An HOA shall be established for any development that contains any of the following: a minimum of six (6) housing units, a private amenity (such as a clubhouse or pool), private street, a major creek or tributary, or thoroughfare screening.”

Section 10.03.079, Required Subdivision Amenities: Add a sentence to 10.03.079(d), Homeowners Association (HOA) Requirements, as follows:

- “(4) Maintenance Agreement All detention facilities shall be owned and maintained by the HOA and the HOA Board shall enter into a maintenance agreement with the City to ensure that adequate maintenance will be forthcoming over the life of the facility.”

Section 10.03/079, Required Subdivision Amenities: Add a sentence to 10.03.079(h), *Supplemental Requirements*, as follows:

- “(2) Compliance with the Neighborhood Design Guidelines. Association documents shall comply with the adopted *Neighborhood Design Guidelines*.

Section 10.03.082, Park Land Dedication Requirements ~~(Land, Payment, or Combination)~~: Correct the Section title and add the words “or multiple-family” to section (a), as follows:

- “(a) Land Conveyance or Payment in Lieu of Land Required. The owner of any property to be developed for residential or multiple-family purposes shall convey land for park purposes or make a payment of money in lieu of land, or a combination of both, to the City at the time of subdivision to provide for the recreational needs created by such development, in accordance with the provisions of this article.”

Section 10.03.082, Park Land Dedication Requirements: Revise the title by removing the words “Land, Payment, or Combination” and the wording of Section (e)(1), Dedication: Conveyance of Land Requirements, as follows:

- “(e) ~~Based on the recommendation of the City Manager or his designee, the Park Board~~ The City Manager or his designee shall make the determination a recommendation to the City Council regarding whether a conveyance of land shall be required accepted in whole or in part or whether it would be more beneficial to the

City to accept the market-based cash equivalent. When the City elects to accept the conveyance of land to meet the Park Land Dedication requirement, ~~shall meet the requirements of this Section and~~ the following provisions shall apply:

(1) Amount.

- i. The required conveyance of land shall be one (1) acre of land per fifty (50) residential single family units, or a dollar amount per square foot of the land in lieu of land dedication, as listed in the Master Fee Schedule. ~~an amount proportionally equal to five percent (5%) of the total tract acreage, whichever is greater.~~
- ii. The required conveyance of land shall be one (1) acre of land per fifty (50) multiple family units, or a flat fee per unit in lieu of land dedication, as listed in the Master Fee Schedule."

Section 10.03.083, Park Improvement Fees: Add to Section 10.03.083(a) a new section (3), as follows:

"(3) Park improvement fees are collected on a per unit basis prior to the issuance of a building permit and are listed in the Master Fee Schedule."

Section 10.03.083, Park Improvement Fees: Change the words "City Council" in Section (h), Appeals & Variances, to be "Board of Adjustment."

Section 10.03.084, Hike & Bike Trail Requirements. Change all references to "hike and bike" to "hike & bike." Replace the word "and" in titles with "&." In addition, revise section (d), Trails Along Major Creeks & Greenways, as follows:

(d) Trails Along Major Creeks, and Greenways.

- (1) Hike & Bike trails shall be located ~~The location of trails within developments adjacent to Major Creeks or greenways whether shown on the master trails plan or master parks plan or not. trails recognized in the adopted master plan shall be coordinated with the Parks & Recreation Department, and~~ These trails shall be staked in the field by the developer, provide stub outs to any local sidewalk system and approved by both the Director of Parks & Recreation and the Director of Development Services prior to the submittal of a Conveyance Plat or Preliminary Plat.

Section 10.03.086, Variances & Minor Modifications. Replace the current Section as follows:

- (a) Purpose. The purpose of a Variance is to allow an applicant to seek relief from a particular standard or requirement of this Ordinance that would substantially limit the applicant's ability to utilize the land in a manner requested.
- (1) The rules and regulations of this Subdivision Ordinance are the standard requirements of the City. Suspension of any of these rules and regulations may be granted upon a good and sufficient showing by the applicant that there are special circumstances or conditions affecting the property in question, or that enforcement of the provisions of this article will deprive the applicant of a substantial property right and that such suspension, if granted, will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity.
- (2) Each and every application for Variance shall be decided solely and entirely on its own merits and the disposition of any prior or pending application for Variance shall not be allowed to enter into or affect any decision on the application in question.
- (3) Pecuniary interests (i.e. financial issues) standing alone shall not be justification for the granting of a Variance.

- (b) Definitions of Levels of Relief Variances. Variances The Director of Development Services shall be responsible for classifying any relief procedure shall be classified as "minor" or "major." Minor modifications may be acted upon by the Director of Development Services or the Director of Engineering. Variances, as required by State Law, and as defined in Section 10.03.102, *Definitions*, of this Ordinance, require consideration by the Board of Adjustment.
- (c) Decision-Makers.
- (1) Minor Variance Modification Decision-Maker. A minor Variance modification is acted upon by the Director of Development Services or the Director of Engineering.
- Minor Modification Variance Appeal. An appeal to a decision on a minor Variance modification by the Director of Development Services or the Director of Engineering (as applicable) may be considered by the Planning & Zoning Commission Board of Adjustment. The Planning & Zoning Commission Board of Adjustment will be the final decision maker (See Section 10.03.086(j), *Appeal Process*).
- (2) Major Variance Decision-Maker. A Major variance is acted upon by the Planning & Zoning Commission Board of Adjustment.
- Major Variance Appeal. An appeal to a variance decision on a Major by the Planning & Zoning Commission Board of Adjustment shall be considered by the District or County Court City Council.
- (d) Applicability.
- (1) An applicant may request relief from a Variance of a particular standard or requirement applicable to a Conveyance Plat, Preliminary Plat, construction plans, and a Final Plat, or a Replat. A The relief Variance petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement. An applicant may, if desired, submit more than one relief Variance petition if there are several standards or requirements at issue.
- (2) A petition for relief a Variance shall not be accepted in lieu of a vested rights petition (Section 10.03.087, *Vested Rights*). If there is a question as to whether a vested rights petition is required instead of a petition for relief a Variance, such determination shall be made by the Director of Development Services.
- (e) Variance Submission Procedures.
- (1) A request for relief a Variance shall be submitted in writing by the applicant with the submittal of a Conveyance Plat, Preliminary Plat, Construction Plans, Final Plat, or Replat, as applicable. No relief a Variance may be considered or granted unless the applicant has made such written request and paid the applicable fee.
- (2) The applicant's request shall state the grounds for the relief a Variance request and all of the facts relied upon by the applicant. Failure to do so will result in denial of the associated plat application. unless the applicant submits a waiver in accordance with Section 10.03.2(d), *Waiver of Right to 30-Day Action*.
- (f) Minor Modification Criteria. The Director of Development Services shall determine, on a case-by-case basis, what criteria apply for any relief petition that is considered "minor" in nature.
- (g) Variance Criteria.
- (1) A variance to regulations within this Ordinance may be approved only when, in the decision-maker's Board of Adjustment's opinion, undue hardship will result from strict compliance to the regulations.
- (2) The decision-maker Board of Adjustment shall take into account the following factors:
- The nature of the proposed land use involved and existing uses of the land in

- the vicinity;
- ii. The number of persons who will reside or work in the proposed development; and
 - iii. The effect such variance might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
- (3) No variance shall be granted unless the ~~decision-maker~~ **Board of Adjustment** finds:
- i. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land; and
 - ii. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the Variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
 - iii. That the granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Ordinance.
- (4) A variance may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Financial hardship to the applicant shall not be deemed to constitute undue hardship.
- (5) No variance shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the applicant.
- (6) The ~~decision-maker~~ **Board of Adjustment** shall not authorize a variance that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan, or *Comprehensive Plan* of the City.
- (7) Any falsification of information by the applicant shall be cause for the variance request to be denied. If the variance request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the variance, and shall be grounds for reconsideration of the variance request.
- (h) Burden of Proof. The applicant bears the burden of proof to demonstrate that the requirement for which a variance is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the applicant. The applicant shall submit the burden of proof with the original submittal.
- (i) Decision. The decision-maker shall consider the variance petition and, based upon the criteria set forth in Section 10.03.086(g), *Variance Criteria*, shall take one of the following actions:
- (1) Deny the petition, and impose the standard or requirement as it is stated in this Subdivision Ordinance; or
 - (2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Ordinance.
- (j) Notification of Decision on Petition. The applicant shall be notified of the decision on the variance by the **Director** ~~applicable decision maker (e.g., the Director of Development Services, Director of Engineering, or Commission, as applicable),~~ within fourteen (14) calendar days following the decision.
- (k) Appeal Process.
- (1) Initiation of an Appeal. The applicant **or City Staff** may appeal a variance decision ~~of the Director of Development Services or Director of Engineering, as allowed within the Subdivision Ordinance.~~ A written letter of appeal shall be submitted to the Director of Development Services within fourteen (14) calendar days following

the ~~denial~~ decision by the Board of Adjustment, as allowed by State law.

(2) ~~Appeal to Planning & Zoning Commission. The Planning & Zoning Commission shall schedule the appeal at the earliest regular public meeting that will accommodate required public notification. At this meeting, new information may be presented and considered, if available, that might alter the previous decision to deny the variance. The Planning & Zoning Commission may affirm, modify, or reverse the previous decision by simple majority vote.~~

(2) ~~Appeal to District or County Court. City Council. The written appeal petition shall be brought before the Court of Record for final decision. The applicant, the Director of Development Services or four (4) voting members of City Council may appeal the Planning & Zoning Commission's decision by submitting a written notice of appeal to the Director of Development Services within fourteen (14) calendar days following the Commission's decision. The City Council shall consider the appeal shall be considered at the at a public meeting at the next regular or specially called meeting following the date when the notice of appeal is submitted to the Director of Development Services. The City Council may affirm, modify, or reverse the Commission's Board's decision by a simple majority vote. The decision of the City Council is final.~~

- (I) Effect of Approval. Following the granting of a minor modification or variance, the applicant may submit or continue the processing of a plat or construction plans, as applicable. The minor modification or variance granted shall remain in effect for the period the plat, concept plan, or construction plans are in effect, and shall expire upon expiration of any of those applications. Extension of those applications shall also result in extension of the minor modification or variance. The approval of a minor modification or variance relieves the applicant of the imposition of the particular standard or requirement for which a minor modification or variance was sought following the finding of just cause for such minor modification or variance to be allowed. A variance shall not be approved solely based on monetary interests. Minor modifications or variances are heard on a case-by-case basis and do not establish precedent."

Section 10.03.087, Vested Rights. Revise Section (c) as follows:

"(c) **Submission.** A vested rights petition shall be submitted to and officially filed with the City's responsible official (see Section 10.03.023(g), *Application Submittal Process Official Filing Date*) in accordance with State law. ~~the TEXAS LOCAL GOVERNMENT CODE, CHAPTER 245 or successor statute.~~ Submission of a vested rights petition shall be deemed as an automatic variance of the applicant's right, and the City's obligation, to process and act upon applications as required by State law ~~(CHAPTER 212 OF THE TEXAS LOCAL GOVERNMENT CODE)~~, and as provided in Section 10.03.087(e), *Form of Petition*, of this Ordinance. Submission of such petition shall stay further proceedings on the related application until a final decision is reached on the vested rights petition."

Section 10.03.089, Dormant Projects. Revise Section (c)(1)(ii), *Reinstatement* as follows:

"ii. An application for a final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness consistent with State law." ~~TEXAS LOCAL GOVERNMENT CODE, CHAPTER 245.005(c)(2)).~~

Section 10.03.091, Text Amendments. Revise the first paragraph as follows:

"The ~~Commission or~~ City ~~Council, by majority vote,~~ may initiate changes to the Subdivision Ordinance through a call for public hearing."

Section 10.03.101, *Usage and Interpretation*. Remove the word “and” in the titles and replace with “&.”

Section 10.03.102, *Definitions*. Revise as follows:

“Hike ~~and~~ & Bike Trail.

Landscape Buffer. An area of permanent vegetation that is adjacent to a residential subdivision, non-residential property, or vacant land, but not a thoroughfare.

Minor Modification. A minor change to the standards, but not the intent, of this Subdivision Ordinance, which involves Director’s approval unless otherwise noted.

Official Filing Date. Defined as the date on which the plat has met all the requirements of the Subdivision Ordinance following staff or administrative review, fees have been paid, and that plat is scheduled for final approval by the Planning & Zoning Commission by placing the plat on the Commission agenda.

Roadway Landscape Easement. An area of permanent vegetation that is adjacent to a thoroughfare that may include utility easements, sidewalks, and be crossed by drives providing ingress and egress.

~~Sketch Plan. An informal drawing of initial development ideas superimposed on a topographic map to indicate generally the plan of development and to serve as a working base for noting and incorporating suggestions of the City manager, engineer or others who are consulted prior to the preparation of the preliminary plat.~~

Street, Mews. A mews street is a grassy, landscaped area on which houses or housing units may face in lieu of facing a paved street (See Section 10.03.073(f), *Mews Streets*, for regulations).

Variance. An exception to a particular standard or requirement of the Subdivision Ordinance that is granted because compliance with the Ordinance requirements would substantially limit the applicant’s ability to utilize the land in a manner requested.

~~Variance, Major. A significant change to both the standards and intent of this Subdivision Ordinance, which involves Planning & Zoning Commission and requires Board of Adjustment approval. A Major Variance includes any type of variance that is not specifically listed in Table 107.03.112.~~

~~Variance, Minor. A minor change to the standards, but not the intent, of this Subdivision Ordinance, which involves Director of Development Services or Director of Engineering (as applicable) approval unless otherwise noted. A comprehensive list of Minor Variances is shown in Table 107.03.112.”~~

Subdivision Ordinance

City Council

September 10, 2019



Background

- The current Subdivision Ordinance was adopted by City Council on September 10, 2018
- Each year, ordinances should be reviewed for clarity, “best practices,” and conformance with State Law
- This was accomplished by a thorough review of the regulations and the proposed Ordinance reflects the combined efforts of Engineering, Planning, and Building Inspections



Proposed Revisions

- The Engineering Department requested that the ordinance be changed to reflect new drainage and roadway standards
- The proposed ordinance also brings the Ordinance into compliance with State Law regarding changes made to the platting process by the Texas Legislature during the last session



Proposed Revisions

- State law now requires plats and plans to be reviewed and approved or denied within 30 days
- The “30-day waiver” typically used to allow the applicant to voluntarily relinquish his right to a 30-day review can no longer be used
- Removed the “30-day waiver” and any references to the waiver within the document

Proposed Revisions

- The proposed ordinance defines the “start date” as the date on which the plans have met the requirements of the Subdivision Ordinance.
- In other words, any “plat or plan” shall be reviewed by the various departments responsible for the review and once the plans meet all requirements, staff will schedule the plat or plan for consideration before the appropriate authority for approval or denial



Proposed Revisions

- Revised the notification requirements for certain plats in response to the new State law regarding notification, especially in regard to replats
- Staff will have the option of notifying adjacent property owners of the replat after the fact



Proposed Revisions

- Added a section on right-of-way abandonment that describes the process steps
- Added a tree preservation section that applies in Celina's ETJ
- Added a section describing Mews Streets and their development standards
- Revised the screening section to match the proposed Zoning Ordinance



Proposed Revisions

- Revised the variance section to differentiate between a “variance” (approved by the Board of Adjustment) and a “minor modification” which may be approved by the Director of Development Services
- Revised or added definitions: landscape buffer, landscape easement, variance, minor modification, official filing date, and mews street

Proposed Revisions

- Revised the water, drainage, and sewer section to bring the ordinance up to “best practices” regarding these issues
- Removed several sections that are covered in the Engineering Design Standards, which are incorporated into the Subdivision Ordinance, but are easier to revise as necessary
- Additional “clean-up” of wording with no changes to substance



Approval of Text Amendments

- The Subdivision Ordinance may be amended by the City Council following a public hearing
- This public hearing was published in The Celina Record in compliance with State law
- Following input from the public hearing, Staff requests approval as presented





Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Dusty McAfee AICP, Director of Development Services
 CC: Jason Laumer, City Manager
 Date: September 10, 2019
 Re: The Monschke Tract Zoning

Action Requested:

The Celina City Council will conduct a public hearing 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 rezoning an approximately 40 acre tract of land from Retail District (C-1), to Planned Development (PD) with Mixed-Use Regional District (MU-2) base zoning; generally located 2,000 feet south of FM 428 and east of future Legacy Drive. (Monschke Tract PD Zoning) (McAfee)

Applicant:

Peloton Land Solutions, LLC
 10875 John W. Elliott Dr., Suite 400
 Frisco, TX 75234

Background Information:

The applicant is requesting to rezone the property from Retail District (C-1), to Planned Development (PD) with Mixed-Use Regional (MU-2) base zoning district. The applicant is proposing various types of multi-family development, including urban edge and urban style apartment buildings, as well as several retail uses. The PD incorporates multiple special design standard enhancements that are above and beyond the requirements of the base Zoning Ordinance. The base zoning of the MU-2 district would allow for greater flexibility in contrast to the current C-1 zoning district.

Board Review/Citizen Input:

At the July 16, 2019, Planning & Zoning Commission regular meeting, the Commission voted unanimously to recommend approval of the rezoning request.

This is a continuation of the public hearing from the August 13th City Council regular meeting.

A notice of the public hearing was published in *The Celina Record* on July 26, 2019.

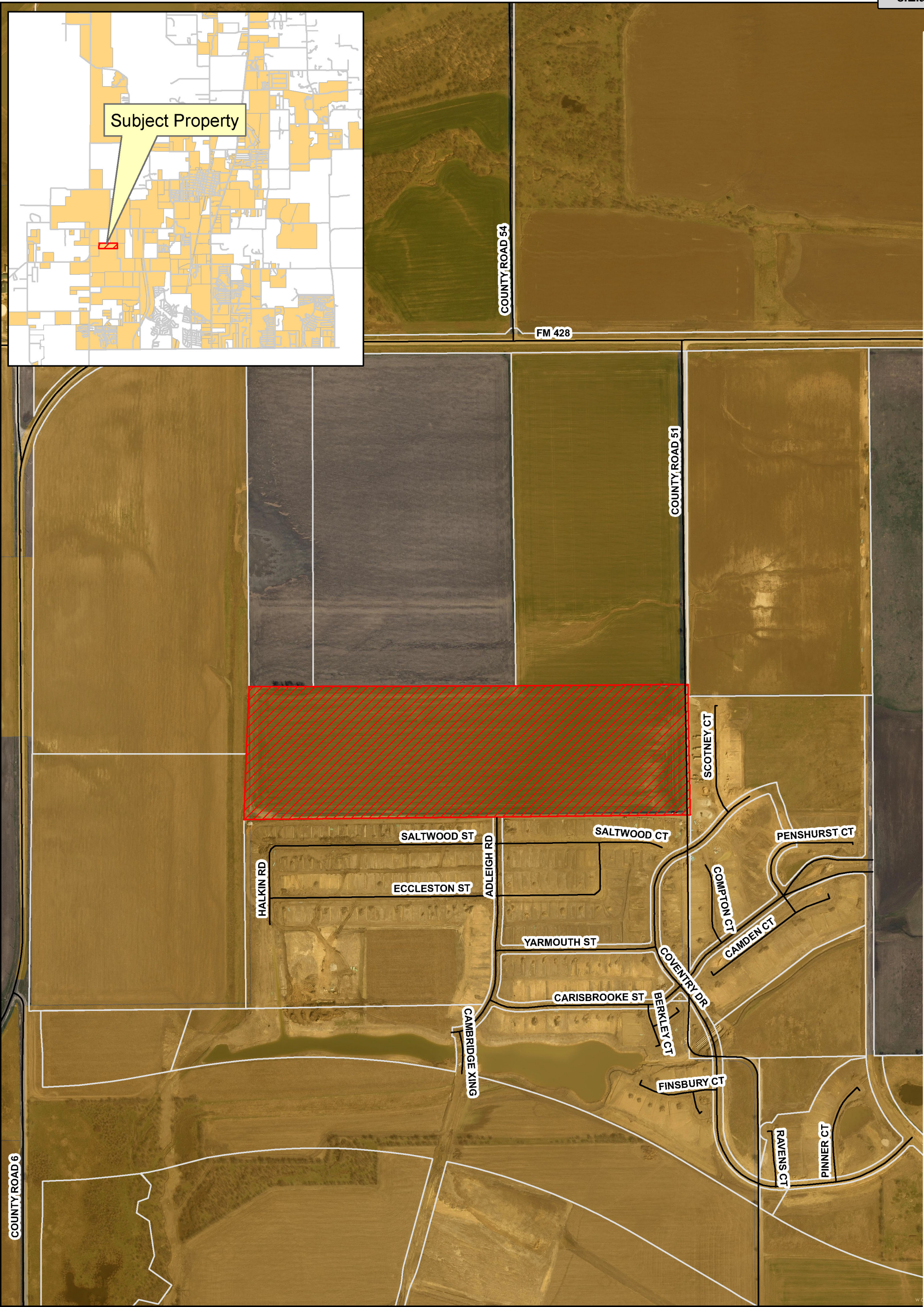
Notices of the public hearing have been sent to all owners of property residing within the city limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Supporting Document:

- Location Map
- Staff Presentation
- Draft Ordinance

Staff Recommendation:

Staff recommends approval.



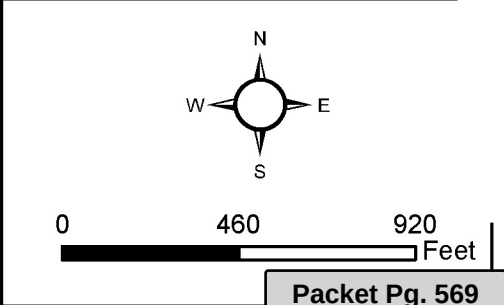
Attachment: Location Map (The Monschke Tract Zoning)



Monschke Tract Location Map

Date: 6/20/2019

- Legend**
- Roads
 - Monschke
 - Parcels
 - City Limits



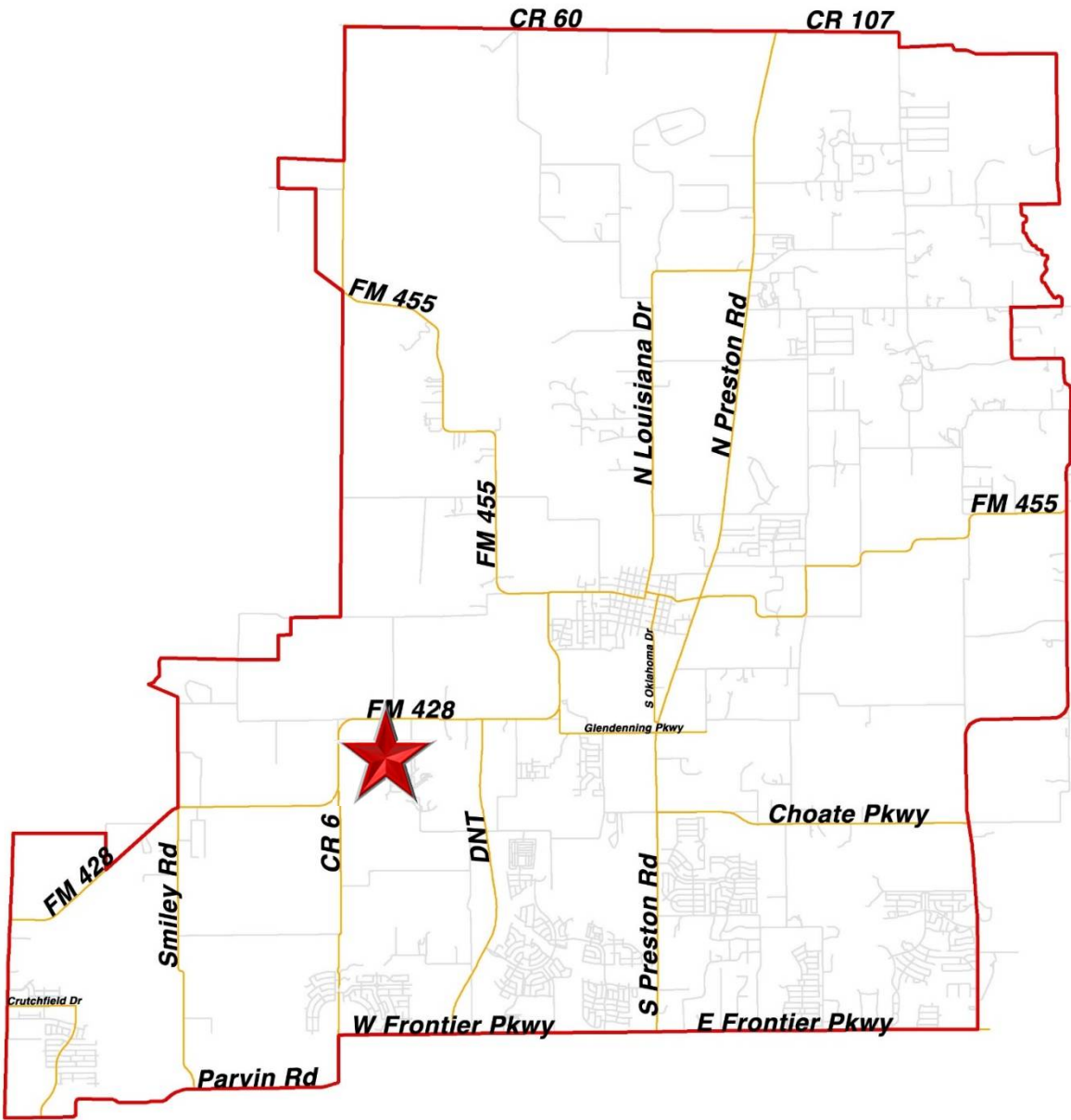
Monschke Tract

Planned Development MU-2 Zoning

City Council

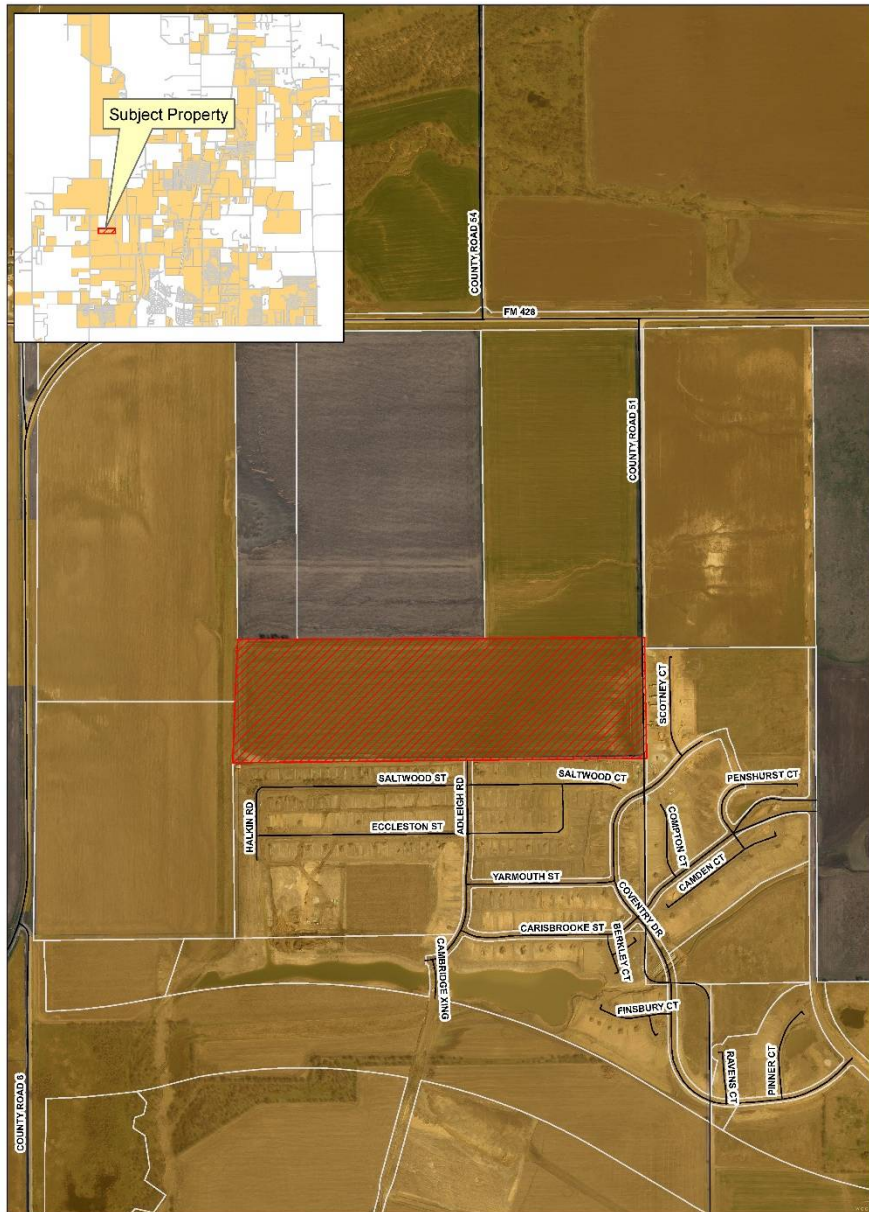
September 10, 2019





Attachment: Staff Presentation (The Munschke Tract Zoning)



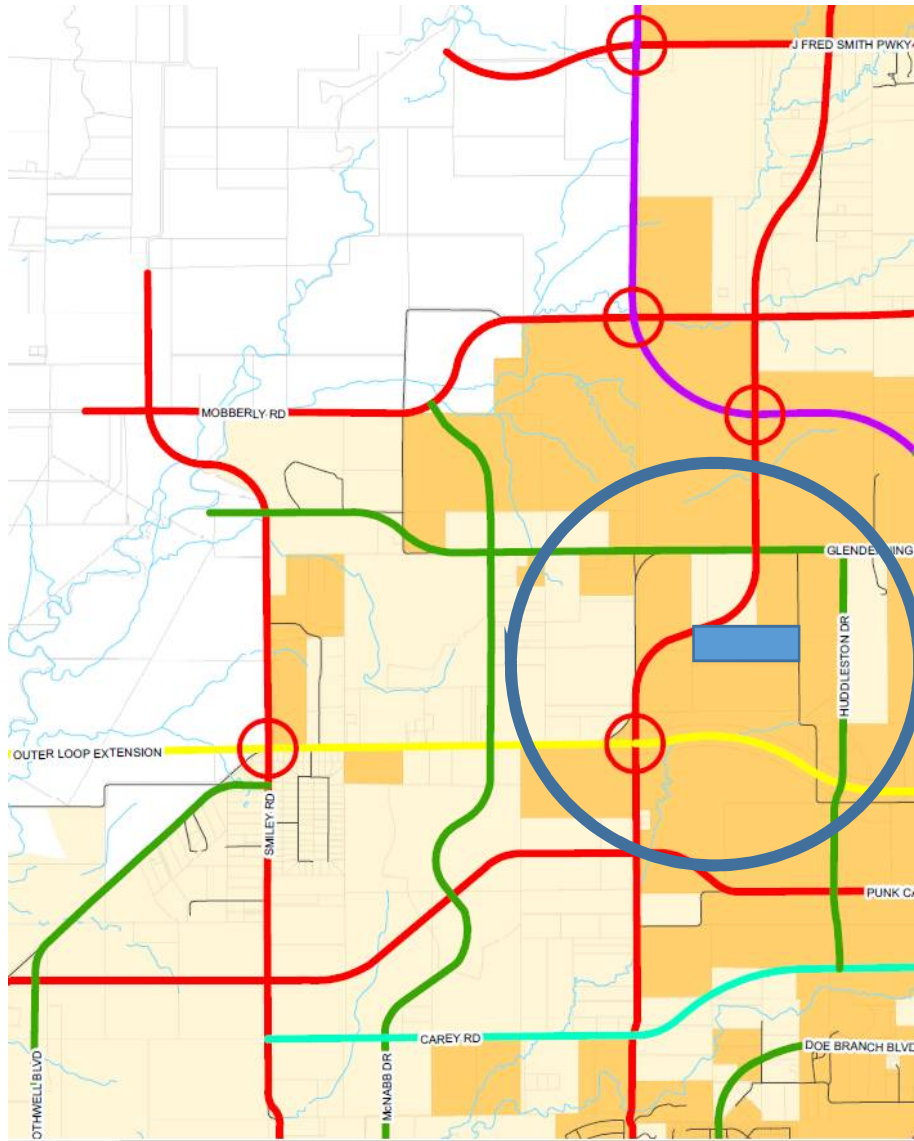


Location Map

The subject property is generally located 2,000 feet south of FM 428 and adjacent to future Legacy Drive, directly north of the Cambridge Crossing subdivision.

Background

- The property is approximately 40 acres
- The property is in the City Limits and currently zoned Retail District (C-1)
- The request is to rezone the property to Planned Development with a base zoning of Mixed Use Regional District (MU-2)
- An associated Development Agreement is on the consent agenda in September (tonight) for the tract in association with the Zoning request



MTP

Future Legacy Drive was recently relocated, requiring cooperation (i.e. ROW dedication) from the property owner, in addition to changing the market potential of the tract.

Project Overview

- The MU-2 district allows a broad range of land uses that is flexible with the market, as conditions may change
- In addition to the base zoning, Staff incorporated into the PD multiple special design standard enhancements that are above and beyond the base Zoning Ordinance
- As a reminder, our base Zoning Ordinance is in the process of being updated to incorporate many of these standards for future projects



Special Enhancements

- All future buildings must comply with the Architectural Standards
- Multiple land uses would require a CUP (minor auto repair, car wash, etc.)
- Multiple land uses are restricted (cash checking, pawn shop, liquor store, tattoo parlor, car sales, etc.)
- Enhanced landscape buffers and screening standards apply

Special Enhancements

Any multi-family would abide by increased design standards over the base Zoning Ordinance:

- Increased height setbacks
- Augmented parking designs (interior)
- Limitations on number of bedrooms allowed
- Increased densities
- Garden style products prohibited
- Additional required amenities and open space

Policy Considerations

- The MU-2 district allows for flexibility as market conditions change in contrast to the C-1 district
- The property owner cooperated with revisions to the alignment of Legacy Drive
- The proposed PD requires multiple enhancements of the property that are an increase to the base Zoning Ordinance
- The projected timeline for the subject property to develop is not in the near future

Recommendation

- Notices were published in compliance with State and local law
- The Planning & Zoning Commission unanimously recommended approval of the zoning request at its July 16th regular meeting
- This is a continuation of the public hearing from the August 13th City Council regular meeting
- Staff recommends approval of the PD as presented



**CITY OF CELINA, TEXAS
ORDINANCE 2019-____
MONSCHKE TRACT PD-98**

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 40 ACRE TRACT OF LAND LOCATED IN THE F.D. GARY SURVEY, ABSTRACT NO. 360, CITY OF CELINA, COLLIN COUNTY, TEXAS, AND GENERALLY LOCATED 2,000 FEET SOUTH OF FM 428 AND EAST OF FUTURE LEGACY DRIVE; AS DESCRIBED IN EXHIBIT “A” AND DEPICTED IN EXHIBIT “B” ATTACHED HERETO AND INCORPORATED HEREIN TO BE ZONED “PD” PLANNED DEVELOPMENT DISTRICT NO. 98; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENT OF ZONING CLASSIFICATION; PROVIDING FOR ZONING DESIGNATION AND DEVELOPMENT STANDARDS; 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 establishment of a zoning classification 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 Concept Plan and Development Regulations set forth in Exhibit “C” and Exhibit “D”, respectively, and attached hereto and incorporated herein, define the base zoning districts and provide for certain modifications to such district regulations.

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

Attachment: Draft Ordinance - Monschke - Monschke (The Monschke Tract Zoning)

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 zoning classification on the tract of land described herein should be changed and the zoning map so amended.

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 ZONING CLASSIFICATION**

That the zoning classification is hereby established as “PD” Planned Development District No. 98 on a certain tract of land described in in Exhibit “A” and depicted in Exhibit “B.”

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 on the land, described in in Exhibit “A” and depicted in Exhibit “B attached hereto and incorporated herein as PD No. 98, and incorporates the Concept Plan and Development Regulations attached hereto as Exhibit “C” and Exhibit “D”, respectively.

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 depicted on Exhibit “A” hereto 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 13th day of August, 2019.

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: Draft Ordinance - Monschke (The Monschke Tract Zoning)

Exhibit "A"
Legal Description

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE F. D. GARY SURVEY, ABSTRACT NUMBER 360, COLLIN COUNTY, TEXAS AND BEING THAT TRACT OF LAND DESCRIBED IN DEED TO THE ESTATE OF MATTIE RUTH PRESTON MONSCHKE, RECORDED IN INSTRUMENT NUMBER 94-0034942 OF THE COUNTY RECORDS, COLLIN COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID MONSCHKE TRACT, SAID CORNER BEING IN THE CENTERLINE OF COUNTY ROAD 51 (A PAVED TRAVELED ROADWAY OF UNDETERMINED WIDTH);

THENCE SOUTH, 704.88 FEET WITH SAID CENTERLINE TO THE SOUTHEAST CORNER OF SAID MONSCHKE TRACT;

THENCE N 89°42'26" W, 2,469.06 FEET, DEPARTING SAID CENTERLINE TO THE SOUTHWEST CORNER OF SAID MONSCHKE TRACT;

THENCE NORTH, 704.88 FEET TO THE NORTHWEST CORNER OF SAID MONSCHKE TRACT;

THENCE S 89°42'26" E, 2,469.06 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,740,368 SQUARE FEET OR 39.953 ACRES OF LAND MORE OR LESS.

"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”
Boundary Exhibit

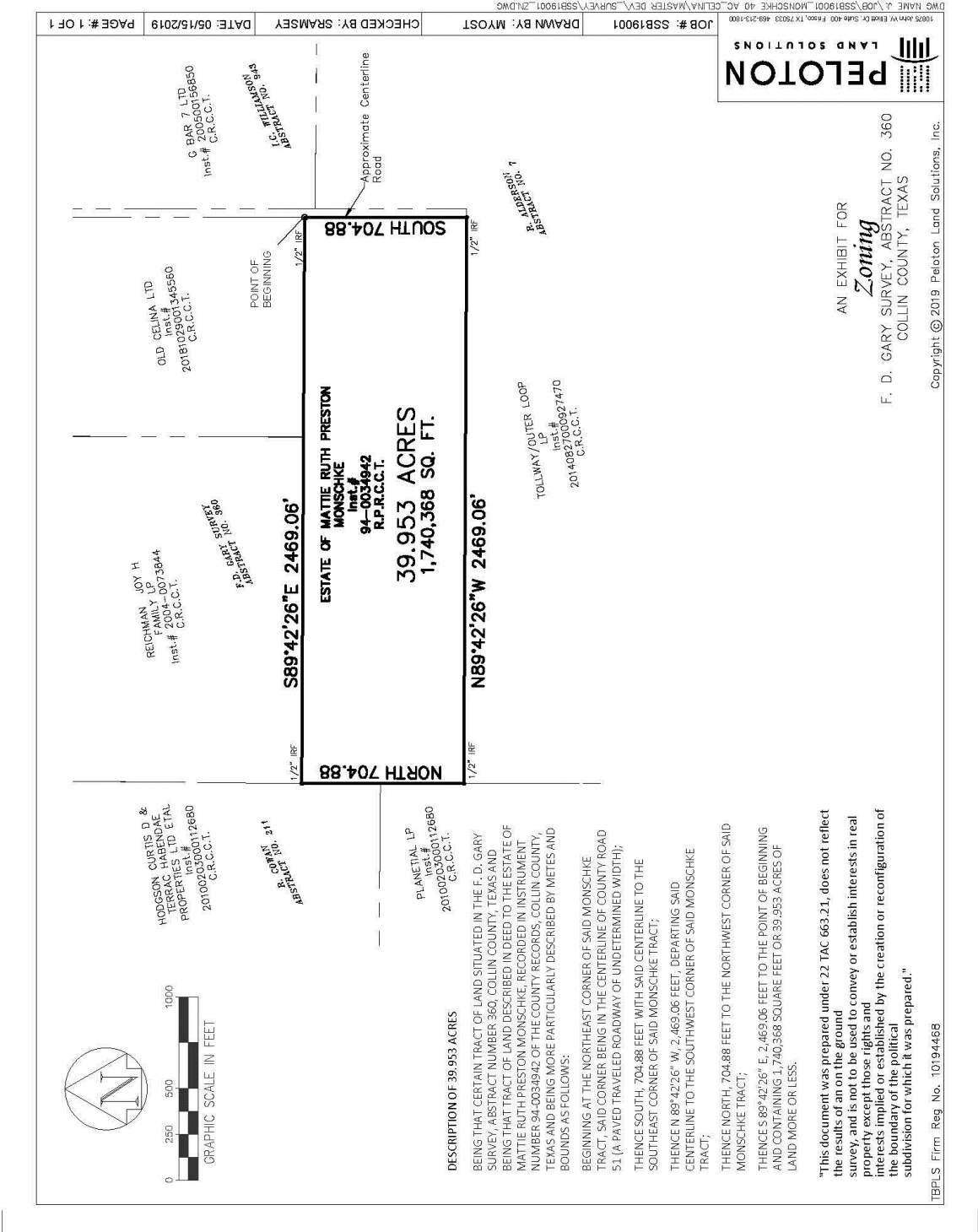


Exhibit “C” Concept Plan

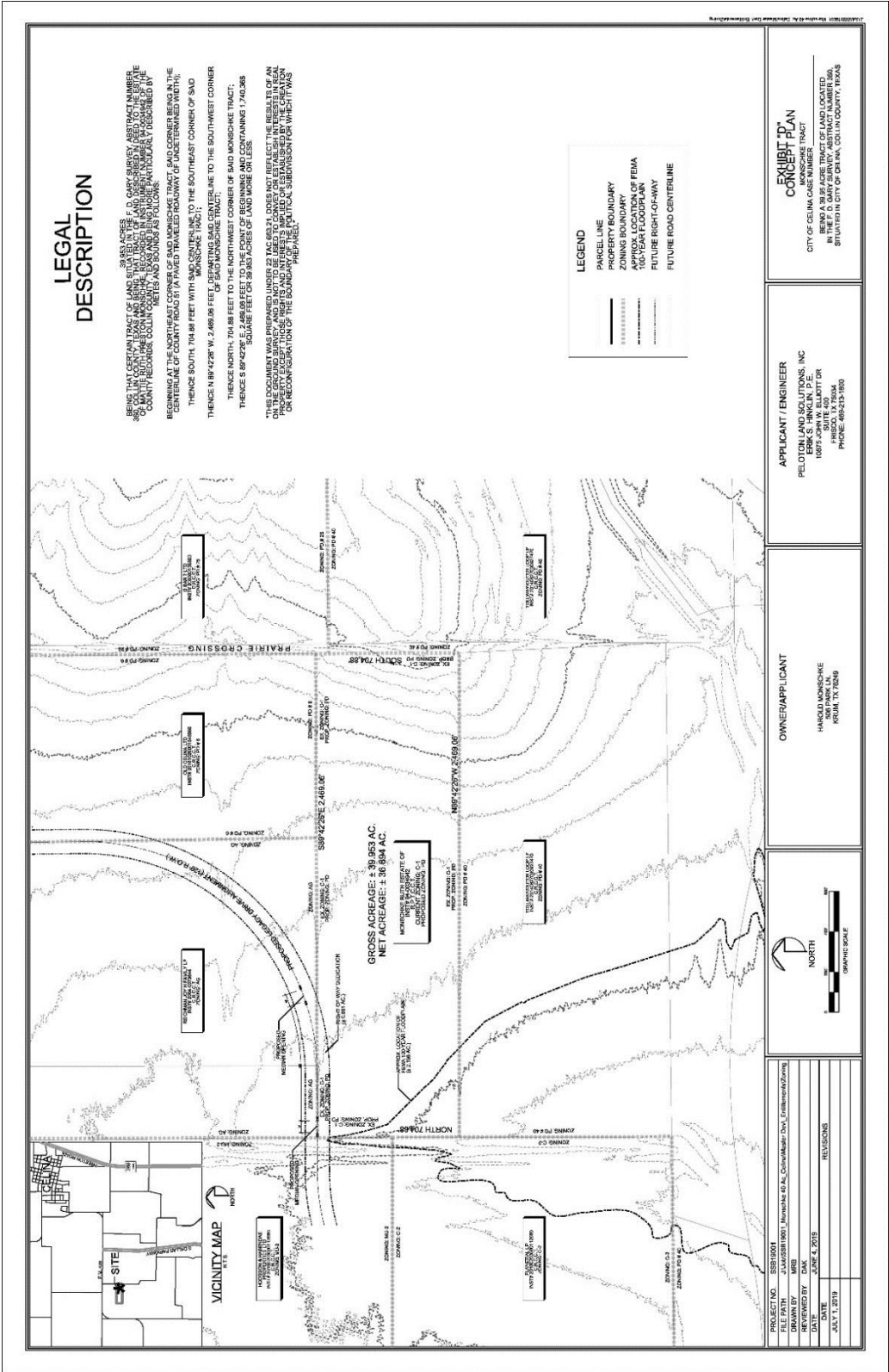


Exhibit “D” Development Regulations

Development within this Planned Development (PD) District must follow the regulations and standards outlined below and meet the intent of the Zoning Exhibit. The subject property shall be zoned PD with a base zoning of MU-2, Mixed Use Regional 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 following standards will further allow, restrict, or prohibit additional land uses on the subject property.

PART 1 – USES

All Commercial and Retail Development within the subject property shall meet the standards of the Mixed Use Regional (MU-2) zoning district as established in the City of Celina Zoning Ordinance as they exist or may be amended, except as modified below.

- A. Additional Permitted Uses by Right:
 - 1. Gas station with masonry standards
 - 2. Veterinarian Clinic (with indoor kennels)
- B. Permitted with a Conditional Use Permit:
 - 1. Auto Repair, Minor
 - 2. Car Wash
 - 3. Nursery (with retail outdoor sales)
- C. Prohibited Uses:
 - 1. Auto Sales
 - 2. Motorcycle Sales and Repair
 - 3. Recycling Center or Kiosk
 - 4. Sexually Oriented Businesses (SOBs)
 - 5. Outdoor storage/display (exempting home improvement centers)
 - 6. Alternative financial services (including Check Cashing Services)
 - 7. Body art facility
 - 8. Vice paraphernalia
 - 9. Gaming or slot machines (excluding arcades)
 - 10. Lewd merchandise sales
 - 11. Liquor store
 - 12. Pawn shop

Part 2 – MULTIPLE FAMILY REGULATIONS

Development standards for MF land uses (up to 100% of tract) are outlined within this text and shall be developed in accordance to the following criteria:

- A. Definitions:

- i. Urban Edge Apartments - Multi-family dwellings that do not exceed three (3) stories in height. Urban Edge apartments are typically designed where surface parking is interior to the site and screened from the public streets by using landscaping or hardscape.
- ii. Urban Style Apartments - Multi-family dwellings that may be greater than three (3) stories in height. Urban Style apartments are typically designed to either have structured parking or designed to where surface parking is interior to the site and screened from public streets using landscaping or hardscape. Parallel parking may be allowed on access drives but the intent of this type of development is to prevent large visible parking areas.

B. Density:

- i. Urban Edge: Maximum of twenty-four (24) dwelling units per net acre.
- ii. Urban Style: Maximum of thirty-five (35) dwelling units per net acre.

C. Minimum Floor Area:

Dwelling Unit Type	Minimum Floor Area	Restrictions
Efficiency Unit	550 sq. ft.	-
One-bedroom/Studio	650 sq. ft.	-
Two-Bedroom	750 sq. ft.	-
Three-Bedroom	900 sq. ft.	No more than 10% of total units
Four-Bedroom and Above	Not Permitted	

- D. Lot Coverage: In no case shall more than sixty-five (65) percent of the total lot area be covered by the combined area of the main buildings and accessory buildings. Swimming pools, spas, decks, patios, driveways, sidewalks and other paved areas shall not be included in determining the maximum lot coverage.
- E. Building Height: Buildings shall be a maximum of three (3) stories for Urban Edge apartments, not to exceed forty-five (45) feet in height. Urban Style apartments shall be a maximum of 5 stories and not to exceed a height of sixty-five (65) feet. Chimneys, antennae, and other architectural projections not used for occupancy may extend above this height limit. Accessory buildings shall be a maximum of twenty-five (25) feet, including a detached garage.

F. Required Parking:

Dwelling Unit Type	Parking Requirements (Per Unit)
--------------------	---------------------------------

Efficiency Unit	1.5
One-bedroom/Studio	1.5
Two-Bedroom	2
Three-Bedroom	2.5
Total required spaces	No less than 1.8 spaces per dwelling unit overall

- G. Optional Enclosed Parking and Density Bonus for Urban Edge Apartments:
- An increase in density up to twenty-six (26) units per gross acre of land permitted when at least 50% of the required parking spaces are constructed as enclosed spaces.
 - An increase of up to twenty-nine (29) units per gross acre of land is permitted when 100% of the required parking spaces are constructed as enclosed spaces.
- H. Open Space:
- Regardless of the type of development, a minimum of twenty (20) percent of the gross acreage of the tract shall be reserved as usable open space. Open Space may consist of any pervious areas including landscape reserves, landscape islands, publicly accessible detention/drainage facilities, natural open space areas including floodplain and public or private parks and plazas. All detention areas must be per engineering standards and shall not be steeper than 6:1, improved with eight (8) foot sidewalks and benches on a minimum of two sides, and will be landscaped with trees, spaced at not greater than thirty-five (35) foot centers. A minimum of fifty (50) percent of the required Open Space shall be provided outside the floodplain or detention areas. Open Space must be maintained through a Property Owner's Association (POA). All other trees shall be provided as required per City regulations.
- I. Amenities:
- Open space areas within the multi-family development greater than 280 units shall provide various usable amenities, including playground equipment, sport courts (tennis, basketball, volleyball, or comparable), dog park, pools/spas, indoor fitness center, etc. and installations that promote gathering areas (barbeque and fire pits, benches, tables, etc.) to serve the residents. For multi-family developments less than 280 units, only the pool/spa and fitness center shall be required. For the purposes of this regulation, the amenity and gathering area requirement applies to the entire tract, regardless of if the property is developed in phases or subdivided.

Part 3 – GENERAL CONDITIONS FOR PD:

- A. Development Standards:
- Development Standards shall conform to the provisions set forth in the Zoning ordinance, as they exist or as amended from time to time, except set forth herein, unless modified by a CUP or zoning amendment.
- B. Architectural Standards:

All building elevations shall conform to the provisions set forth in the City's approved Architectural Standards, as they exist or as may be amended in the future.

C. Landscaping and Building Setback Requirements:

Landscaping shall conform to the provisions set forth in the Zoning Ordinance, as it exists or as may be amended in the future, except that a forty (40) foot landscape buffer shall be provided adjacent to any single family residential development. In addition, a forty (40) foot building setback is required for two (2) stories; a sixty (60) foot building setback is required for three (3) stories; and an eighty (80) foot building setback is required for four (4) stories or taller. A forty (40) buffer is also required adjacent to Legacy Drive. A ten (10) foot landscape buffer shall be provided adjacent to any commercial, office, and multi-family residential development. Within that buffer, one large canopy tree (evergreen) shall be provided every thirty five (35) linear feet.

D. Screening:

A minimum effective eight (8) foot tall solid masonry screening wall shall be provided along any property line adjacent to single-family residential uses. A pedestrian access-way from multi-family development to the commercial tract is required.



Finance Department
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: September 10, 2019
Re: FY 2019/2020 Budget Adoption

Action Requested:

Consider and act upon an ordinance of the City of Celina, Texas, adopting and approving the budget for the Fiscal Year 2019-2020 beginning October 1, 2019, and ending September 30, 2020, and making appropriations for each department, project and account; providing for expenditures of funds; providing for filing of documents. (Roll Call) (Toutounchian)

Background Information:

This budget will raise more revenue from property taxes than last year's budget by \$401,672.00 or 4.09% and of that amount, \$1,451,323.00 is tax revenue to be raised from new property added to the tax roll this year.

Board Review/Citizen Input:

A public hearing was held on September 10, 2019 at 5:00 p.m. preceding the adoption of the budget.

Alternatives:

N/A

Financial Considerations:

Legal Review:

N/A

Supporting Documents:

Ordinance, budget documents

Staff Recommendation:



ANNUAL BUDGET FISCAL YEAR 2019-2020

Attachment: FY2020 Budget Proposed (Budget Adoption)



As required by Section 102.005 of the Local Government Code, the City of Celina is providing the following statement on this cover page of its proposed budget:

This budget will raise more revenue from property taxes than last year's budget by an amount of \$401,672, which is a 4.09 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$1,451,323.

City of Celina

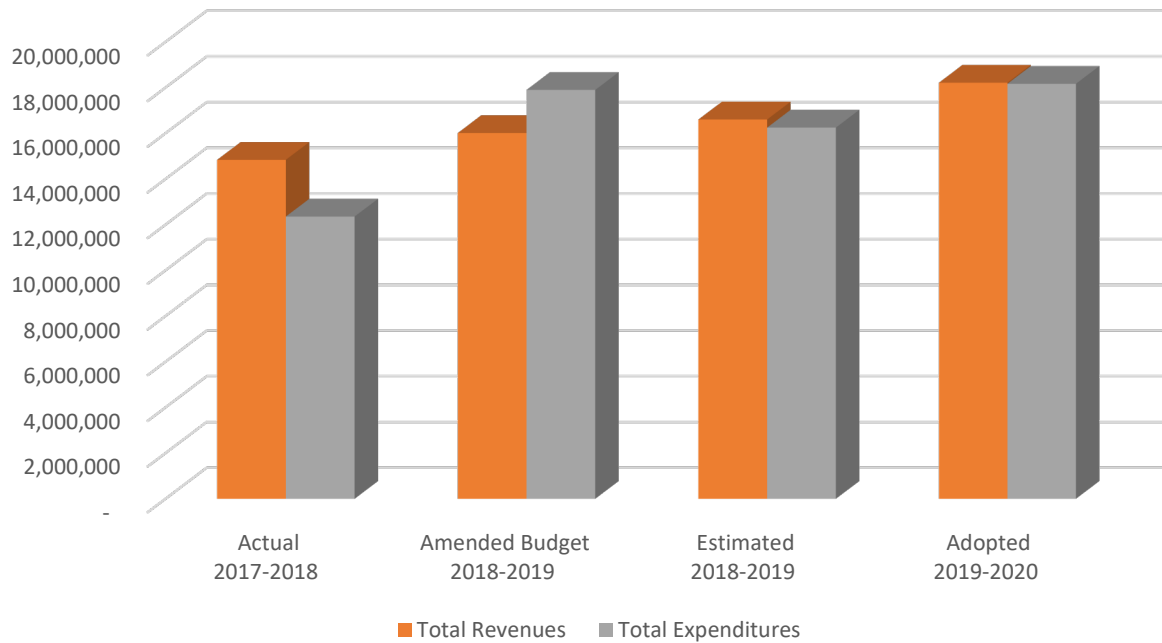
General Fund - Revenue & Expenditure Summary

	Actual 2017-2018	Amended Budget 2018-2019	Estimated 2018-2019	Proposed 2019-2020
Revenues				
Fines & Fees	\$ 7,194,151	\$ 6,619,950	\$ 7,074,600	\$ 7,005,183
Taxes	6,482,423	6,968,280	7,130,514	8,764,938
Grants	-	1,100,529	1,025,187	1,076,384
Contributions & Donations	77,695	61,730	40,600	66,549
Interest Income	142,170	165,000	250,000	245,000
Other Revenues	411,987	330,450	316,745	333,600
Transfers	527,000	763,000	763,000	719,812
Total Revenues	14,835,426	16,008,939	16,600,646	18,211,466
Expenditures				
GIS	82,745	131,281	125,625	138,088
Facilities Management	87,131	392,754	338,832	329,799
Information Technology	137,976	601,915	534,262	670,088
Finance	-	900,297	857,237	951,816
Library	230,091	275,150	252,175	272,884
City Secretary	403,576	221,945	157,753	156,493
Planning & Development Services	1,729,041	2,048,345	1,908,377	2,035,264
Administration	1,301,773	1,036,359	1,008,364	1,202,868
Municipal Court	172,610	234,851	179,379	185,817
Fire & EMS	2,531,486	4,685,424	4,139,019	4,700,974
Streets	1,138,644	1,270,769	948,007	1,211,278
Police	2,583,781	3,265,614	3,091,499	3,368,396
Parks	862,479	1,053,734	981,516	1,220,286
Community Relations	270,913	390,728	380,595	280,939
Engineering	821,399	1,111,301	1,092,280	1,173,634
Human Resources	-	274,835	251,839	265,354
Total Expenditures	12,353,645	17,895,302	16,246,759	18,163,978
Revenue Over/(Under) Expenditures	\$ 2,481,781	\$ (1,886,363)	\$ 353,886	\$ 47,488
Beginning Fund Balance	\$ 277,073	\$ 2,758,854	\$ 2,758,854	\$ 3,112,740
Ending Fund Balance	\$ 2,758,854	\$ 872,491	\$ 3,112,740	\$ 3,160,228
Fund Balance Policy 25%	37%	15%	30%	27%

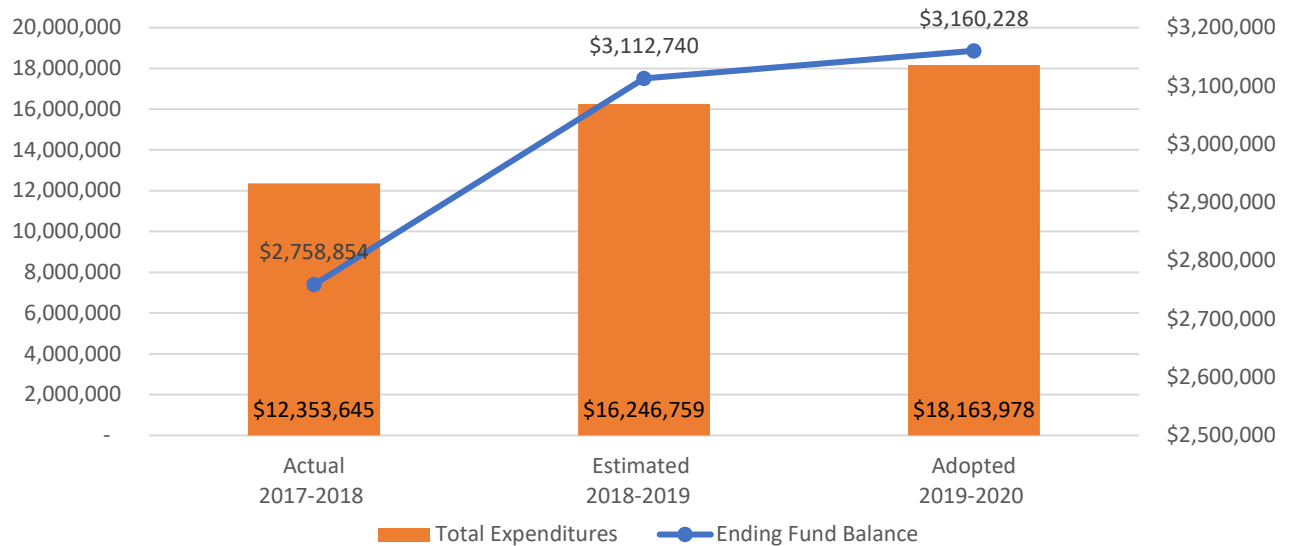
Attachment: FY2020 Budget Proposed (Budget Adoption)

City of Celina General Fund - Revenue & Expenditure Summary

Revenue & Expenditure Summary



Fund Balance



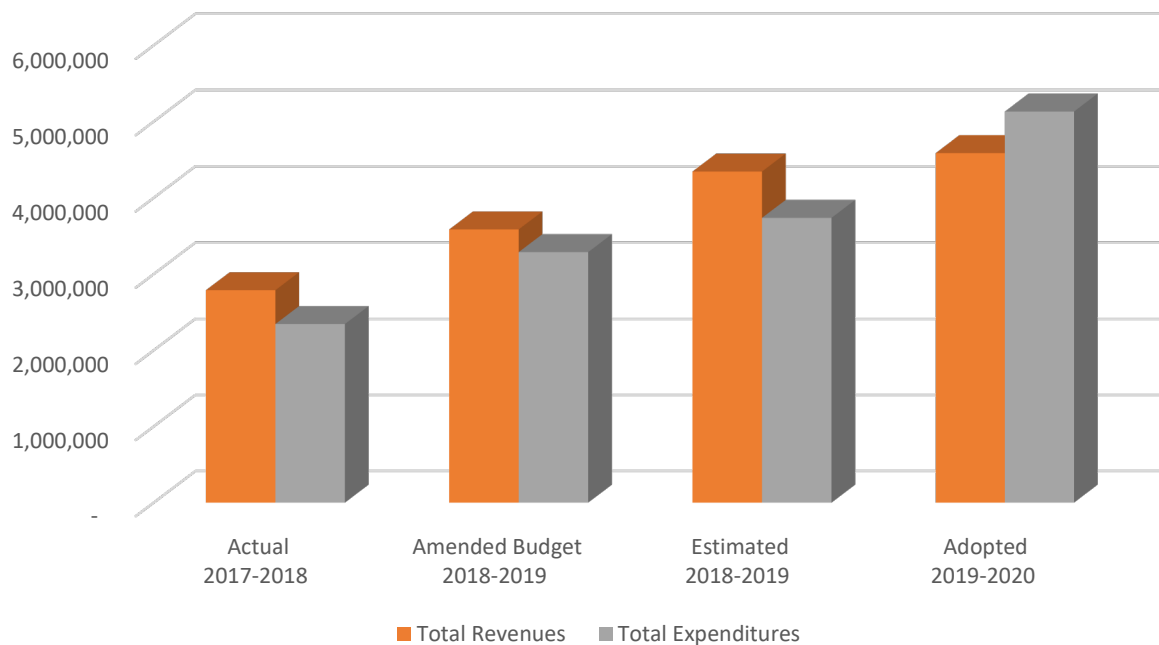
Attachment: FY2020 Budget Proposed (Budget Adoption)

City of Celina

Debt Service Fund - Revenue & Expenditure Summary

	Actual 2017-2018	Amended Budget 2018-2019	Estimated 2018-2019	Proposed 2019-2020
Revenues				
Taxes	\$ 2,555,174	\$ 3,360,240	\$ 4,059,414	\$ 3,448,479
Interest Income	33,140	25,000	85,000	40,000
Transfers				
CDC	200,000	200,000	200,000	1,097,537
Total Revenues	2,788,314	3,585,240	4,344,414	4,586,016
Expenditures				
Debt Service - Principal	1,436,110	3,288,122	1,955,000	2,790,000
Debt Service - Interest	908,016	-	1,782,204	2,340,921
Total Expenditures	2,344,126	3,288,122	3,737,204	5,130,921
Revenue Over/(Under) Expenditures	\$ 444,188	\$ 297,118	\$ 607,210	\$ (544,905)
Beginning Fund Balance	\$ 1,369,342	\$ 1,813,530	\$ 1,813,530	\$ 2,420,740
Ending Fund Balance	\$ 1,813,530	\$ 2,110,648	\$ 2,420,740	\$ 1,875,835
Fund Balance Policy 20%	77%	64%	65%	37%

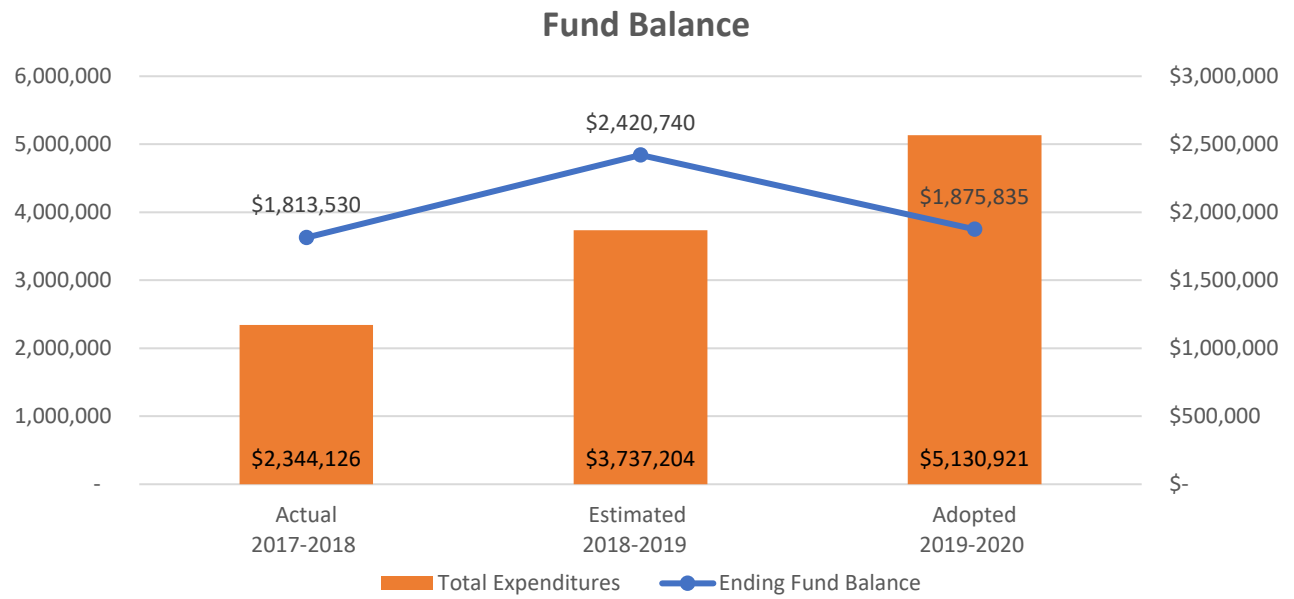
Revenue & Expenditure Summary



Attachment: FY2020 Budget Proposed (Budget Adoption)

City of Celina

Debt Service Fund - Revenue & Expenditure Summary



Attachment: FY2020 Budget Proposed (Budget Adoption)

City of Celina

Water-Wastewater Fund - Revenue & Expense Summary

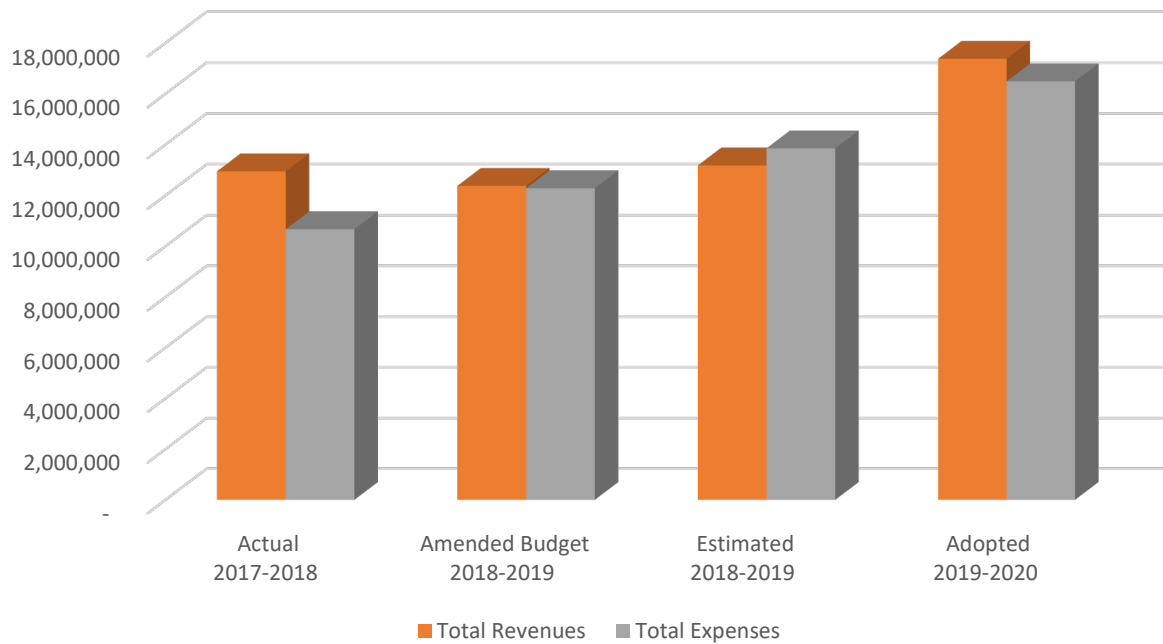
	Actual 2017-2018	Amended Budget 2018-2019	Estimated 2018-2019	Proposed 2019-2020
Revenues				
Fines & Fees	\$ 2,073,208	\$ 2,217,325	\$ 2,007,150	\$ 2,160,200
Interest Income	115,504	123,750	200,000	175,000
Water Sales	6,437,153	6,094,939	6,150,000	6,765,000
Wastewater Sales	3,077,772	2,783,280	3,600,000	3,960,000
Garbage Billing	687,200	643,778	840,000	870,000
Other Revenues	554,355	511,722	382,000	564,269
Transfers	-	-	-	2,880,000
Total Revenues	12,945,192	12,374,794	13,179,150	17,374,469
Expenses				
Non Departmental	527,000	603,000	603,000	613,000
Water Distribution	4,296,036	5,181,803	5,385,384	6,009,748
Wastewater Collection	1,605,894	2,084,614	2,126,234	2,211,678
Utility Billing	208,312	305,127	294,298	323,466
Trash and Recycling	617,144	690,775	751,849	827,034
Water-Wastewater Debt Service	2,231,473	2,231,473	3,506,701	5,426,399
UTRWD Debt Service	1,182,363	1,182,363	1,182,363	1,074,720
Total Expenses	10,668,222	12,279,155	13,849,829	16,486,045
Revenue Over/(Under) Expenses	\$ 2,276,970	\$ 95,639	\$ (670,679)	\$ 888,424
Beginning Fund Balance	\$ 2,082,385	\$ 4,359,355	\$ 4,359,355	\$ 3,688,676
Ending Fund Balance	\$ 4,359,355	\$ 4,454,994	\$ 3,688,676	\$ 4,577,100
Fund Balance Policy 33%	60%	50%	40%	46%

Attachment: FY2020 Budget Proposed (Budget Adoption)

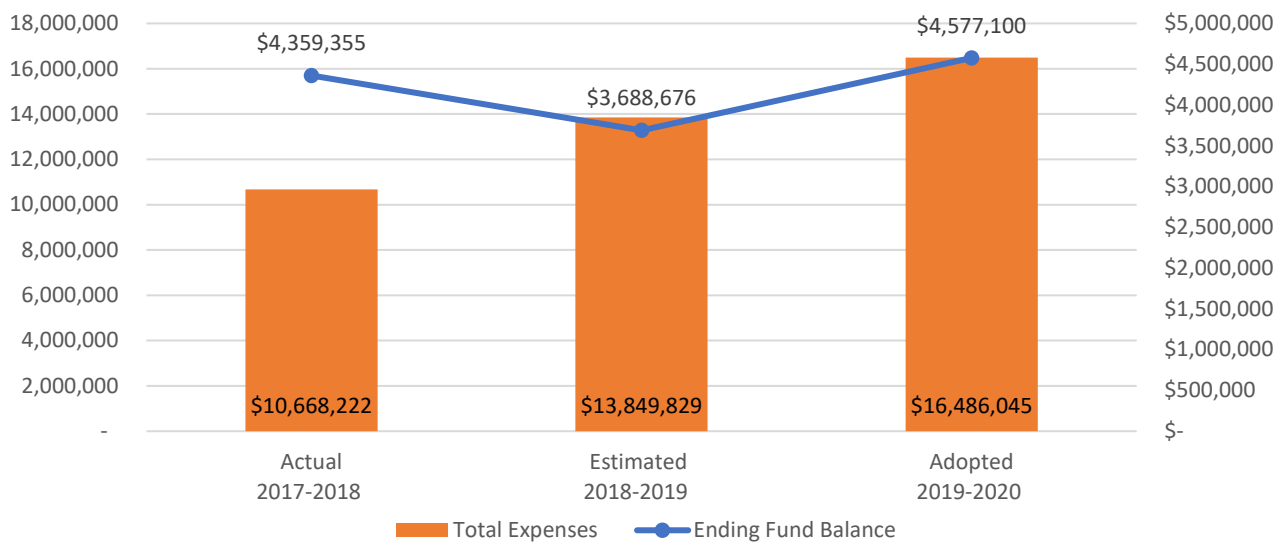
City of Celina

Water-Wastewater Fund - Revenue & Expense Summary

Revenue & Expense Summary



Fund Balance



Attachment: FY2020 Budget Proposed (Budget Adoption)

City of Celina

Bond Funds - Revenue & Expenditure Summary

	Actual 2017-2018	Amended Budget 2018-2019	Estimated 2018-2019	Proposed 2019-2020
Revenues				
Interest Income	\$ 194,779	\$ -	\$ 994,000	\$ 624,000
Total Revenues	194,779	-	994,000	624,000
Expenditures				
Capitla Improvement Programs	11,524,347	-	40,585,405	34,282,358
Total Expenditures	11,524,347	-	40,585,405	34,282,358
Revenue Over/(Under) Expenditures	\$ (11,329,568)	\$ -	\$ (39,591,405)	\$ (33,658,358)
Beginning Fund Balance	\$ 102,027,831	\$ 90,698,263	\$ 90,698,263	\$ 51,106,858
Ending Fund Balance	\$ 90,698,263	\$ 90,698,263	\$ 51,106,858	\$ 17,448,500

Attachment: FY2020 Budget Proposed (Budget Adoption)

City of Celina Capital Improvement Program Summary

	Expense Through 2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	Total Project Funding
B15 Downtown Parking Lot	\$ 61,268	\$ 350,000	\$ 368,732	\$ 36,000	\$ 240,000	\$ 1,056,000
B16 Annex Renovations	1,515,990	4,673,845	-	-	-	6,189,835
B17 City Hall Renovations	315,922	209,078	1,800,000	12,000,000	450,000	14,775,000
B18 EDC Renovations	713,965	886,035	-	-	-	1,600,000
B19 Downtown Development	551,999	948,001	-	-	-	1,500,000
B20 Law Enforcement Center	11,000	1,489,000	-	-	1,500,000	3,000,000
F09 Fire Station NO 2	2,423,212	447,788	-	-	-	2,871,000
F10 Ladder Truck	1,422,934	27,066	-	-	-	1,450,000
F11 Fire Station NO 3	280,593	81,245	-	750,000	-	1,111,838
F13 Fire Truck	787,132	212,868	-	-	-	1,000,000
R12 Susnset Blvd	296,791	255,269	-	-	-	552,060
R13 CR83/Ownsby	437,646	434,570	-	2,900,000	-	3,772,216
R15 Glendenning Parkway	121,600	80,204	-	-	-	201,804
R17 Preston Traffic Signal	21,724	23,276	-	-	-	45,000
R19 Kentucky Street Reconstruction	70,876	300,000	229,124	-	-	600,000
R20 Colorado Street Reconstruction	237,684	1,200,000	1,178,316	-	-	2,616,000
R21 1461 Bridge	-	1,000,000	4,000,000	-	-	5,000,000
R22 Parvin Road	15,257	99,744	1,000,000	4,000,000	4,000,000	9,115,001
R23 Pavement Design Analysis	45,394	1,106	-	-	-	46,500
R24 Preston Road Lighting	2,460	500,000	1,580,540	-	4,000,000	6,083,000
R25 Legacy - Clear Creek to Carey Road	29,482	20,518	-	5,000,000	-	5,050,000
R26 Legacy - Carey Road to FM 428 Alignment	9,000	6,000	-	-	1,000,000	1,015,000
R27 2019 Street Improvements	458,880	73,795	-	-	-	532,675
R## Choate Parkway	-	50,000	500,000	-	-	550,000
R\$\$ Punk Carter Parkway	-	50,000	50,000	-	210,000	310,000
P05 Old Celina Park	327,785	13,322,215	-	-	-	13,650,000
P07 Bobcat Trail	14,347	653	1,000,000	1,000,000	11,000,000	13,015,000

City of Celina Capital Improvement Program Summary

P08	Wilson Creek Park	13,590	6,910	-	-	-	20,500
P09	NE Regional Park	20,000	1,610,000	-	-	-	1,630,000
P10	Park Master Plan	15,479	14,521	-	-	-	30,000
Total General Government		10,222,009	28,373,707	11,706,712	25,686,000	22,400,000	98,388,428
W05	2MGD Elevated Storage Tank	4,512,361	1,179,289	-	-	-	5,691,650
W09	DC Ranch	932,705	251,189	-	-	-	1,183,894
W11	Celina Rd/Downtown Pump Station	6,391,463	1,238	-	-	-	6,392,701
W12	DT Evelated Storage	470,244	24,756	-	-	-	495,000
W14	CRPS Improvement	2,163,055	1,500,000	588,244	-	-	4,251,299
W15	Oklahoma Water Line	297,387	19,413	-	-	-	316,800
W16	Frontier Parkway - Preston to Coit	3,875	17,375	-	-	-	21,250
W17	CRPS to DTPS Transmission Line	12,051,903	4,000,000	1,389,915	-	-	17,441,818
W18	Preston Water Line - Ownsby to Frontier	131,520	500,000	1,499,980	-	-	2,131,500
W19	Kentucky Water Line	7,875	372,125	-	-	-	380,000
W20	Colorado Water Line	-	850,000	-	-	-	850,000
W21	Connection to NTMWD	23,382	26,618	-	-	-	50,000
W22	CR53 Water Line Improvements	29,153	443,798	-	-	-	472,951
W23	Ground Storage Tank	-	500,000	7,500,000	-	-	8,000,000
	Decommission Morgan Lakes Facilities	-	-	145,000	-	145,000	290,000
	SCADA	-	-	250,000	-	-	250,000
	289 Water Lines	-	612,000	-	-	4,000,000	4,612,000
	Settler's Ridge Water Lines	-	-	-	3,308,000	-	3,308,000
	Pressure Plane Improvements	-	547,000	5,340,000	-	-	5,887,000
	Water Line & ROW	-	275,000	3,281,000	-	-	3,556,000
	Downtown Water Improvements	-	122,068	-	-	4,000,000	4,122,068
S05	Downtown WWTP	1,199,948	300,052	-	-	-	1,500,000
S06	Downtown Sewer Rehabilitation	314,215	170,785	-	-	-	485,000
S07	DT WWTP Upgrade	5,663,590	4,000,000	4,636,410	-	-	14,300,000
S08	SE Sector Sewer	1,566,500	1,265,353	-	-	-	2,831,853

City of Celina Capital Improvement Program Summary

S18	Preston Rd Sewer	42,025	440,475	-	-	-	482,500
S19	Kentucky Sewer Line	7,075	337,925	-	-	-	345,000
S20	Colorado Sewer Line	-	350,000	-	-	-	350,000
S##	Collin College Sewer Line	-	60,000	540,000	-	-	600,000
	WWTP Design & Construction	-	-	3,000,000	6,000,000	7,000,000	16,000,000
	289 Sewer Lines	-	-	-	3,000,000	-	3,000,000
	I&I Improvements	-	500,000	-	-	-	500,000
	WW Lines	-		2,087,000			
	Downtown WW Improvements	-	120,000	-	-	-	120,000
D06	3488 Preston Hills Circle	8,950	36,050	-	-	-	45,000
D08	Elm, CR8 & Preston Hills	175,046	123,051	-	-	-	298,097
D11	Drainage Design Manual	22,781	7,219	-	-	-	30,000
D20	Colorado Street Drainage	-	1,400,000	-	-	-	1,400,000
	Total Business Type	36,015,052	20,352,779	30,257,549	12,308,000	15,145,000	111,991,380

Total Capital Improvement*

\$	46,237,061	\$	48,726,486	\$	41,964,261	\$	37,994,000	\$	37,545,000	\$	210,379,808
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Quality of Life Projects

	391,201	14,954,299	1,000,000	1,000,000	11,000,000	28,345,500
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Service Delivery Projects

8,084,015	9,324,926	2,168,732	12,786,000	2,190,000	34,553,673
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Infrastructure Projects

37,761,845	24,447,261	38,795,529	24,208,000	24,355,000	147,480,635
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* Includes Future Bond Issues

**CITY OF CELINA, TEXAS
ORDINANCE NO. 2018-50**

AN ORDINANCE OF THE CITY OF CELINA, TEXAS ADOPTING AND APPROVING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020, AND MAKING APPROPRIATIONS FOR EACH DEPARTMENT, PROJECT AND ACCOUNT; PROVIDING FOR EXPENDITURES OF FUNDS; PROVIDING FOR FILING OF DOCUMENTS; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the laws of the State of Texas and the Home Rule Charter of the City of Celina, Texas (“Celina”), the City Manager has submitted to the City Council the proposed budget of the revenues and expenditures for conducting the affairs of Celina and providing a complete financial plan for the fiscal year beginning October 1, 2019 and ending September 30, 2020 and has caused to be filed with the City Secretary (the “budget”).

WHEREAS, the budget shows as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects; and

WHEREAS, public notice of a public hearing on the proposed annual budget, stating the date, time, and place and subject matter of the public hearing, was given as required by the laws of the State of Texas; and

WHEREAS, City has acknowledged that this budget will raise more total property taxes than last year’s budget by \$401,672.00 or 4.09% and of that amount, \$1,226,954.00 is tax revenue to be raised from new property added to the tax roll this year.

WHEREAS, the City Council has studied the budget and listened to the comments received at the public hearing and has determined that the budget attached hereto is in the best interest of the City of Celina.

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

**SECTION 1
BUDGET ADOPTED**

The budget attached hereto as exhibit “A” and incorporated herein by this reference is approved and adopted for the fiscal year beginning October 1, 2019 and ending September 30, 2020, and there is hereby appropriated from the funds indicated and for such purposes, respectively, such sums of money for such projects, operations, activities, purchases and other expenditures as proposed in the attached budget.

SECTION 2

EXPENDITURE OF FUNDS

(A) No expenditure of the funds of the City shall hereafter be made except in compliance with the budget and applicable state law; provided, however, that in case of grave public necessity emergency expenditures to meet unusual and unforeseen conditions, which could not by reasonable, diligent thought and attention have been included in the original budget, may from time to time be authorized by the City Council as amendments to the original budget.

(B) Prior to the expenditure of any monies in the emergency reserve fund, the question of the expenditure of such monies shall be submitted to the City Manager, who shall review the proposed expenditure and timely make its recommendation to the City Council.

(C) Specific authority is hereby given to the City Manager to transfer appropriations budgeted from one account classification or activity to another within any individual department or activity; and, to transfer appropriations from designated appropriations to any individual department or activity.

SECTION 3

FILING OF BUDGET AND ORDINANCE REQUIRED

The City Manager shall file or cause to be filed a true and correct copy of the approved budget, along with this Ordinance, with the City Secretary and in the Office of the County Clerk of Collin County, and Denton County, Texas.

SECTION 4

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 the 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 5

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 the City budget, 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 6 **SEVERABILITY**

The provisions of this 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 decision or enactment.

SECTION 7 **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 8 **ENGROSSMENT AND ENROLLMENT**

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

SECTION 9 **EFFECTIVE DATE**

This Ordinance shall become effective from and after its date of passage in accordance with law.

IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, this the 10th day of September 2019 by roll call vote as follows:

For Passage:_____

Against Passage:_____

Sean Terry, Mayor

Vicki Faulkner, City Secretary

City Attorney



Finance Department
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: September 10, 2019
Re: 2019 Ad Valorem Tax Rate Adoption

Action Requested:

Consider and act upon an ordinance of the City of Celina, Texas, fixing and levying municipal Ad Valorem taxes for the fiscal year beginning October 1, 2019, and ending September 30, 2020, and for each fiscal year thereafter until otherwise provided, at a rate of \$.645 per one hundred dollars (\$100.00) assessed valuation on all taxable property within the corporate limits of the city; this tax rate will raise more taxes for maintenance and operations than last year's tax rate; the tax rate will effectively be raised by 19.75% and will raise taxes for maintenance and operations on a \$100,000.00 home by \$68.26. (Roll Call Vote) (Toutouchian)

Background Information:

This action sets the 2019 Ad Valorem tax rate in support of the adopted FY 2019/2020 budget.

Board Review/Citizen Input:

Two public hearings were held in compliance with the Texas Tax Code on August 20, 2019 and August 27, 2019.

Alternatives:

Financial Considerations:

Legal Review:

Supporting Documents:

Ordinance

Staff Recommendation:

**CITY OF CELINA, TEXAS
ORDINANCE NO. 2019-**

AN ORDINANCE OF THE CITY OF CELINA, TEXAS, FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020, AND FOR EACH FISCAL YEAR THEREAFTER UNTIL OTHERWISE PROVIDED, AT A RATE OF \$.645 PER ONE HUNDRED DOLLARS (\$100.00) ASSESSED VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY; THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE; THE TAX RATE WILL EFFECTIVELY BE RAISED BY 19.75% PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$68.26; DIRECTING THE ASSESSMENT THEREOF TO PROVIDE REVENUES FOR THE PAYMENT OF CURRENT OPERATION AND MAINTENANCE EXPENSES AND INDEBTEDNESS OF THE CITY; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; PROVIDING FOR COLLECTION BY THE COLLIN AND DENTON COUNTY TAX ASSESSOR/COLLECTOR; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Celina, Texas (the "City") hereby finds that the tax for the fiscal year beginning October 1, 2019 and ending September 30, 2020, hereinafter levied for current expenses of the City and the general improvements of the City and its property, must be levied to provide the revenue requirements of the budget for the ensuing year; and

WHEREAS, the City Council has approved on the 10th day of September, 2019, the budget for the fiscal year beginning October 1, 2019, and ending September 30, 2020; and

WHEREAS, all statutory and constitutional requirements concerning the levying and assessing of ad valorem taxes have been completed in due and correct time, including providing notice of and conducting a public hearing regarding the ad valorem tax levied hereby; and

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

**SECTION 1
APPROVING THE TAX RATE AND LEVY**

There is hereby levied and ordered to be assessed and collected for the fiscal year beginning October 1, 2019, and ending September 30, 2020, and for each fiscal year thereafter until otherwise provided, on all taxable property, real, personal and mixed, situated within the corporate limits of the City of Celina, Texas, and not exempted by the Constitution of the State, valid State laws or this ordinance, a tax of \$.645 on each One Hundred Dollars (\$100.00) assessed value of taxable property, which shall be apportioned and distributed as follows:

(A) For the purpose of defraying the maintenance and operation expenses of the municipal government of the City, a tax of \$0.453683 on each One Hundred Dollars (\$100.00) assessed value of all taxable property; and

(B) For the purpose of the payment of principal and interest on the debt of the City, a tax of \$0.191317 on each One Hundred Dollars (\$100.00) assessed value of all taxable property.

SECTION 2

DUE DATE AND DELINQUENCY DATE

All ad valorem taxes shall become due and payable on October 1, 2018, and all ad valorem taxes shall become delinquent after January 31, 2020. There shall be no discount for payment of taxes on or prior to January 31, 2020. A delinquent tax shall incur all penalty and interest authorized by law, Section 33.01 of the Texas Property Tax Code, as amended, to wit: a penalty of six percent (6%) of the amount of the tax for the first calendar month the tax is delinquent plus one percent (1%) for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent.

Provided, however, a tax delinquent on July 1 incurs a total penalty of twelve percent (12%) of the amount of the delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax shall also accrue interest at a rate of one percent (1%) for each month or portion of a month the tax remains unpaid. Taxes that become delinquent on or after February 1, 2020, but not later than May 1, 2020, that remain delinquent on July 1, 2020, incur an additional penalty of fifteen percent (15%) of the amount of taxes, penalty and interest due; however, taxes that become delinquent on or after June 1, 2020 under Section 31.03, 31.031, 31.032, or 31.04 of the Texas Property Tax Code incur an additional penalty of fifteen percent (15%). Such additional penalties are to defray the costs of collection due pursuant to the contract with the City's attorney authorized by Section 6.30 of the Texas Property Tax Code, as amended.

SECTION 3

TAX ASSESSOR/COLLECTOR

Taxes shall be payable in full at the office of the Collin County Tax Assessor/Collector, 2300 Bloomdale Road, Suite 2324, McKinney, TX 75071 and the Denton County Tax Assessor/Collector, 1505 E. McKinney, Denton, TX 76209-4525. The City shall have available all rights and remedies provided by law for the enforcement of the collection of taxes levied under this Ordinance.

SECTION 4
PENALTY AND INTEREST

All delinquent taxes shall bear interest as provided by State law, in addition to the penalties set forth herein.

SECTION 5
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 the 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 6
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 ad valorem taxes, 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 7
SEVERABILITY

The provisions of this 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 decision or enactment.

SECTION 8
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 9
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 10
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage in accordance with law.

IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, this the 10th day of September, 2019.

Sean Terry, Mayor

Vicki Faulkner, City Secretary

City Attorney

Attachment: 2019- 2019 Ad Valorem Tax Rate (Ad Valorem Tax Rate)



Engineering
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Kim Brawner, Director of Engineering
 CC: Swapna Konda, Engineer
 Date: September 10, 2019
 Re: Punk Carter Parkway from Evergreen Trail to Coit Road (CR 86)

Action Requested:

Consider and act upon a contract by and between the City of Celina and TRC for Professional Services related to the Design of Punk Carter Parkway between Evergreen Trail and Coit Road (CR 86) in an amount not to exceed \$87,500. (Brawner)

Action Requested:

Consider and act upon a contract by and between the City of Celina and TRC Engineers, Inc. for Professional Services related to the design of Punk Carter Parkway between Evergreen Trail and Coit Road (CR 86) in an amount not to exceed \$XXX,000. (Brawner)

Background Information:

The City of Celina recently purchased a tract of land located between Bluewood subdivision and Coit Road (CR 86). Punk Carter Parkway will serve as the northern boundary of the proposed City development. The proposed site will serve as the future Central Police Station site and will also house a future Fire Station that will serve the southeastern section of Celina. The 23 acre tract of land is located immediately north of the City's new elevated water tower site.

Punk Carter will be extended from its termination point within the Bluewood subdivision and extend approximately 1,400 feet to Coit Road (CR 86) as a 37 foot wide concrete roadway. The project will include the extension of water, drainage, sewer, and paving as appropriate.

Board Review/Citizen Input:

N/A

Alternatives:

Council could chose to not proceed with the contract award.

Financial Considerations:

Funding for this project is available within the existing 2019 CO Bonds.

Legal Review:

See attached Engineering Contract.

Staff Recommendation:

Staff recommends approval of the proposed design contract.

Staff Recommendation:

Staff recommends approval of the proposed design contract.



700 Highlander Blvd.
Suite 210
Arlington, TX 76015

T 817.522.1000
TRCcompanies.com

9.C.a

August 28, 2019

Mrs. Kimberly Brawner, P.E., P.T.O.E.
Director of Engineering
142 N. Ohio Street
Celina, TX 75009

Re: Punk Carter Pkwy – From Bluewood Subdivision to Coit Rd (CR 86)
Engineering Services Proposal

Dear Mrs. Brawner:

The City of Celina has requested that TRC Engineers, Inc. (TRC) provide this engineering proposal for design services related to the above referenced project. The overall project consists of extending Punk Carter Pkwy. approximately 1,400 linear feet, as shown in the attached exhibit. A preliminary construction cost estimate is attached for the City's use. Based on the attached Scope of Work, the cost to provide these services is \$89,500.

This work would be provided as a task order under the Master Service Agreement (MSA) executed between the City and TRC.

The opportunity to provide this proposal is greatly appreciated. If you have any questions regarding this information, please feel free to contact this office.

Sincerely,


Justin Thomas, P.E.
Arlington CES Practice Leader
TRC Engineers, Inc.

Kimberly Brawner, P.E., P.T.O.E.
Director of Engineering
City of Celina

Attachments

Attachment: Proposal_Punk Carter (Punk Carter Design - Evergreen Trail to Coit Road)

CITY OF CELINA, TEXAS
PUNK CARTER BLVD
TRC SCOPE OF WORK
AUGUST 28, 2019

TASK 1 - SURVEY SERVICES

Survey – Provide topographical data as required to complete the preliminary engineering design. Survey data will be provided in AutoCAD format and include a basemap showing locations of street Right-of-Way, property lines, easements, trees, fences, and other pertinent existing features within the project area. Survey will provide control points for use during construction.

TASK 2 - GEOTECHNICAL

TRC will provide a geotechnical report of the existing soils. This will include three (3) borings at strategically spaced locations within the project site to a depth of 10 feet using a truck mounted drilling rig. The report will include a site map of all borings, boring log with soil description, groundwater information, and pavement recommendations.

TASK 3 – DESIGN SERVICES

Civil Engineering - TRC will prepare detailed plans and specifications for approximately 1,400 linear feet of roadway with storm sewer and 12" waterline as shown in the attached exhibit. Plan sheets will include:

- Roadway plan and profile sheets.
- Roadway cross sections every 100 ft.
- Striping and signage plan.
- Drainage area map and calculations.
- Storm sewer plan and profile.
- Waterline plan and profile.
- Erosion control plan and details.
- General notes and detail sheets.

It is anticipated that TRC will submit a 60%, 90% and 100% set of construction plans for the City to review. TRC will attend design progress meetings and provide updated engineer's opinion of probable construction costs with each submittal.

TASK 4 - CONSTRUCTION ADMINISTRATION

Bidding and Construction Administration - TRC will assist the City in the bid process including preparation of bid advertisement document, attendance at a pre-bid meeting if necessary, respond to contractor questions, preparation of addenda, assist the City in the opening and tabulation of bids, prepare award recommendation letter and prepare construction contract documents. After the bidding is completed, TRC will provide updated construction plans and specifications to include the bid addenda for use during construction.

Throughout construction, TRC will assist the City with contractor correspondence, materials submittal review, respond to contractor requests for information (RFI), contractor pay request reviews, attendance at one preconstruction meeting, attendance at monthly progress meetings (maximum of two) with the

contractor, periodic site visits (maximum of two), final inspection with the contractor and City staff, preparation of punch list and record drawing preparation based on the contractor's as-built plans.

ASSUMPTIONS

The following assumptions apply to the basis of costs for this project:

- Plan and bid documents will be per TRC's and the City's standards.
- Construction cost estimates will be based on present day construction costs.
- City will be responsible for arranging ROW, easement, and/or property access prior to commencement of fieldwork.
- Roadway alignments will be similar as shown in the attached exhibit.
- No new properties will be acquired.
- Existing drainage and water utilities can accommodate the proposed improvements. No offsite utilities will be provided.

EXCLUSIONS

The following items are excluded from the Scope of Work:

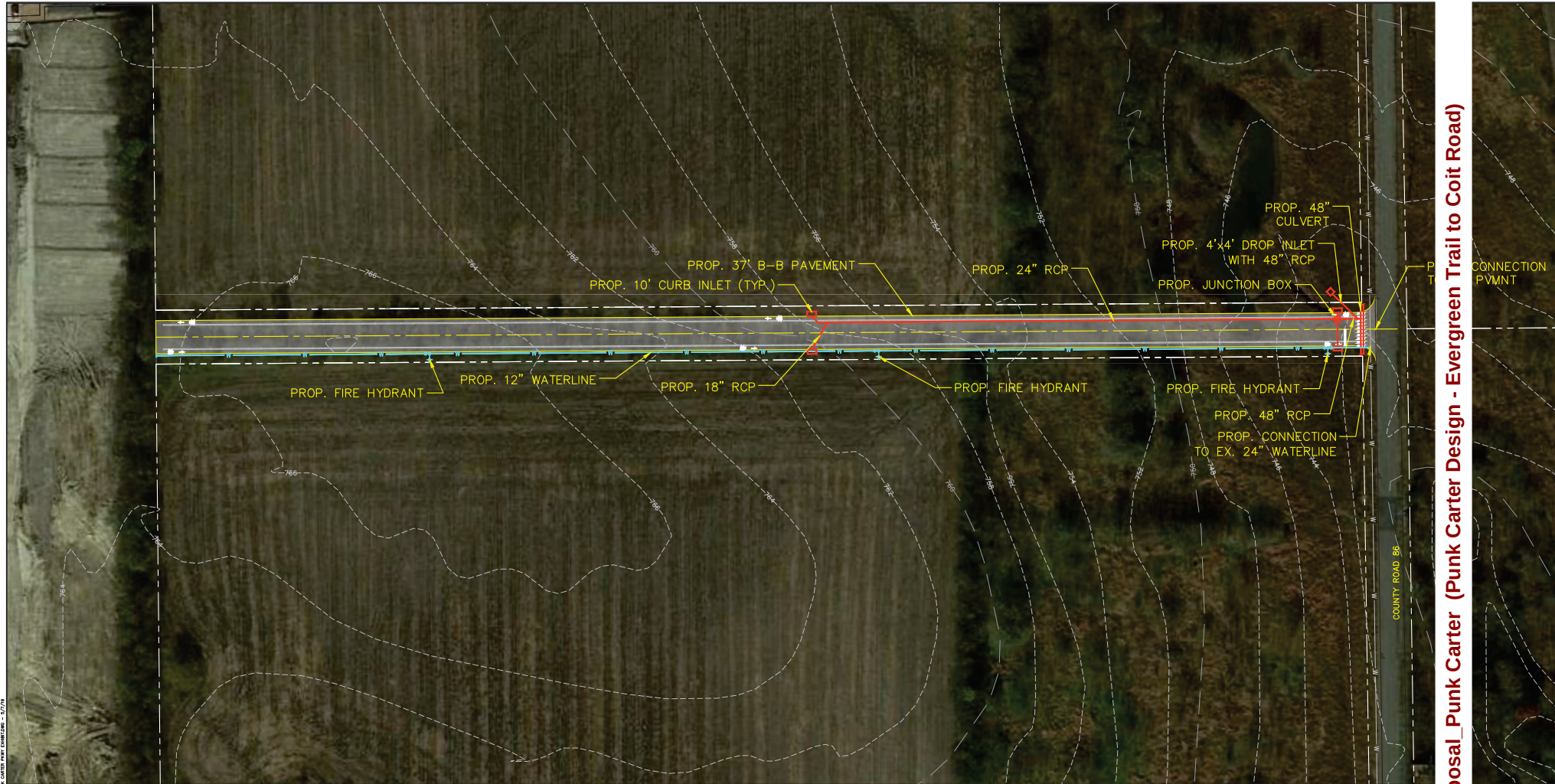
- Street lighting, landscape and/or irrigation design.
- Traffic control plan.
- Traffic signalization.
- Construction staking.
- Continuous construction inspection or services other than those listed above.
- Franchise utility coordination.
- Detailed title search or title policy.
- Preparation of final plats, Right-of-Way or easement documents.
- Environmental or permitting services.

COMPENSATION FOR SERVICES

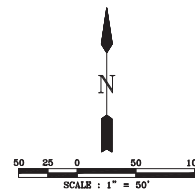
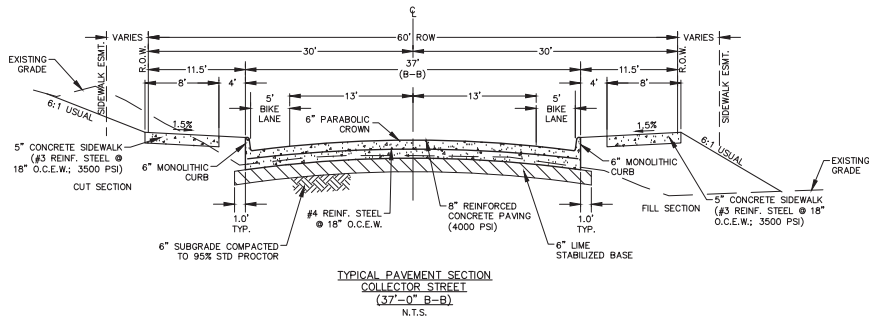
The cost to provide the design engineering services will be invoiced as a lump sum project. This lump sum fee includes labor and material costs associated with the Scope of Work identified above. A breakdown of the costs for the City's review is shown below.

1. Topographic Survey	\$ 9,800
2. Geotechnical	\$ 5,900
3. Civil Engineering	\$ 59,950
4. <u>Bidding and Construction Administration</u>	<u>\$ 13,850</u>
TOTAL CONTRACT AMOUNT:	\$ 89,500

TRC's fees above are based on a continuous flow of work. Any delays or restrictions, caused by customer or customer's sub consultants, which result in idle-time or inefficiencies, could be cause for additional compensation. The payment schedule will be via progress billing (percent complete for each task).



Attachment: Proposal Punk Carter (Punk Carter Design - Evergreen Trail to Coit Road)



CTRC
TRC ENGINEERS, INC.
700 HIGHLANDER BLVD., SUITE 210, ARLINGTON, TEXAS 76015
T.E.P.E. FROM REGISTRATION # F-8632
(817) 522-1000

PUNK CARTER PKWY EXHIBIT
CELINA, TX
5/7/2019



TRC ENGINEERS, INC.

700 Highlander Blvd., Suite 210

Arlington, TX 76015

TEL: (817) 522-1000 FAX: (817) 522-1060

PRELIMINARY ENGINEER'S ESTIMATE OF ANTICIPATED CONSTRUCTION COSTS

PROJECT: Punk Carter Parkway

CLIENT: City of Celina

LENGTH OF ROADS

1380 LF

JOB NUMBER:

288194.0012

PREPARED BY: J. Taggart

DATE:

7-May-19

Paving

ITEM	DESCRIPTION	UNIT	QUANTITY	\$/UNIT	TOTAL COST
P.1	R.O.W. Preparation	STA	14	\$2,500.00	\$35,000.00
P.2	Excavation/Grading	SY	9,200	\$16.00	\$147,200.00
P.3	8" Reinforced Concrete Pavement	SY	5,674	\$55.00	\$312,070.00
P.4	6" Lime Stabilized Base	SY	6,242	\$6.00	\$37,452.00
P.5	Hydrated Lime Slurry	TON	116	\$180.00	\$20,880.00
P.6	Pavement Markings	LF	5,775	\$2.00	\$11,550.00
P.7	Connect to Existing Concrete Pavement	LF	37	\$15.00	\$555.00
P.8	Street Signs	LS	1	\$1,500.00	\$1,500.00
P.9	5" Reinforced Concrete Sidewalk (8' Wide)	SY	2,454	\$45.00	\$110,430.00
Paving Total					\$676,637.00

Drainage

ITEM	DESCRIPTION	UNIT	QUANTITY	\$/UNIT	TOTAL COST
D.1	18" RCP	LF	82	\$70.00	\$5,740.00
D.2	24" RCP	LF	578	\$115.00	\$66,470.00
D.3	48" RCP	LF	120	\$250.00	\$30,000.00
D.4	Safety End Treatment	EA	2	\$3,000.00	\$6,000.00
D.5	Junction Box	EA	1	\$5,000.00	\$5,000.00
D.6	10' Curb Inlet	EA	4	\$5,000.00	\$20,000.00
D.7	4' Square Drop Inlet	EA	1	\$4,000.00	\$4,000.00
D.8	Trench Safety	LF	780	\$2.00	\$1,560.00
Drainage Total					\$138,770.00

Water

ITEM	DESCRIPTION	UNIT	QUANTITY	\$/UNIT	TOTAL COST
W.1	12" PVC Water	LF	1,339	\$60	\$80,340
W.2	6" PVC Water	LF	20	\$50	\$1,000
W.3	12" Gate Valve	EA	4	\$2,750	\$11,000
W.4	6" Gate Valve	EA	3	\$1,500	\$4,500
W.5	Ductile Iron Fittings	TON	0.5	\$9,000	\$4,500
W.6	Fire Hydrant Assembly	EA	3	\$4,000	\$12,000
W.7	Connection to Existing Water Main (By Cut)	EA	1	\$3,000	\$3,000
W.8	Trench Safety	LF	1,339	\$1	\$1,339
Water Total					\$117,679

Miscellaneous Items

ITEM	DESCRIPTION	UNIT	QUANTITY	\$/UNIT	TOTAL COST
M.1	Construction Entrance	EA	1	\$1,500.00	\$1,500.00
M.2	Hydromulch	SY	3,527	\$5.00	\$17,635.00
M.3	Silt Fence	LF	2,760	\$3.00	\$8,280.00
M.4	SWPPP	LS	1	\$2,500	\$2,500.00
M.5	Project Sign	EA	1	\$750.00	\$750.00
TOTAL					\$30,665.00

Summary

Paving	\$676,637.00
Drainage	\$138,770.00
Water	\$117,679.00
Miscellaneous	\$30,665.00
Sub-Total	\$963,751.00
Contingency (20%)	\$192,750.20
TOTAL	\$1,156,501.20

Attachment: Proposal_Punk Carter (Punk Carter Design - Evergreen Trail to Coit Road)



Engineering
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Kim Brawner, Director of Engineering
 CC: Catherine Oduro, Engineer
 Date: September 10, 2019
 Re: Choate Parkway from Collin County Outer Loop to Kinship Parkway.

Action Requested:

Consider and act upon a contract by and between the City of Celina and Halff & Associates for Professional Services related to the Design of Choate Parkway between the Collin County Outer Loop and Kinship Parkway in an amount not to exceed \$315,000. (Brawner)

Background Information:

Collin College will opening for classes in the Fall 2022. Kinship Parkway was constructed as part of the Bluewood Subdivision by Hillwood Development as a collector road. Collin College will extend Kinship Parkway from its current termination point within the Bluewood Subdivision to Choate Parkway as a four-lane divided roadway to serve the Collin College campus. Kinship Parkway will serve as the eastern boundary of the Collin College Campus. Choate Parkway will serve as the northern border of the campus and the Carter Ranch subdivision will serve as the western boundary. There will be no direct access from the Carter Ranch subdivision to the Collin College campus.

Collin County has recently awarded the design of the Collin County Outer Loop from Preston Road to Custer Road to Jacobs Engineering. The County anticipates the design process to take approximately two years. A timeline for construction has not been established. Staff has worked with Collin County to expedite the construction of the future eastbound service road from Preston Road to Choate Parkway and incorporate this section of roadway into the existing construction contract in anticipation of the Collin College opening in Fall 2022.

Staff has been working with Collin College and Collin County to determine future roadway alignments in this area. Choate Parkway is currently a twenty foot (20') wide, two-lane, asphalt roadway between Coit Road and Preston Road and is in need of repairs. Staff has concerns that the existing roadway cannot support the anticipated traffic volumes with the opening of the Collin College Campus. In addition, with the active construction of the Outer Loop from North Dallas Parkway to Preston Road and the impact of this construction on the intersection of Preston Road and Choate Parkway, staff needs to identify the future design of Choate Parkway. Based on the City of Celina Thoroughfare Plan, Choate Parkway will intersect the Outer Loop at a 90 degree intersection. The proposed design contract will design Choate Parkway from approximately 100 feet east of Kinship Parkway to the proposed intersection of the Outer Loop.

Board Review/Citizen Input:

N/A

Alternatives:

Council could chose to not proceed with the contract award.

Financial Considerations:

Funding for this project is available within the existing 2019 CO Bonds.

Legal Review:

See attached Engineering Contract.

Staff Recommendation:

CITY OF CELINA
Glendenning Parkway - CCOL to Choate

Project No. #####

City of Celina	Labor Category	Project Mgr.	Principal	Sr. Civil Eng.	Civil Eng.	Civil EIT	Civil CADD	Sr. Struct. Eng.	Elec. or Struct. Eng.	Struct. CADD / GIS	Sr. Env. Scientist/ Landscape Architect	Env. Scientist/ Landscape Architect	Survey RPLS	Survey SIT / Inspector	Survey Crew	Clerical	SUE Crew	SUE Coordinator	hrs /sheet										
Glendenning Parkway - CCOL to Choate	Team Member	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All		All	All		Print	Plot	Deliv./Misc.	All	All	Remarks
Fee Proposal - September 3, 2019	Hourly Billing Rate	\$229.00	\$252.00	\$219.00	\$169.00	\$120.00	\$96.00	\$222.00	\$176.00	\$109.00	\$200.00	\$126.00	\$184.00	\$110.00	\$175.00	\$79.00	\$158.00	\$142.00		Total Manhour	Total Labor \$		\$0.50	\$5.00	Sub-Consult	Total Expense \$	Total \$		
Task Description	Scope Reference	Plan Sheets																											
I. PROJECT MANAGEMENT / COORDINATION																													
design specific coordination meetings (2)	B. I.	-	8	6	2		2									4				22	\$3,992	100	10	\$50	\$150	\$4,142			
general project coordination and correspondence	B. I.	-	24	8	16	4	8						1			12		2		75	\$12,616	50	5	\$25	\$75	\$12,691			
CCOL coordination, data and exhibits	B. I.	-	4		8	12	16													40	\$5,244	50	5	\$25	\$75	\$5,319			
prepare schedule and monthly progress report	B. I.	-	12		4											8				24	\$4,056	20			\$10	\$4,066			
II. PRELIMINARY ENGINEERING																													
collection and distribution of existing plans	B. II. A.	-	1		2	4								1		2		1		11	\$1,457	100	10	\$50	\$150	\$1,607			
schematic design	B. II. B.	-	4	8	16	24	40									4				96	\$12,408	200	20	\$25	\$225	\$12,633			
preliminary engineering design	B. II. C.	-																											
1. title-index		2		1	2	4	8													15	\$1,805	20	2		\$20	\$1,825			
2. project layout - geometric data		2	1	2	4	8	12							2						29	\$3,675	20	2		\$20	\$3,695			
3. typical sections		2	2	2	4	16	24													48	\$5,796	20	2		\$20	\$5,816			
4. traffic control layout		3		2	4	12	36													54	\$6,010	30	3		\$30	\$6,040			
5. removal plan		2	1	2	8	16	24													51	\$6,243	20	2		\$20	\$6,263			
6. paving plan and profile		5	2	4	8	16	32													62	\$7,678	50	5		\$50	\$7,728			
7. drainage area map and calculations		2	2	4	16	24	24													70	\$9,222	20	2		\$20	\$9,242			
8. drainage plan and profile		5	2	4	8	16	24													54	\$6,910	50	5		\$50	\$6,960			
12. cross sections		8	2	8	40	24	16													90	\$13,386	80	8		\$80	\$13,466			
qty and construction cost estimate	B. II. C.		1	2	6	12														21	\$3,121						\$3,121		
60% submittal	B. II. D.		2		4	8	4									2				20	\$2,636	250	5	\$25	\$175		\$2,811		
comment response/resolution	B. II. E.		4	2	8	4										1				19	\$3,265						\$3,265		
III. FINAL ENGINEERING																													
final engineering design	B. III. A.	-																											
1. title-index		2	1	1	2	4	2													10	\$1,458	20	2		\$20	\$1,478			
2. quantity summary sheets		2		8	16	32	8													64	\$9,064	20	2		\$20	\$9,084			
3. project layout - geometric data		2	1	1	2	8	4							1						17	\$2,240	20	2		\$20	\$2,260			
4. typical sections		3	1	2	4	8	8													23	\$3,071	30	3		\$30	\$3,101			
5. traffic control layout		3	1	2	4	8	16													31	\$3,839	30	3		\$30	\$3,869			
6. removal plan		3	1	2	4	8	8													23	\$3,071	30	3		\$30	\$3,101			
7. paving plan and profile		5	2	4	8	16	24													54	\$6,910	50	5		\$50	\$6,960			
8. roadway grading plan		3	2	8	16	32	48													106	\$13,362	30	3		\$30	\$13,392			
9. driveway and parking lot reconstruction layout		1	1	2	4	8	16													31	\$3,839	10	1		\$10	\$3,849			
10. misc paving - drainage details		1		2	4	8	16													30	\$3,610	10	1		\$10	\$3,620			
11. drainage map and calculations		2	1	2	4	16	8													31	\$4,031	20	2		\$20	\$4,051			
12. drainage plan and profile		5	2	4	16	32	48													102	\$12,486	50	5		\$50	\$12,536			
13. conduit layout and municipal utility adjustments		3	1	2	4	8	16													31	\$3,839	30	3		\$30	\$3,869			
14. signing and pavement marking layout		3	2	4	8	16	24													54	\$6,910	30	3		\$30	\$6,940			
15. erosion control plan		1		1	2	8	16													27	\$3,053	10	1		\$10	\$3,063			
16. standard details and drawings		30	1	2	4	8	8													23	\$3,071						\$3,071		
17. cross sections		8	2	4	16	8	4													34	\$5,382	80	8		\$80	\$5,462			
construction cost estimate	B. III. A.		1	2	8	16														27	\$3,939						\$3,939		
project manual	B. III. B.		2	4	16	8										8				38	\$5,630						\$5,630		
90% and 100% submittals	B. III. C.		2		16	8	4									2				32	\$4,664	1000	10	\$50	\$600		\$5,264		
comment response/resolution	B. III. D.		4	2	8	4										1				19	\$3,265						\$3,265		
IV. BID PHASE SERVICES																													
advertisement coordination and pre-bid meeting	B. IV. A-C.		2	1	2	4										8				17	\$2,127						\$2,127		
bid RFI and addenda	B. IV. D.		4	2	8	4	8									2				28	\$4,112	20			\$10	\$4,122			
bid opening, review, tabulation, recommendation	B. IV. E.-H.		1	2	4	4										1				12	\$1,902	20		\$25	\$35		\$1,937		
V. SPECIAL SERVICES																													
Construction Administration	B. V. A.																												
1. conformed documents for construction			1		2	4										4				11	\$1,363	600	150	\$250	\$1,300		\$2,663		
2. preconstruction conference			4		4	2										2				12	\$1,990	50	5	\$25	\$75		\$2,065		
3. construction coord (3 site visit, 3 meetings)			12	6	12	4	2							2		4				42	\$7,298	200	20	\$150	\$350		\$7,648		
4. submittal, RFI and CO review			4	8	16	24	4									12				68	\$9,584	100	10		\$100		\$9,684		
5. record drawings			1	2	4	8	16									2				33	\$3,997	200		\$25	\$125		\$4,122		
Survey for Design	B. V. B.																												
1. right of entry documents/coordination			2		4									2		8				16	\$1,986	100		\$50	\$100		\$2,086		
2. establish H-V control			1	2	4								2	4	8					21	\$3,551	50	5		\$50		\$3,601		
3. topography and surface features mapping			2	2	4	8	16						2	8	32					74	\$10,916	50	5		\$50		\$10,966		

CITY OF CELINA
Glendenning Parkway - CCOL to Choate

Project No. #####

	Labor Category	Project Mgr.	Principal	Sr. Civil Eng.	Civil Eng.	Civil EIT	Civil CADD	Sr. Struct. Eng.	Elec. or Struct. Eng.	Struct. CADD / GIS	Sr. Env. Scientist/ Landscape Architect	Env. Scientist/ Landscape Architect	Survey RPLS	Survey SIT / Inspector	Survey Crew	Clerical	SUE Crew	SUE Coordinator	hrs /sheet									
City of Celina																												
Glendenning Parkway - CCOL to Choate	Team Member	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All		All	All	Print	Plot	Deliv./Misc.	All	All	
Fee Proposal - September 3, 2019	Hourly Billing Rate	\$229.00	\$252.00	\$219.00	\$169.00	\$120.00	\$96.00	\$222.00	\$176.00	\$109.00	\$200.00	\$126.00	\$184.00	\$110.00	\$175.00	\$79.00	\$158.00	\$142.00		Total Manhour	Total Labor \$	\$0.50	\$5.00	Sub-Consult	Total Expense \$	Total \$	Remarks	
Task Description	Scope Reference	Plan Sheets																										
Franchise Utility Coordination	B. V. C.		2	2	8	16	24													52	\$6,472	100	10	\$50	\$150	\$6,622		
SUE																												
1. level B locate - designate and mapping	B. V. D.				1	2	4						1	4			12	6		30	\$4,165					\$4,165		
2. level A locate - vacuum excavation	B. V. D.					1	2											2		5	\$596			\$5,000	\$5,000	\$5,596	Misc. is allowance for Level 'A' locate holes	
Survey for ROW/Easement Documents	B. V. E.																											
1. recover corners and resolve property boundary													8	12	24					44	\$6,992	50		\$100	\$125	\$7,117		
2. prepare metes & bounds / parcel maps		2			4		48						10	26		4				94	\$10,758	100			\$50	\$10,808		
3. set monuments for ROW & easements		1			2		4						2	8	14					31	\$4,649	50		\$100	\$125	\$4,774		
4. stake/flag ROW at 100' intervals					2									2	4					8	\$1,258					\$1,258		
Geotechnical Engineering	B. V. F.																											
field work/lab work and report coordination		2		1	4		2													9	\$1,545	200		\$18,500	\$18,600	\$20,145	Misc. is geotechnical services fee estimate	
Subtotal Summary																												
I. PROJECT MANAGEMENT / COORDINATION		48		14	30	16	26						1			24		2		161	\$25,908	220	20	\$100	\$310	\$26,218		
II. PRELIMINARY ENGINEERING	31	24		41	130	188	244							3		9		1	21	640	\$83,612	860	66	\$100	\$860	\$84,472		
III. FINAL ENGINEERING	77	28		59	166	264	278							1		11			17	807	\$106,734	1470	57	\$50	\$1,070	\$107,804		
IV. BID PHASE SERVICES		7		5	14	12	8									11				57	\$8,141	40		\$25	\$45	\$8,186		
V. SPECIAL SERVICES																											\$103,320	
Construction Administration		22		16	38	42	22							2		24				166	\$24,232	1150	185	\$450	\$1,950	\$26,182		
Survey for Design		5		4	12	8	16						4	14	40	8				111	\$16,453	200	10	\$50	\$200	\$16,653		
Franchise Utility Coordination		2		2	8	16	24													52	\$6,472	100	10	\$50	\$150	\$6,622		
SUE					1	3	6						1	4			12	8		35	\$4,761			\$5,000	\$5,000	\$9,761		
Survey for ROW/Easement Documents		3			8		52						20	48	42	4				177	\$23,657	200		\$200	\$300	\$23,957		
Geotechnical Engineering		2		1	4		2													9	\$1,545	200		\$18,500	\$18,600	\$20,145		
TOTAL		77	141		142	411	549	678					26	72	82	91	12	11	21.6	2215	\$301,515	4440	348	\$24,525	\$28,485	\$330,000		

EXHIBIT "A"
SCOPE OF SERVICES

TO BE PROVIDED BY HALFF ASSOCIATES, INC.
TO
CITY OF CELINA
FOR
GLEDENNING PARKWAY
FROM COLLIN COUNTY OUTER LOOP TO CHAOTE ROAD
PROJECT CIP#

A. PROJECT DESCRIPTION

This scope of services consists of professional design services whereas the CITY proposes to construct Glendenning Parkway from the south side of the future Collin County Outer Loop right of way to a connection with existing Choate Road – approximately 2,200 feet in length. Anticipated improvements include **roadway paving, drainage, grading and traffic related items**. Services by the CONSULTANT shall include all aspects of the work set forth in the following scope of services.

The general parameters for design of the improvements shall include the following:

1. Construct the eastbound lanes using a typical 28' face to face concrete paving section as approved by the CITY, including reconstruction of driveway and street approaches to the ROW line and beyond if necessary for profile grade restrictions and construction of turn lanes as determined by CITY.
2. Construct storm sewer system to carry the CITY design storm runoff and outfall to existing natural drainage features.
3. Preparation of right-of-way and/or easement documents shall be provided for up to 10 parcel descriptions from not more than 6 parent tracts.

Commented [KB1]: City has on-street bike lanes standard.

The CONSULTANT shall perform the necessary engineering and related technical services for the Design and Construction Phase Services, including necessary Additional Services for development of this Project according to the following sections of this Contract. CONSULTANT shall use the subcontractors listed in Exhibit "D" which is attached hereto and incorporated herein by reference and made a part hereof as if repeated verbatim.

B. TASK DESCRIPTIONS – SCOPE OF SERVICES

I. General Requirements

- A. General Knowledge and Design Requirements – The CONSULTANT shall have a working knowledge of all applicable design requirements, codes, master plans, and regulations which govern the scope of work and services included herein. Specific design requirements shall be obtained from the City of Celina Engineering Standards Manual. The CONSULTANT will establish

and summarize all project design criteria, including any proposed variances, and submit to CITY for review prior to beginning design work. All design work will be prepared in CAD, with electronic files in DGN/DWG format submitted to the CITY upon final record drawings. The CITY may request CAD files at any time through the duration of the contract. **The CONSULTANT shall be responsible for ensuring that design services provided meet all local, state, and federal requirements.**

- B. General Plan Requirements – Scale of construction plans is to be: 1"=40' Horizontal; 1"=10' Vertical on 11" x 17" page size or as approved by the CITY. Accurate and clear plans shall be provided for the purpose of accurate bids, efficient construction, and good permanent records. The consistent use of uniform drafting guidelines will increase the efficiency in which the plans are reviewed by the contractors prior to bidding and improve their understanding of the contract's intent. It is highly recommended that designers and technicians use uniform drafting styles. The intent is to produce consistent, accurate, and legible sets of plans. Do not clutter the plans with unnecessary information.
- C. Accessible Routes – All designated pedestrian routes within public right-of-way, including sidewalks and barrier free ramps, shall comply with current CITY, state, and federal requirements. Any existing pedestrian routes within the limits of the project which do not meet current requirements shall be improved as part of this scope of work, unless directed otherwise by the CITY.
- D. Third-Party Coordination – Coordinate with other governmental agencies, franchise utilities, adjacent developments, and individual property owners as necessary, TDLR (Texas Department of Licensing and Regulation), Collin County Engineering, and any other appropriate entities.
- E. Progress Updates – The CONSULTANT shall submit a monthly report outlining, at a minimum, the work on the project which occurred the previous month, the work expected to be completed the following month, the next major project milestone, and any information needed from the CITY.
- F. Administrative and Coordination Tasks – The CONSULTANT shall perform all necessary coordination and administrative tasks including, but not limited to, required coordination with subcontractors listed in Exhibit "D", preparing and submitting monthly invoices to the CITY, preparing and updating the overall project schedule, attending required meetings, and other miscellaneous administrative and/or coordination tasks required by the CITY unless specifically listed under "Exclusions" in the Scope of Services herein.

II. Preliminary Engineering

- A. Data Collection – Obtain and research all existing city utility plans, street plans, drainage plans, plats, right-of-way maps, existing easement

information, contour maps, and other features within and pertaining to the Project area. Research planned and future developments along the Project to determine how the improvements may impact any future development. The CONSULTANT will also coordinate with franchise utilities in the area and obtain any available record information. Existing Project conditions shall also be documented using digital photography and/or video. Perform site visit(s) to obtain necessary information/confirm information obtained from other sources.

B. Schematic Design – Prepare exhibit showing the proposed project alignment, pavement dimensions, lane designations, proposed right of way and easements for CITY review and approval.

C. Preliminary Engineering Design – Utilizing the proposed alignment from the concept design task (Section II.C) and information obtained from the data collection (Section II.A) and the field survey (Section VI.A), the CONSULTANT will prepare preliminary engineering plans with the first milestone submittal at sixty percent (60%) design completion. The preliminary engineering design phase will include the following:

i. 60% Design Submittal Minimum Requirements

- General Plans – Prepare and update general plan sheets necessary including cover, general notes, sheet index, control sheet, project layout, and typical sections.
- Removal Plans – Prepare plan sheets depicting any and all removals of existing public and private infrastructure specifying any necessary replacements and/or relocations. Include all existing utility mapping obtained in SUE effort (Section V. D) and label appurtenances to remain, adjust and/or protect. Include all tree survey data (6" DBA and up) and indicate preservation or removal
- Plan & Profile Drawings – Establish and/or refine horizontal and vertical alignments along proposed paving limits and drainage/storm lines. Provide separate alignment geometry data sheets. Determine any conflicts with private property including fences, mailboxes, driveways, sidewalks, landscaping, etc., and provide preliminary replacement or alternate design options if required. Present any potential alternatives, which may provide cost savings to the CITY.
- Drainage Analysis – Delineate and refine all drainage areas for the Project including tabulation of runoff, inlet, and ponded width calculations in accordance with CITY requirements. Provide trunk main plan sheets including all necessary intake inlets and/or headwalls, and channel limits.

- Erosion Control Plans – Prepare erosion control plans (including post-construction erosion controls such as sod) to comply with CITY and any federal, state, or local requirements. This includes site specific data for a separate, Post Construction Water Quality Protection Plan that may be prepared and managed by the CONTRACTOR as required by CITY.
- Construction Details – Provide City standard detail sheets applicable to the construction of the Project. Special details that are not included as a standard by the CITY shall be included in the plans.
- Cross Sections – Develop cross sections for roadways and driveways (as needed) with existing & proposed ROW lines, drainage & slope easement lines, cross slopes, elevations, profile grade line, stations, ditch lines, retaining walls, etc. properly labeled. Submit roadway cross section sheets at 50' maximum intervals and at critical locations (driveways, culverts, non-typical roadside features, etc.)
- Land Acquisition – Refine and depict proposed right-of-way and easement needs. Provide final documents for right-of-way and/or easement acquisition after resolution of 60% submittal comments.
- Traffic Control – Prepare preliminary advance warning sign layout, work zone delineation devices, construction sequencing and/or access plan for City review.
- Opinion of Probable Construction Cost – Prepare an updated estimated construction quantities and engineer's opinion of probable construction costs (OPCC) tabulated in Microsoft Excel format. The CITY may request additional justification for significant cost differences from previously provided OPCC's.
- Deliverables – Plan Set is anticipated to include the following drawings and specifications:
 - ☐ Cover Sheet
 - ☐ Sheet Index
 - ☐ Project Layout and Control Sheet
 - ☐ Typical Sections
 - ☐ Removal Plan
 - ☐ Paving Plan and Profile Sheets (5 sheets)
 - ☐ Drainage Area Map
 - ☐ Drainage Calculation Summary Tables
 - ☐ Drainage Plan and Profile Sheets (5 sheets)
 - ☐ Erosion Control Plan

Commented [KB2]: Erosion control plans need to be set. It can be a limited sheet – maybe 1-2 pages with standard details, but the contractor has to know what to put where and what they have to put back.

Commented [KB3]: These need to be provided. The contractor already has details that can be incorporated into the plans.

Commented [KB4]: Why wouldn't you provide profile sheets?

- ☐ Standard and Special Details
- ☐ Cross Section Sheets
- ☐ Traffic Control & Access Concepts
- ☐ Opinion of Probable Construction Cost

D. Preliminary Engineering Submittals – Plan submittal will occur at sixty percent (60%) completion stage. CONSULTANT will provide a copy of all plans and documents (PDF), opinion of probable construction costs (Excel), and all necessary supplemental calculations and supporting documents.

Commented [KB5]: No need to deliver hard copie
can print here, just provide PDF file. We will also tak
electronically – no need for a CD/DVD/USB option.

E. Review Comments – CITY will consolidate their submittal review comments for each milestone deliverable and provide them to CONSULTANT. The CONSULTANT will incorporate the City's comments into the subsequent milestone submittal and provide a tabulated list of responses and/or resolutions to each comment provided. A written response and CITY acknowledgement is required for any written response of disagreement.

III. Final Engineering

A. Final Engineering Design – Incorporating comments from the CITY, franchise utilities, and other interested parties, prepare final engineering plans and specifications with submittals at ninety percent (90%) and one-hundred percent (100%) completion. The final engineering design phase will include the following:

- i. Design Submittal Minimum Requirements (90% and 100%)
 - Previous Drawings – Revise and complete previously prepared drawings.
 - Traffic Control – Refine traffic control design and prepare final construction sequencing, traffic control and access plans.
 - Signing & Pavement Marking – Prepare permanent signing and pavement marking plan in accordance with City requirements and the Texas Manual on Uniform Traffic Control Devices (TMUTCD).
 - Opinion of Probable Construction Cost – Prepare an updated estimated construction quantities and engineer's opinion of probable construction costs (OPCC) tabulated in Microsoft Excel format. The CITY may request additional justification for significant cost differences from previously provided OPCC's.
 - Deliverables – Plan Set is anticipated to include the following drawings and specifications:
 - ☐ Cover Sheet
 - ☐ Sheet Index

- ☐ Project Layout and Control Sheet
- ☐ Typical Sections
- ☐ Removal Plan
- ☐ Traffic Control Plan
- ☐ Paving Plan and Profile Sheets (5 sheets)
- ☐ Roadway Grading Sheets (3 sheets)
- ☐ Driveway and Parking Lot Reconstruction
- ☐ Miscellaneous Sidewalk and Paving Details
- ☐ Drainage Area Map
- ☐ Drainage Calculation Summary Tables
- ☐ Drainage Plan and Profile Sheets (5 sheets)
- ☐ Conduit Layout and Utility Adjustment
- ☐ Signing & Pavement Marking Plans (3 sheets)
- ☐ Erosion Control Plan
- ☐ Standard and Special Details
- ☐ Cross Section Sheets
- ☐ Opinion of Probable Construction Cost

- B. Project Manual – Assist City with preparation of project manual documents for the City's use in electronic bid documents that will be prepared and issued by CITY using web-based site managed by CITY. CONSULTANT'S documents to prepare shall be generally limited to bid schedule, special conditions, and technical specifications. Submit preliminary documents after the 90% plan review and prior to final documents for 100% plan review.
- C. Final Engineering Submittals – Plan submittals will occur at ninety percent (90%) and one hundred percent (100%) completion stages. CONSULTANT will provide a CD/DVD/USB containing electronic files of all plans and documents (PDF), opinion of probable construction costs (Excel), and all necessary supplemental calculations and supporting documents.
- D. Review Comments – CITY will consolidate their submittal review comments for each milestone deliverable and provide them to CONSULTANT. The CONSULTANT will incorporate the City's comments into the subsequent milestone submittal and provide a tabulated list of responses and/or resolutions to each comment provided. A written response and City acknowledgement is required for any written response of disagreement.

IV. Bid Phase Services

- A. Bid Documents – Provide final construction plans and technical documents for project manual to CITY in electronic format for inclusion on CITY procurement system as required. Provide bid schedule in Microsoft Excel format for use by contractors as prescribed by the CITY.
- B. Advertisement for Bid – Provide all necessary information to the CITY required for placing the advertisement of the Invitation to Bid.
- C. Pre-Bid Meeting – Prepare a pre-bid agenda. Attend pre-bid conference if required by the CITY.
- D. Bid Document Interpretations – Address questions from the proposed bidders during the bidding process and issue addenda as necessary, in coordination with the CITY.
- E. Bid Opening – Attend the bid opening and assist the CITY during bid opening, making preliminary tabulation of bids, and review questionnaires and bids for completeness.
- F. Qualifications Review – Review and evaluate the qualifications of the apparent successful bidder and the proposed major specialty subcontractors. The review and evaluation will include such factors as work previously completed, responses from submitted references, bidder equipment availability, publicly available financial resources, and technical experience.
- G. Bid Tabulation – Prepare and distribute formal bid tabulation sheets noting any discrepancies between original bids submitted.
- H. Bid Recommendation – Prepare a formal written recommendation to the CITY for project award.

V. Special Services – All Special Services shown under this section shall be reimbursed on a cost-plus basis based on actual work performed with a not-to-exceed amount as outlined in “Exhibit B” (Payment Schedule). CONSULTANT shall provide all justification for expenditures under this section with each monthly invoice.

- A. Construction Administration – Although day to day operation and oversight of the construction phase will be managed by the CITY, the CONSULTANT will assist the CITY during the construction phase of the project as follows:
 - 1. Conformed Construction Plans – Incorporate all addenda items into a conformed construction plan and specification set. Furnish twelve (12) full size (22" X 34") sets, two (2) half size (11" X 17") sets of the final

plans for construction for use by the CITY and the contractor, along with a CD/DVD/USB containing PDFs of all plans.

2. Pre-Construction Conference – Meet with the CITY, the contractor, and other interested parties to discuss the construction of the Project, including Project requirements, communication procedures, Project scheduling, personnel, laboratory testing requirements, field inspection, construction staking, pay requests, and other pertinent matters that may impact the Project.
3. Construction Observation – Provide on-site construction observation services during the construction phase along with attending construction meetings as deemed necessary by the CITY. It is not the intent of these visits to be performed at every aspect of the contractor's work. A maximum of three (3) site visits are assumed for budget purposes which does not include substantial or final walk through on-site meetings. Consultant may be required, as-needed, to attend construction progress meetings as determined necessary by CITY. A maximum of six (6) progress meetings are assumed for budget purposes. Construction observations are to be limited to spot checking, selective measurements, and similar methods of general observation of the work based on exercise of professional judgement and familiarization of the design intent. Based on the information obtained during such visits and such observations, CONSULTANT will keep the CITY informed on the general progress of the work.
4. Shop Drawings, Samples, and Materials – Review and approve or take other appropriate action in respect to shop drawings required for the Project to ensure they are in conformance with plans, specifications, and City requirements. Each shop drawing shall be limited to two (2) resubmittal reviews. Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by the contractor in accordance with the contract documents, but subject to the provisions of applicable standards of state or local government entities.
5. Clarifications and Interpretations – When requested, review laboratory testing reports, requests for information (RFI), field change requests, and change orders and provide comments and/or responses to CITY. Provide written responses to RFI's or clarification to CITY or contractor. If requested by the CITY, render written decision on all claims of CITY and contractor relating to the acceptability of contractor's work or the interpretation of the requirements of the contract documents pertaining to the progress of the contractor's work.
6. Change Orders – Recommend Change Orders to CITY or review and make recommendations related to Change Orders provided at the request of the contractor.

Commented [KB6]: If the project is going to take budget for 6 construction meetings

7. Record Drawings – Prepare record drawings in digital format utilizing CITY and contractor as-built information showing changes made during construction. Provide a CD/DVD/USB containing a PDF of the record plan set, TIFF images of each individual plan sheet, and a project base map in CAD format.
 8. CONSULTANT shall perform its services in accordance with such Project schedule as is specified in the Contract, but in any event as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project in the case of delays caused by the CITY's review of documents submitted under this Contract.
- B. Surveying for Engineering Design – CONSULTANT shall coordinate and furnish field surveying operations necessary for the complete design of the Project as outlined in this Exhibit A, Scope of Services. Surveying shall include the following:
1. Right of Entry – Prior to initiating field surveying operations on private property, the CONSULTANT shall assist the CITY in sending letters to all adjacent property owners notifying them of the intent to survey on private property. The CONSULTANT shall provide the CITY with the name, address, and contact information of the property owners, as well as the property addresses of the affected property. Written permission to survey on private property shall be obtained from the property owner(s) before surveying is commenced. The letter of permission shall include permission for the CONSULTANT to set iron pins and control monuments for future right-of-way and/or easements to be acquired at a later date by the CITY if necessary.
 2. Field Survey – The CONSULTANT shall direct the work of the field survey crew(s) to perform the following:
 - a. Establish horizontal and vertical control using CITY criteria.
 - b. Tie right-of-way lines and corners, property lines and corners, trees six (6) inches in diameter and larger, fence lines, and other visible surface features.
 - c. Topographic Information including cross sections of the existing ground features as needed for design. Collect spot elevations as required to facilitate the generation of one-foot (1') contours.
 - d. Horizontal and vertical location of all existing facilities within the Project limits including, but not limited to, existing paving (including type), driveways, curbs, sidewalks, buildings (including edge of foundation), mailboxes, landscaping, bridges, culverts, retaining walls, etc. Tie existing visible franchise

utilities (including underground utilities if exposed) and appurtenances, and public utilities such as water valves, fire hydrants, manholes, etc.

- e. Locate the approximate position of underground utilities or structures that may be within the limits of the Project. Such utilities include, but are not limited to, wastewater (including flowline survey at manholes), water, gas, electric, storm sewer, telephone, and television cable. Consultant will initiate OneCall/Texas 811 or contact individual utility companies to mark existing underground utilities in the field and shall show such utilities on the base map either based upon field locations or available construction as-builts.

C. Franchise Utility Coordination – The CONSULTANT shall provide the following:

1. General Coordination – Design coordination with franchise utilities and their representatives regarding proposed project improvements. Attend regular meetings with the CITY and franchise utilities to provide status updates on design progress, schedule, and relocation needs. Submit milestone design plans to the CITY franchise utility coordinator for distribution to franchise utilities. Assist the CITY with coordination efforts to ensure franchise utilities are cleared prior to construction of the proposed improvements.
2. Site Visits – Perform site visits with the CITY and/or impacted franchise utility representatives.

D. Subsurface Utility Engineering (SUE) Services – The CONSULTANT shall provide SUE Services for the purpose of determining horizontal and vertical locations of underground city and franchise utilities, in conjunction with and/or prior to the field survey. The CITY shall assist with provisions for access to perform the services specified in this item. The CONSULTANT shall provide the City with the name and address of the property owners.

1. Level 'B' Services
 - a. Horizontal location of utilities will be determined.
 - b. Up to 2,000 linear feet of designation.
2. Level 'A' Services
 - a. Horizontal and vertical location of utilities will be determined.
 - b. Test holes in addition to the Level 'B' Services listed above will be provided at the rate per test hole to the depth specified.

Commented [KB7]: There shouldn't be any utility area, but Murphy's law will discover 2-3; therefore, provide a cost for SUE in this project as a special service price pre-negotiated. We can execute this on an as needed basis.

Depth	Rate per Hole
0.0 feet to 5 feet	\$1,150.00
Over 5.01 feet to 10 feet	\$1,350.00
Over 10.01 feet to 15 feet	\$1,625.00
Over 15.01 feet to 20 feet	\$1,900.00
Over 20 feet	\$2,400.00

E. Right-of-Way & Easement Documents – Upon approval of the Preliminary Design Plans, the CONSULTANT shall survey, render field notes, and prepare right-of-way (ROW) and easement maps and individual parcel exhibits for any additional ROW and/or easements, including temporary construction easements and/or easement abandonments needed for the Project. Perform necessary surveying operations for the identification and delineation of up to ten (10) total right-of-way and easement parcels. Right-of-Way & Easement Documents shall include the following:

1. Right of Way Maps – Provide Right-of-Way Map showing properties with ownership and include existing and proposed right-of-way and easements.
2. Parcel Exhibits – Individual parcel exhibits shall be in both hard copy (8 ½" x 11") and PDF format, shall be sealed, signed and dated by a Registered Professional Land Surveyor and shall contain the following:
 - a. Parcel Identification Number
 - b. Area Required
 - c. Area Remaining
 - d. Legal Description
 - e. Current Ownership
 - f. Any existing platted easement or easements filed by separate instrument including easements provided by utility companies.
 - g. Metes and bounds description of parcel to be acquired for the Project. The description shall be provided on a separate sheet from the exhibit. Each type of easement shall be described separately. Submit three (3) copies of right-of-way documents to the CITY after the sixty percent (60%) plan submittal review and resolution of comments.
3. ROW Corners – Establish proposed easement and right-of-way corners on the ground (one-time).
4. ROW Staking – Provide Right-of-Way staking at 100 ft stations and property corners for franchise utility relocation purposes (one time per location as needed).

Commented [KB8]: Does the 10 include temporary construction easements and ROW documents per parcel looking at the original exhibits and it looks like we are 7 parcels. Each parcel will have ROW and temporary construction easements. We probably need to discuss versus partial ROW options. If they will donate it, we partial, but if we go to condemnation, how do we handle acquisition??

F. Geotechnical Investigation – The CONSULTANT will provide a Geotechnical Engineer Report, no later than the preliminary design phase submittal, containing the following information:

1. Exploration, Sampling and Laboratory Testing – The CONSULTANT shall provide a subgrade investigation in accordance with CITY design standards and determine soil properties in accordance with generally accepted engineering standards.

G. Public Involvement – Attend one (1) public meeting, if required, to communicate project details to citizens, council members, or other interested parties. CITY shall provide meeting location and notices.

Commented [KB9]: I know we talked about this, I am not sure you are sure that this is not needed? We have geotech from Bluewood and College, but nothing north of Choate

VI. Exclusions

The scope of services identified herein specifically excludes the following items, however, these items can be provided if necessary with a revision to scope of work and fees as agreed between CITY and CONSULTANT in writing:

- A. Preparation and coordination of a Section 404 permit application and supporting documentation (i.e. waters determination, conceptual mitigation plan report, etc.).
- B. Existing pavement assessment and/or evaluation;
- C. Proposed pavement design and subgrade analysis for the purposes of limiting PVR;
- D. Final Plat;
- E. Environmental assessment or remediation;
- F. Fees for permits and bid advertising;
- G. Traffic engineering reports, studies and signal warrants;
- H. Construction inspection and material testing services during construction;
- I. Designs for Trench Safety;
- J. Alternate additions not included in the original scope;
- K. Improvements outside the Project limits.
- L. Items listed as CITY responsibilities on Exhibit “C” which is attached hereto and incorporated herein by reference and made a part hereof as if repeated verbatim.

Commented [KB10]: Need to discuss