



**CITY COUNCIL REGULAR MEETING
CELINA ISD ADMIN BLDG., BOARD ROOM
205 S. COLORADO STREET
TUESDAY, AUGUST 13, 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. City Council Place 6 - Chad Anderson

IV. WORKSESSION/COMMITTEE REPORTS/STAFF REPORTS:

- A. Introduction of new employees. (Brawner)
- B. Discussion regarding a Memorandum of Understanding with Old Celina, Ltd. (Brawner)
- C. Discussion and recap of the Texas 86th Legislative Session. (Howard)
- D. Discussion regarding the vision statement of the "Celina 2040 Comprehensive Plan". (Nusser)
- E. Discussion regarding any and/or all agenda items.
- F. Staff Reports attached

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 551.071, 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

- F. 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 - 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)
- 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)
- 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)

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

- 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)

IX. 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)
- 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)

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



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: August 13, 2019
Re: Comprehensive Plan Vision Statement

Action Requested:

Discussion regarding the vision statement of the “Celina 2040 Comprehensive Plan”. (Nusser)

Background Information:

“Celina 2040”, the City's update to the Comprehensive Plan, is well underway and has received significant amounts of public input and collaboration. As part of the planning process, the Comprehensive Plan Advisory Committee (CPAC) was appointed by the City Council to meet at three key points in the process to provide direction. At their second meeting in July, CPAC reviewed and refined a Vision Statement for “Celina 2040”, drafted by the Planning team, and recommended it for City Council approval.

Once reviewed, refined if necessary, and approved by the City Council, the Vision Statement will guide the remaining components of the planning process and the strategies that are included in the “Celina 2040” plan document.

Supporting Documents:

- Community Forum 1: Recap
- Community Forum 2: Recap
- Vision Background
- Vision Statement

Staff Recommendation:

N/A



What Should Celina Have for
Young Kids?
What is Celina missing for this age group? Think about now and in the future!

CELINA 2040 COMMUNITY FORUM 1: CREATE CELINA

RECAP: MAY 11, 2019

Thank you to the community for participating in Celina 2040's
Community Forum 1: Create Celina!

This recap contains a summary of feedback from Community Forum 1, which took place May 11, 2019, from 1pm-4pm. The recap does not represent all feedback gathered at the event or all feedback reviewed and considered. Word cloud summaries are for illustrative purposes only.

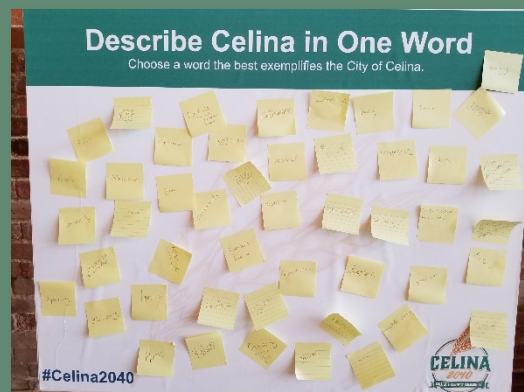


CELINA IN ONE WORD

"Choose a word that best exemplifies the City of Celina"

The community was excited to share some of the words that exemplify the City of Celina. Some of the repeated words include:

- Home
- Values
- Hometown
- Growing
- Community
- Friendly



OVERVIEW

Community Forum 1: Create Celina, held Downtown at Two 29 on the Square, was the first of three community forums for the Celina 2040 Comprehensive Plan Update. Celina 2040 will be the guide for planning and representing the Vision of Celina, with a 20-year outlook, as the city grows and develops. Community feedback is very valuable in ensuring that the Plan is created with the community, by the community, and for the community.

The Comprehensive Plan covers and plans for a number of topics to guide the city, including land use, infrastructure, parks and recreation, community character, and much more! The Plan should be updated, with the help of the community, every three to five years to align with the City's new development and community members. Not only is the area within the city limits planned for, but also areas outside of its boundaries as well that may one day be a part of Celina.



EVENT OVERVIEW

As guests entered, they were given a welcoming greeting and signed in, before reviewing an introduction to the Comprehensive Plan process — *what, who, when, where, and why*.

The goal of the event was to gather comments on the perception, vision, and values of the community including: Celina's strengths, weaknesses, opportunities, and challenges; the story of its residents and what brought them to Celina; what is desired for different age groups; and more. Other activities included a Kid Design Studio where the younger generation was able to participate in the planning process by showcasing what Celina should be or could be in 2040. In addition, face painting and a balloon twister were available for kid-friendly fun!

Community Forum 1 had a total attendance of approximately 100 people.

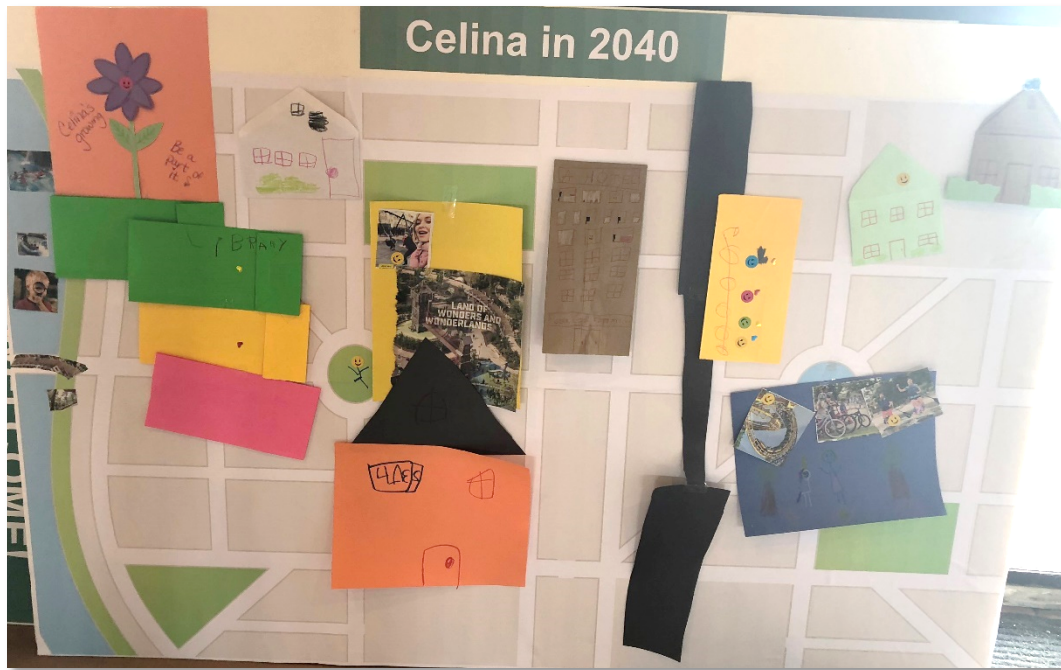


STOP HERE FIRST TO GET ORIENTED!

 WHAT • We are updating the City's Comprehensive Plan, and it will cover many different topics as illustrated to the left! • It will be a strong vision for Celina's future to guide policies and decisions moving forward.	 WHO • YOU! • Celina Community Members • Elected & Appointed Officials • City Staff & Consultant Team <i>The more people who collaborate, the better! Everyone is welcome to join in the planning process!</i>
 WHEN • Comprehensive plans should be updated every three to five years • We are planning for a 15 to 20 year horizon so that we can have a future-oriented mindset and give our City enough time to accomplish BIG THINGS! • The Plan's actions will be prioritized for short, mid, and long term timeframes.	 WHERE • Take a look at the map to the left! This is where we are sitting right today. • It represents Celina's city limits and surrounding areas in Celina's jurisdiction. • We anticipate Celina to be approximately 77 square miles and fill up this entire map in the future!
 WHY • The plan is out-of-date, and we have the opportunity to make it reflect who we are as Celina today and who we want to be in the future. • Planning the city helps us get what we want. "If we don't know where we are going, any road can take us there" so let's figure out where we want to go and find the solutions to get there!	 #CELINA 2040 www.Celina2040.com

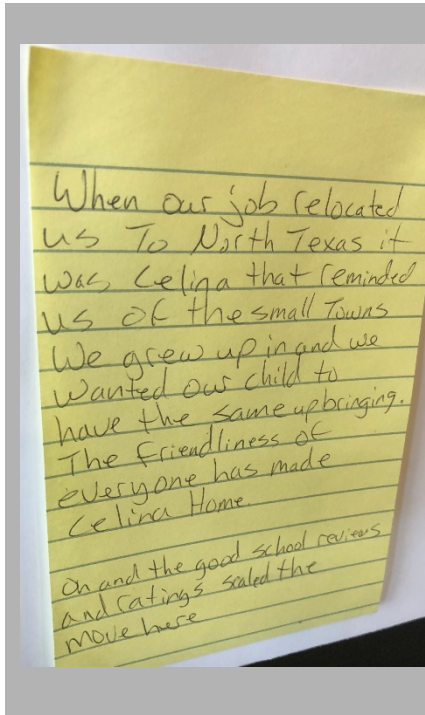
KID DESIGN STUDIO: CELINA IN

In addition to the excitement of getting faces painted and receiving amazing balloon animals and objects, children were eager to design their Celina of the future with construction paper and other art materials.



Getting feedback from children is important because they often have unfiltered and ambitious perspectives — sometimes giving surprising answers. Showcased in the above image, one child created a multi-story library and expressed that it should be close to a park, which he drew himself in. In addition, passenger rail, a “river walk” or “lazy river” water amenity, a hotel, beautiful landscaping, housing, and an amusement park were also designed.





TELL US YOUR CELINA STORY

There are a multitude of reasons that brought the people of Celina to where they are today. A station was set up to ask participants to share their Celina story—why they came to Celina, why Celina is special, whatever they felt was relevant. They could either write it or participate in a video interview to share their story if they were willing.

Community members come from an array of backgrounds: some brought to Celina for employment or the community reminding them of home and the small communities they grew up in or some Born and Raised in Celina (BRIC) or others are part of families who came to Celina in covered wagons, helping found the city. What many of them share — Celina is a special place!

WHAT ARE CELINA'S VALUES

Consistent with the trends of the Downtown Master Plan, the community frequently used words that represented the small town, unique character of Celina. The top themes included:

- Family
- Faith
- Community
- Pride
- Small Town
- Friendly

Throughout the event, the community spoke highly of the small, close-knit style character that is found in Celina and how growth and development should protect these characteristics. Being a family-friendly, family-focused community continues to be a resounding theme throughout all engagement opportunities in Celina.

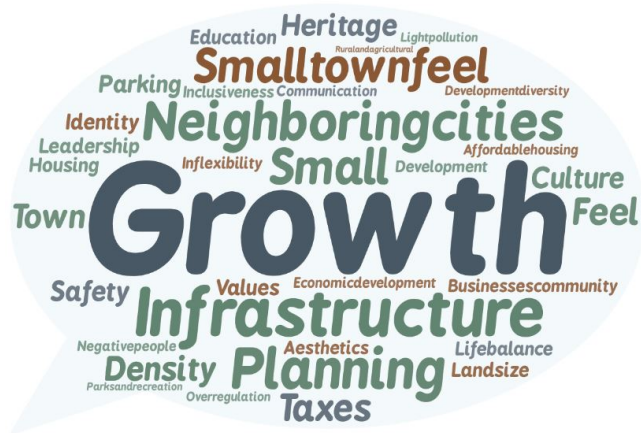


OPPORTUNITIES



The “identity” category covered a number of sentiments, including preserving what Celina is now and adding features to distinguish Celina from other cities. In addition, the community expressed improving economic, educational, and entertainment uses and destinations to leverage Celina in a competitive region. Feedback received has been categorized for illustrative and summary purposes only.

CHALLENGES



Feedback related to preparing for growth, not having the proper roads and utilities in place for growth, as well as housing, vision/planning, safety, and economic development. Feedback received has been categorized for illustrative and summary purposes only.



WHAT SHOULD CELINA HAVE FOR MIDDLE ADULTS?

What is missing for this age group? Think about now and in the future!



For this group, the community envisions more social and outdoor recreational activities that are both adult and family friendly. Similar to seniors, this age group could benefit from improved mobility options. In addition to attracting more local jobs, this group needs/wants cultural and entertainment options, both on private and public properties. Some of the general feedback themes were:

- Expand Parks and Recreation
- Arts and Culture, Entertainment, and Commercial Development
- Improve Mobility
- More Community Programming, Events, and Community Facilities
- Economic Development and Local Employment Option

WHAT SHOULD CELINA HAVE FOR YOUNG ADULTS?

What is missing for this age group? Think about now and in the future!



Celina's Younger Adults can benefit from many of the same opportunities as other age groups. For this age group, the community envisions additions in arts, music, outdoor recreation and creative activities. This group's wants/needs more investments into community facilities, as well as performance venues and concert halls. This group included the need to develop more affordable housing options that include multi-family (i.e. apartments or mixed-use). Some of the general feedback themes are illustrated to the left and listed below:

- Arts and Culture, Entertainment, and Commercial Development
- Affordable Housing Options, including Multi-family
- Economic Development and Local Employment opportunities
- Community Programming, Events, and Community Facilities
- Performance Venues

What is missing for this age group? Think about now and in the future!



- Invest in Community Facilities (ex. Library)
- Arts and Culture
- Invest in Education
- More Community Programming and Events
- Expand Parks and Recreation
- Kid Friendly Social Spaces and Activities (ex. Roller Skating Rink)

What is missing for this age group? Think about now and in the future!



- Expand Parks and Recreation
- More Aquatic Amenities and Activities
- Arts and Culture and Entertainment
- Invest in Community Center and Community Programming
- Agritourism Opportunities (ex. Petting Zoo)

NEXT STEPS

Community Forum 2: Cultivate Celina will be held July 12, 2019 from 4pm-8pm at the same location as Community Forum 1, 229 W. Pecan St. The event will overlap with the Friday Night Market so participants can engage in the planning process while also enjoying one of the many community events that make Celina unique.

Topics of the day will include:

- Housing
- Mobility
- Land Use/Special Places
- Design

Save the date!



Please visit the project website at www.Celina2040.com for more info on what's coming next and to provide more ideas!



“We are strong, we are welcoming, we are neighbors, we are fun.”

–Community Forum 1 Participant on Celina’s Values

#Celina2040



CELINA 2040 COMMUNITY FORUM 2: CULTIVATE CELINA

RECAP: JULY 12, 2019

**Thank you to the community for
participating in Celina 2040's
Community Forum 2: Cultivate Celina!**

This recap contains a summary of feedback from Community Forum 2, which took place July 12, 2019, from 4pm-8pm. **The recap does not represent all feedback gathered at the event or all feedback reviewed and considered.**

OVERVIEW

Community Forum 2: Cultivate Celina

Community Forum 2: Cultivate Celina was held on July 12, 2019, in Downtown Celina from 4pm to 8pm. *Community Forum 2* was the second of three public engagement and outreach events to gather feedback for the City's Comprehensive Plan Update, Celina 2040.

The Comprehensive Plan considers a wide range of topics to guide the city, including land use, infrastructure, parks and recreation, community character, and much more! Comprehensive plans should be updated, with the help of the community, every three to five years to align with new development and community member sentiment. Not only is the area within the city limits planned for, but also areas outside of its boundaries that may one day be a part of Celina.

Over 200 people came to the event to collaborate with the Planning team and City Staff, weighing in on ideas for Celina 2040, including:

- Housing,
- Mobility/Transportation,
- Special Places, and
- Design.

The evening was fun-packed with numerous feedback stations, face painting and a balloonist for the kids, and the Friday Night Market taking place on the Square. The community had the opportunity to enjoy what makes Celina great while also cultivating Celina's future through ideas and comments.

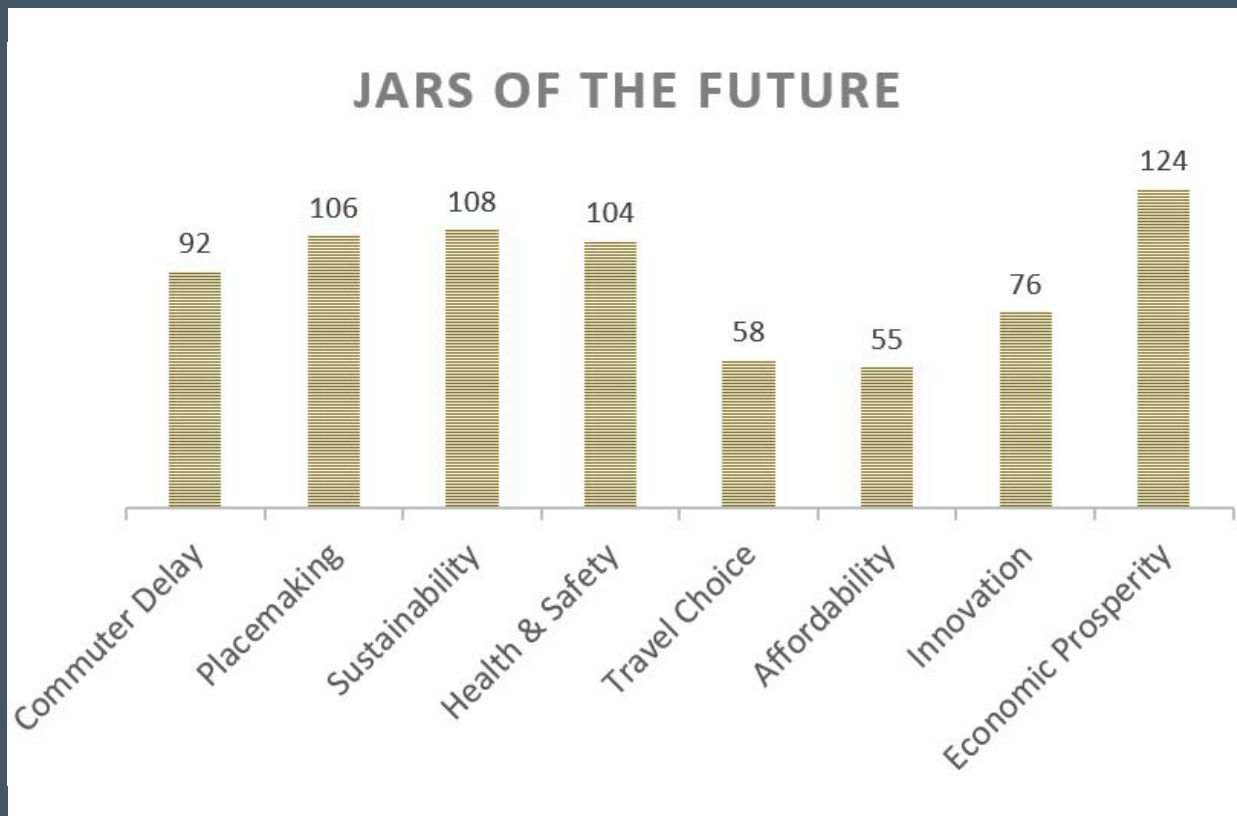


MOBILITY

Jars of the Future

As the city continues to invest in its infrastructure network, the Jars of the Future exercise was used to gather feedback on what the community feels are the top considerations in designing Celina's future mobility network. Eight different jar options were provided, and each person was given eight coins to either distribute evenly or provide more coins to their top priorities as they felt appropriate.

The results are as follows:



Comments noted the desire for more connections around the city, including sidewalks, trails, and bike lanes, which could connect parks and natural areas and provide travel choice. In addition, another theme was safety, including lighting and traffic control, and the quality of roadways.

For the full wording of the jar choices, please visit the Mobility Survey on www.Celina2040.com through 7/26/19.

Street Typologies & Tradeoffs

Multiple boards were set up reflecting different streetscapes and design alternatives. Feedback overwhelmingly favored multi-modal infrastructure and other amenities, such as:

- Sidewalks and trails
- Bike lanes and other bike facilities
- Safety
- Road expansions and improvements

Connectivity was noted as highly favorable with the community supporting sidewalks, trails, and bike accommodations throughout the city — connecting homes, schools, stores, and other destinations. Street designs were noted as needing to have a separation between bike and pedestrian spaces to increase safety. Another safety measure mentioned was the maintenance of tall grass and landscaping alongside major roads. Unkempt landscaping is causing visibility obstructions in some cases.

Public transit and ride sharing/carpooling opportunities were also a frequent topic of conversation. The community consistently advocated for wanting more of these options available within Celina and to adjacent cities.

Mobility Board Sampling:

TRANSPORTATION TRADE-OFFS **CELINA** **COMMUNITY FORUM 2 | CULTIVATE CELINA**

ROADWAY NETWORK

A. Streets that prioritize speed for vehicles

B. Streets that balance vehicular needs with walking and biking

TRANSPORTATION FOR THE ELDERLY, YOUNG, DISABLED

A. Roads that support only the driving population

B. Roads that support drivers and those on foot, bikes, and transit

FUTURE TRANSPORTATION

A. Curbside that prioritizes parking cars

B. Curbside for short-term parking, trolley stops, bike racks, and parklets

WALKING

A. Sidewalks in residential neighborhoods only

B. Sidewalks between homes, schools, stores and amenities

CYCLING IN CELINA

A. Off-street trails for weekend use

B. On-street protected bicycle lanes for weekday trips and off-street trails

SUSTAINABILITY

A. Residential streetscape

B. Streetscape and green infrastructure

Use a sticky dot to indicate your preference

Handwritten notes on sticky dots include:

- Eliminate parallel parking
- Roads:
 - Mainstream
 - Condo
 - No beach
 - No bus stops
 - No carshare
 - No bike racks
- Allow bicycles on both "Mainstream" shoulders only
- See south side town for parking near common area - consider how to use - consider making it a place to play
- Yes!

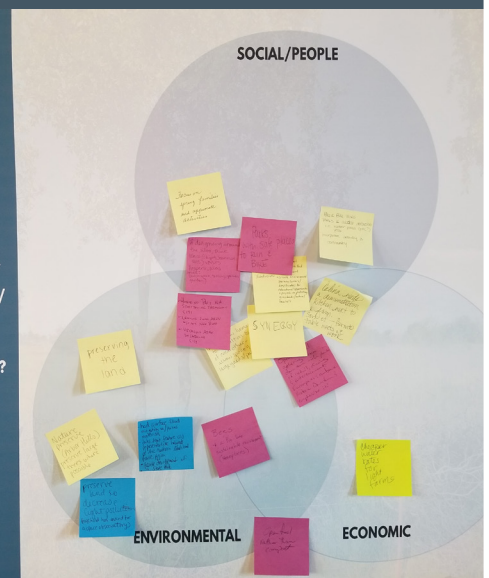
NATURAL SYSTEMS

Celina is very interested in preserving the rural/country feel as the city develops. To better understand the next steps in doing so, an interactive and educational station was provided which showed and discussed many features of Celina's natural systems. Feedback was gathered by using a sustainability framework to solicit ideas from the community on how to preserve the natural systems and open spaces that the community holds dear.



Rural/ Country Feel

The rural/country feel of Celina is something that the community says, time and time again, is very important and is part of what makes Celina unique. How might we preserve and enhance Celina's rural/country feel, as the city experiences tremendous growth, utilizing these three sustainability factors?



There was significant discussion on high-quality, native landscaping to create "green" connections and low-impact designs throughout the city. Many participants were concerned with how new roadways would affect their neighborhoods and how detention ponds were designed, living downstream from future developments.

Consistent feedback was provided by the community on the importance of the following actions in Celina's future:

- Keeping natural areas natural and respecting them properly as Celina develops;
- Preserving the remaining tree canopy and adding more trees;
- Restoring areas impacted by development/farming;
- Planning "green" connections between neighborhoods and larger scale parks along creeks; and
- Protecting habitats (birds, fish, pollinators, and other animals).

For more information on the natural systems in Celina, please visit:
<https://arcgis.com/0HmGPu>

HOUSING

Walkable Multi-Story Development

The Celina City Council said that Celina can be the best at “Housing Choice” (i.e. price, form/design, amenities, and locations) in the 2018-2020 Strategic Plan. One property type, multi-family, has received a divided response from the community overall. To get a better understanding of the community’s opinions on multi-family and how to incorporate the land use in Celina as both commercial use support and housing diversity, a station asked the questions: what is good about multi-family and what are the concerns. In doing so, the Plan can incorporate what the community sees is going right and also address any challenges.



SOME OF THE CONCERNS/NEEDS DISCUSSED INCLUDED:

- Traffic and infrastructure
- Balancing with other residential types in the city
- Providing senior living
- General disagreement with it being in Celina



SOME OF THE LIKES/GOOD ASPECTS INCLUDED:

- Locating in certain locations (areas noted include Downtown and mixed-use areas)
- Balancing with other residential types in the city
- Providing a diversity of residents in the community
- Having controlled aesthetics
- General support with it being in Celina

There was extensive verbal feedback gathered at this station, which noted an acceptance of and appetite for walkable multi-story development, many noting its importance in providing an “age in place” concept, enhancing the growth of Downtown and employment centers, and providing housing to complement Celina’s jobs. This feedback was complemented with the caveat that multi-story development should be properly sited to ensure that existing neighborhoods are properly buffered.

DESIGN

Placetypes are an important element to how the community experiences the city. The scale of the placetype can often determine how the community would like the area to develop. The station discussed three levels of placetypes — neighborhood, community, and regional centers. Participants were given dots to select the images they preferred. The total count of each image is reflected below.

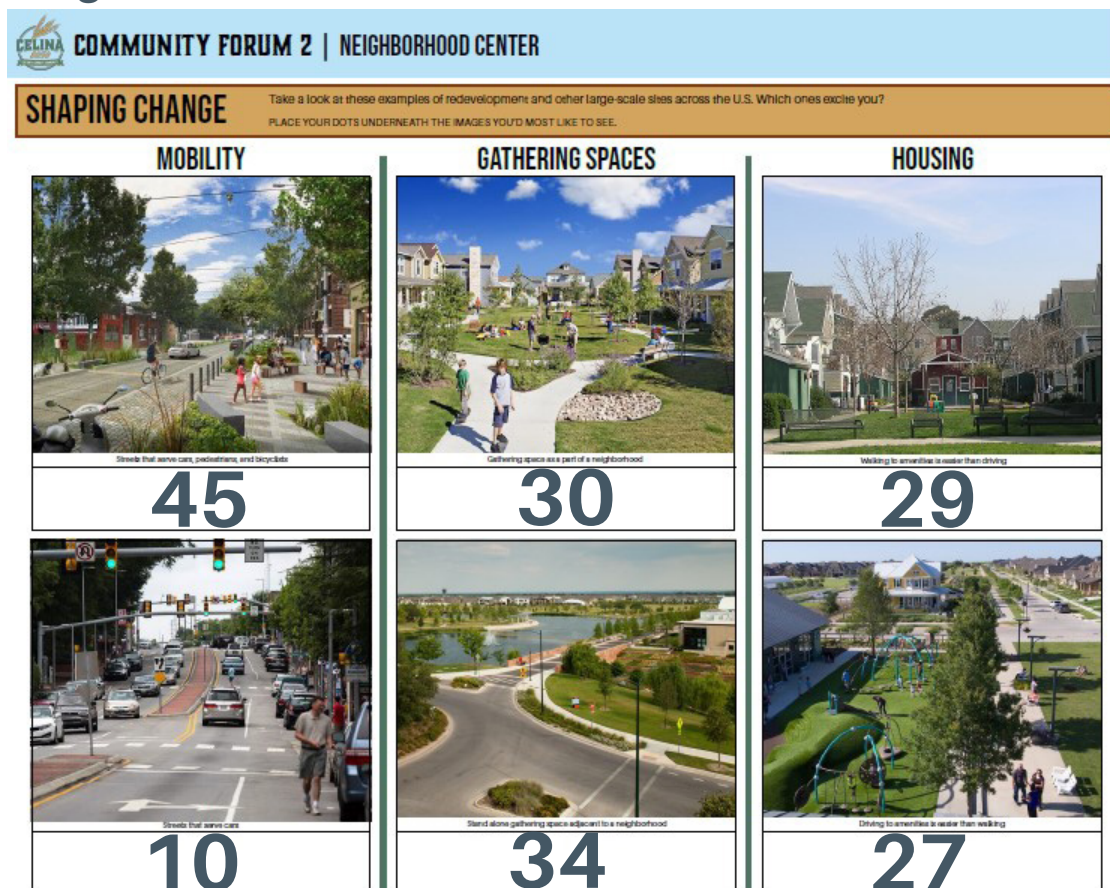
The feedback favored streets serving cars, pedestrians, and bicycles; gathering spaces in developments; and housing diversity in mixed-use developments. At the neighborhood scale, participants voted for both gathering spaces in and around neighborhoods.

There was a genuine interest in walkable, mixed-use centers — the community favored a variety of housing types, active green spaces and water, and lively outdoor spaces (especially those with water elements). Many were supportive of a Legacy-scale regional center, stating that they would like to have this style of development in Celina instead of driving south for it. About a third of those engaged with the station showed interest in getting transit connections in Celina.

Participants noted the following regarding walkable, mixed-use centers:

- Accommodating growth compactly and helping protect open spaces and agricultural land
- Having close proximity to walkable centers improves competitiveness of Celina
- Enhancing Celina's livability

Neighborhood Center



Community Center



COMMUNITY FORUM 2 | COMMUNITY CENTER

SHAPING CHANGE

Take a look at these examples of redevelopment and other large-scale sites across the U.S. Which ones excite you?
PLACE YOUR DOTS UNDERNEATH THE IMAGES YOU'D MOST LIKE TO SEE.

MOBILITY



Streets that serve cars, pedestrians, and bicycles equally

29



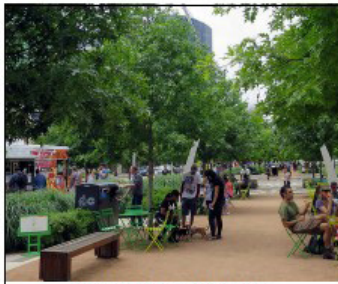
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GATHERING SPACES



Gathering space as a part of a mixed-use development

53



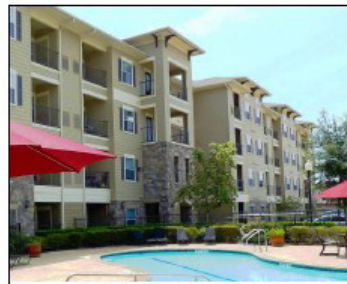
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HOUSING



Housing as a part of mixed-use development

39



3

Regional Center



COMMUNITY FORUM 2 | REGIONAL CENTER

SHAPING CHANGE

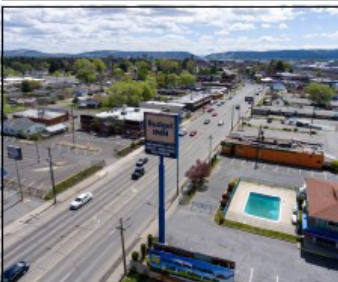
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PLACE YOUR DOTS UNDERNEATH THE IMAGES YOU'D MOST LIKE TO SEE.

MOBILITY



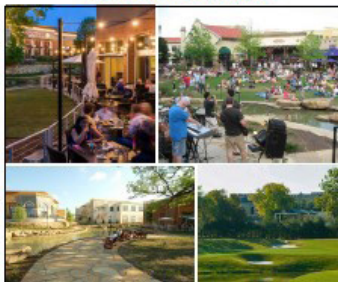
Streets that serve cars, pedestrians, and bicycles

37



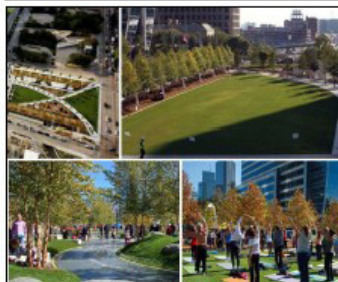
6

GATHERING SPACES



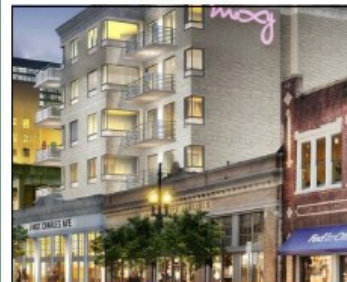
Gathering space as a part of a mixed-use development

46



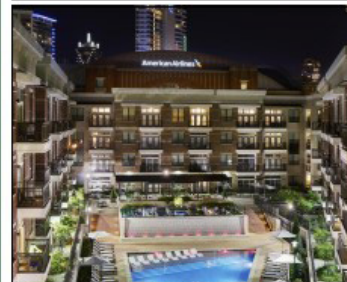
20

HOUSING



Housing as a part of mixed-use development

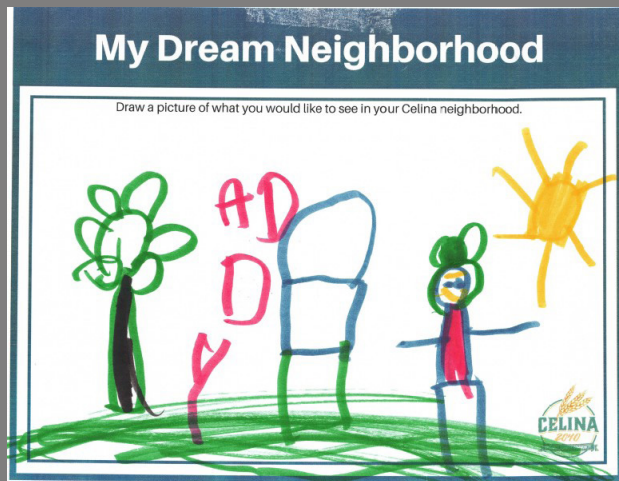
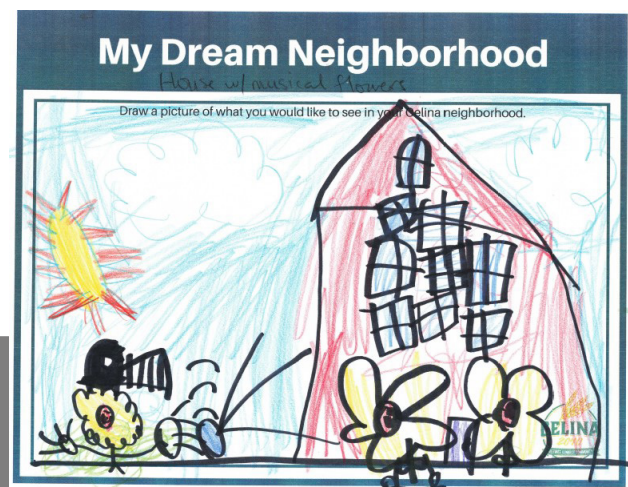
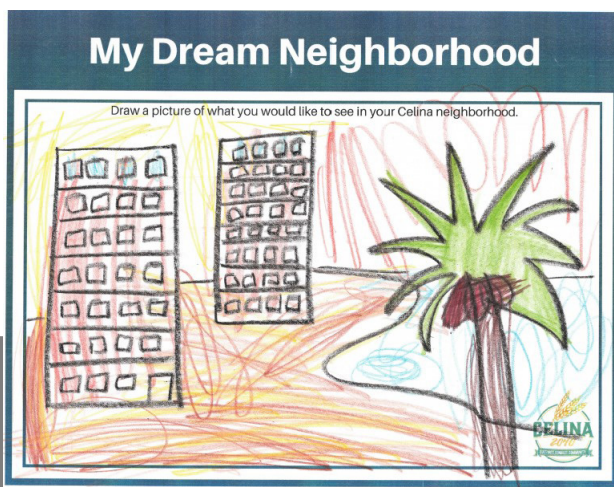
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6

KIDS DESIGN STUDIO

At the kid's station, the younger members of the community (and some adults) colored pictures with walking and bicycling accommodations and Celina's historic gazebo. In addition, children designed their dream neighborhood. Many drew green spaces and creative additions such as a space observatory, musical flowers, Carter Ranch, high-rises, and water amenities.



POSTS TO THE FUTURE

The stage is set for Celina to change in a number of ways over the next 20 years, but some things do not have to be different. Feedback was gathered for the community's "posts to the future." By finishing the sentence "Dear Celina, I hope you..."

The community provided comments, many relating to preserving the small town feel and community of Celina — holding on to what makes Celina unique from other cities. In addition, other comments mentioned having parks, trails, and open space — mirroring much of the feedback from throughout the day and through other outreach points. Some also mentioned changes in taxes and supporting small businesses in the community.



NEXT STEPS

The gathered feedback from the community will be used to draft the vision and Comprehensive Plan. *Community Forum 3: Celebrate Celina* will be held in 2020 as the Planning Team presents the draft Comprehensive Plan Update. The event will be used to ensure that the proposed Plan represents the community and to celebrate all that is Celina and all that Celina will become. Stay tuned!

PLEASE VISIT THE
PROJECT WEBSITE AT
WWW.CELINA2040.COM
FOR MORE INFO ON
WHAT'S COMING NEXT
AND TO PROVIDE MORE
IDEAS!





Celina 2040 Vision Background

- Reflects community values, aspirations, and unique characteristic and should be relevant and realistic
- Created using key themes from 2018 Community Survey, online/in-person feedback, community forums, and Comprehensive Plan Advisory Committee and Technical Advisory Committee meetings

Celina Vision Feedback:

- | | |
|--|--|
| • Adaptability | • Local Employment |
| • Agriculture & Agritourism | • Multi-modal Connections & Mobility |
| • Arts & Culture | • One-of-a-Kind Events |
| • Community | • Outdoor Living |
| • Community Services & Mentorship | • Parks & Recreations |
| • Competitiveness | • Planned & Managed Growth |
| • Destinations & Special Places | • Senior Living & Age-in-Place |
| • Entertainment | • Small Businesses |
| • Faith | • Small Town Feel |
| • Family | • Spirit/Pride/Soul |
| • Friendly | • Splash, Swim, and Water Features |
| • Green/Natural Connections | • Sports |
| • Heritage & History | • Sustainability and Natural Systems |
| • High Quality Schools | • Technology & Cellular Infrastructure |
| • Home Housing Choice | • Texas |
| • Innovative | • Traditions |
| • Landscaping, Restoration, & Aesthetics | • Unique Identity |
| | • Walkability |



Celina 2040 Draft Vision Statement

By the year 2040, Celina will be an adaptable, world-class city with a unique identity, boldly standing out in a competitive marketplace by offering walkable special places, amenities, and high-quality schools unlike anywhere else.

Natural areas, green connections, and sustainable development will combine with our friendly and close-knit community members and small businesses, to protect and preserve our rural character and small-town feel.

Our faith-based community, hospitality, traditions, and heritage will leave lifelong impressions on everyone who visits or lives in the city. They will be showcased in a spirited and soulful combination of destinations and one-of-a-kind events, which reflect family, agriculture, Texas, entertainment, sports, and outdoor living

We will have a place for everyone to live and to “age in place” by offering a diverse array of housing choices amidst high-quality aesthetics, excellent functionality, and planned and managed growth.

Celina will be a hub for local employment, technology and innovation, travel choices, arts and culture, and parks and recreation facilities and programming.

Fostering our sense of community and determination to serve others will ensure that we never lose sight of our roots and what makes us special.



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: August 13, 2019
Re: Staff reports

Action Requested:
Staff Reports attached

Background Information:
Monthly staff reports.

Board Review/Citizen Input:

Alternatives:

Financial Considerations:

Legal Review:

Supporting Documents:

Staff Recommendation:

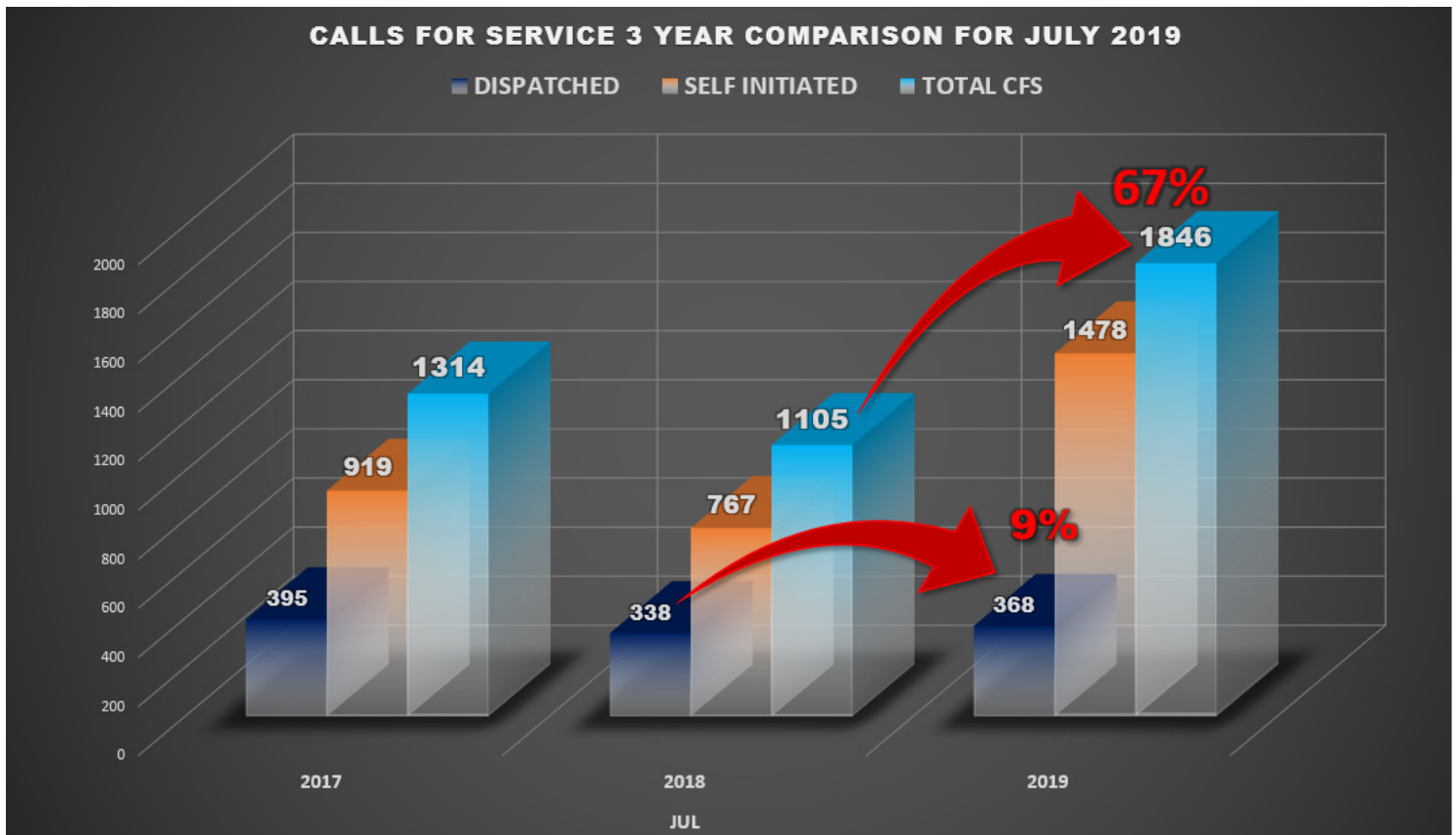


Celina Police Department
City of Celina, Texas

MEMORANDUM

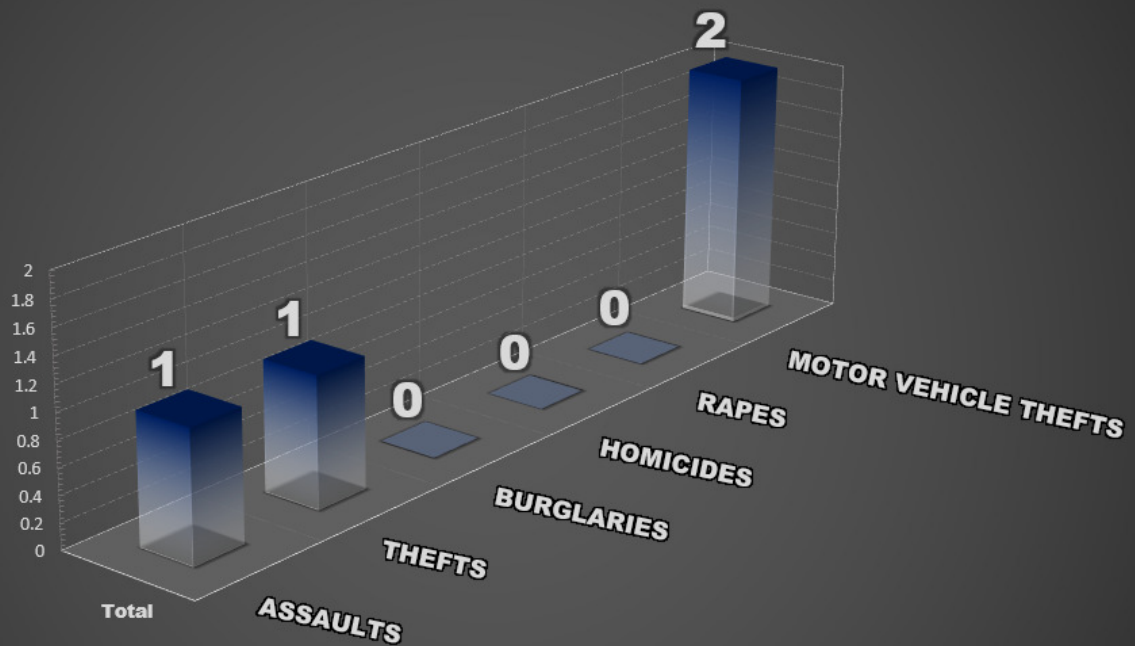
To: Honorable Mayor, Sean Terry and the Celina City Council
From: Tony Griggs, Chief of Police
CC: Jason Laumer, City Manager
Date: 08/13/2019
Re: July 2019 Monthly Police Report

In July 2019, we recorded 1846 Total Calls for Service. Compared to July 2018, our Total Calls for Service increased 67%. Dispatched calls for service increased 9% (Compared to July 2018, there was an increase of 3 more dispatched calls for service.)



Attachment: Police Report Aug 2019 (Staff Reports)

July's Part 1 Crimes indicate 1 Assault, 1 Theft, and 2 Motor Vehicle Thefts. The department continues to focus on the problem solving initiative to prevent construction thefts, the Lock-Take-Hide initiative to encourage the community to lock their vehicles and remove their valuables, and the initiative to prevent domestic violence.

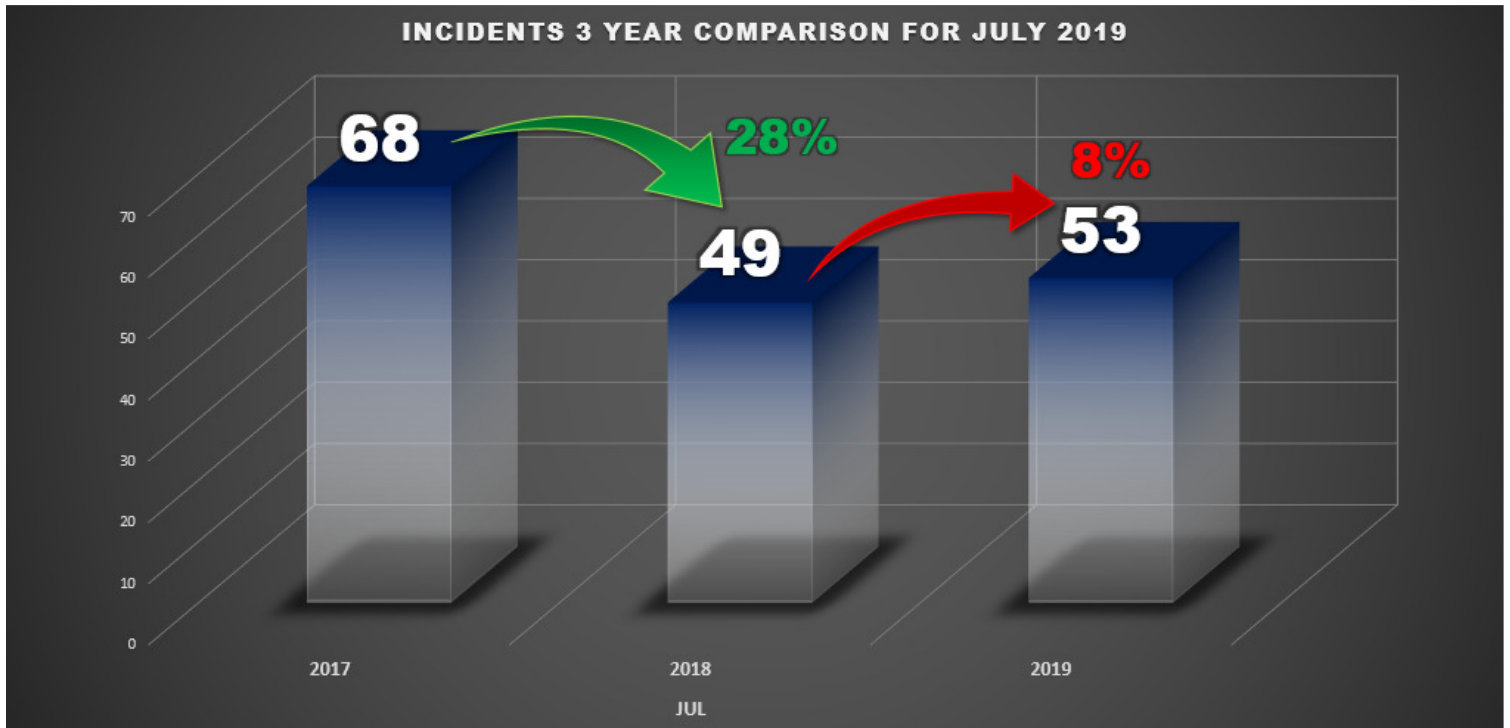


In July, Officers issued 106 citations. This averages to .94 citations per officer per 12-hour shift. The total average citation per officer for 2018 was 0.93. Citations are down 5% from July 2018.

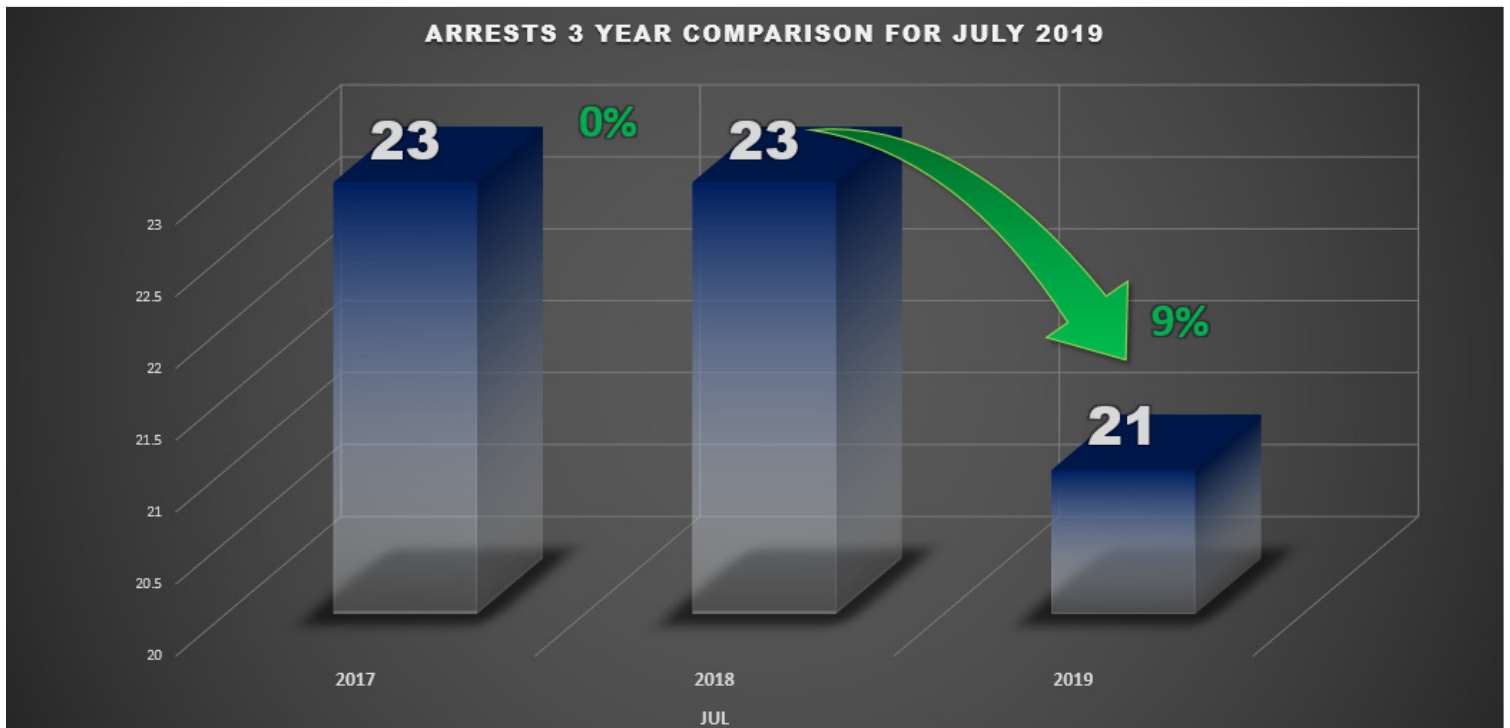
CITATIONS 3 YEAR COMPARISON FOR JULY 2019



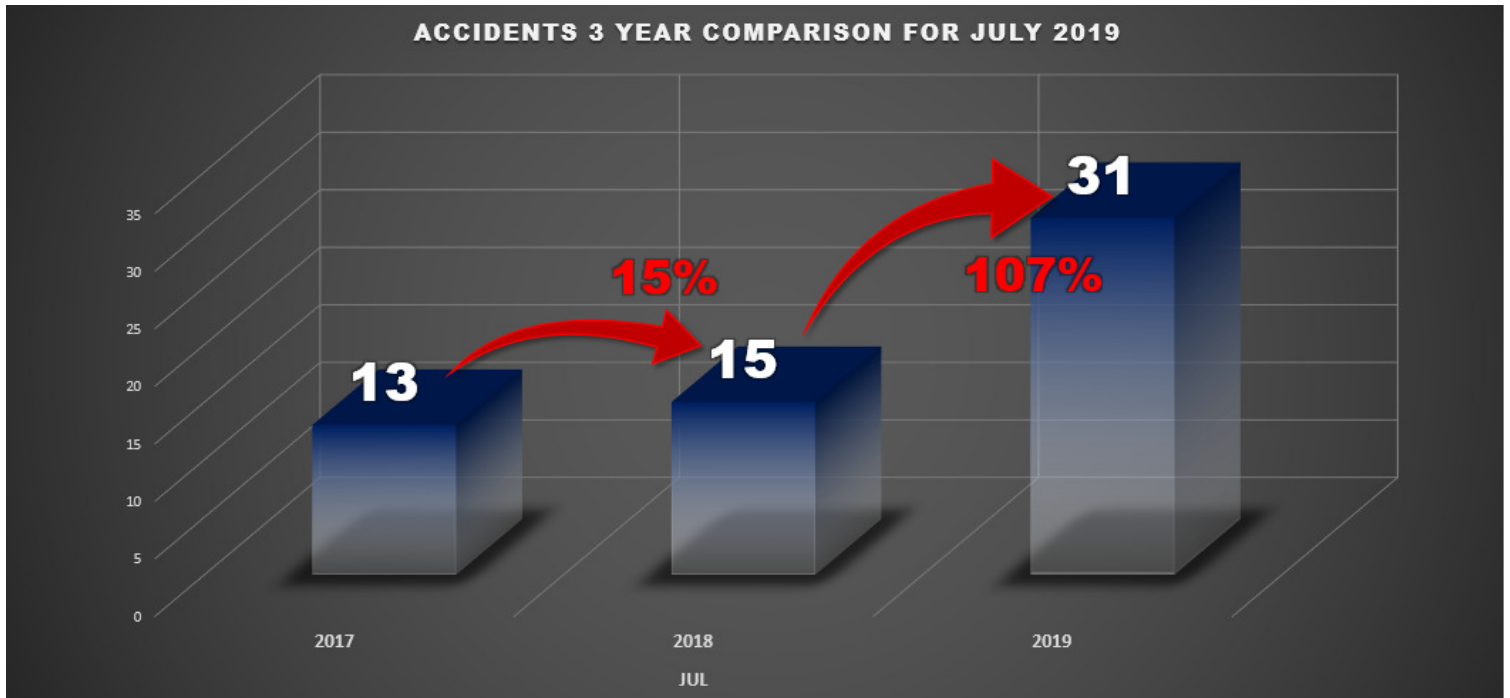
Incidents in July totaled 53. This is an increase of 8% from July 2018. (Incidents require more officer time to investigate and complete reports.)



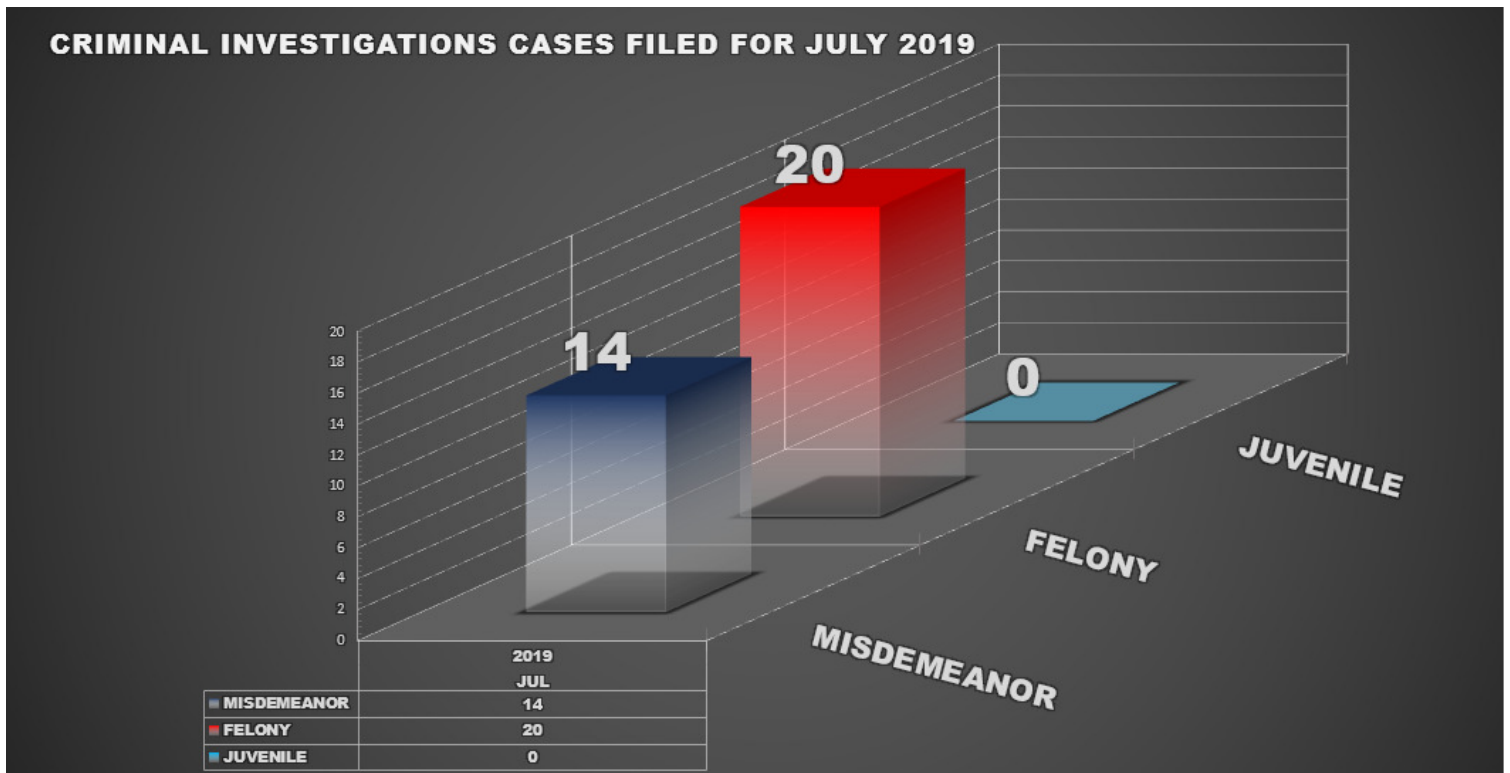
Arrests in July totaled 21. Arrests decreased 9% from July 2018. Note: Arrests require a substantial portion of work-hours allocated per shift.



Accidents in July totaled 31, which are UP 107% from July 2018.



Criminal Investigations filed 14 misdemeanor cases, 20 felony cases, and 0 juvenile cases with the D.A.'s Office in July.



Attachment: Police Report Aug 2019 (Staff Reports)

Key Department Indicators

Community Policing: The department continues to use social media to engage the community and proactively work together to prevent crime and keep Celina safe.



Each night at 9:00 p.m., the police department posts a reminder to follow a security routine before going to bed. The goal of this program is to encourage the community to work with the police department in keeping Celina safe.

Patrol Intelligence/Narcotics Unit (PINU): The police department received **9 narcotics** related reports and completed 2 Field Interviews in the month of July.

The police department remains focused on our initiative to proactively prevent substance abuse among minors and keep our community safe.

New Equipment: M-ATV (MRAP) Mine Resistant Ambush Protected Vehicle



The police department has received this MRAP vehicle from the military law enforcement assistance program. The department's Special Response Team (SRT) will utilize this armored vehicle for officer and hostage rescues and deployments where live fire is anticipated. The MRAP provides a high level of protection for responding officers and civilians that are in high-risk live fire situations.

Attachment: Police Report Aug 2019 (Staff Reports)

Training: The department continues to focus on training areas identified through strategic analysis and that follow the department's strategic plan.

Individual Officer Training

- Sergeant Peck
 - Sexual Assault Response
 - Staffing Denton County
- Officer Harris
 - Sexual Assault Response

Department Training

- Patrol SOP Update 170.00 Celina ISD Police
- Why we do what we do
- Active Attacker Response

SRT Training

- Instruct and assist with Active Attacker Response training

Recruit Officer Training

- Officers Ward, Suitors, and Hinshaw
 - Completed all Phases of Field Training

Thank you for your continued support of the Celina Police Department. If you have any questions please contact me at 972-382-2121, or by email at tgriggs@celina-tx.gov.



Tony Griggs

Chief of Police

Celina Police Department
110 N. Colorado St. Celina, TX 75009
Office: 972.382.2121
FAX: 972.382.3879

tgriggs@celina-tx.gov



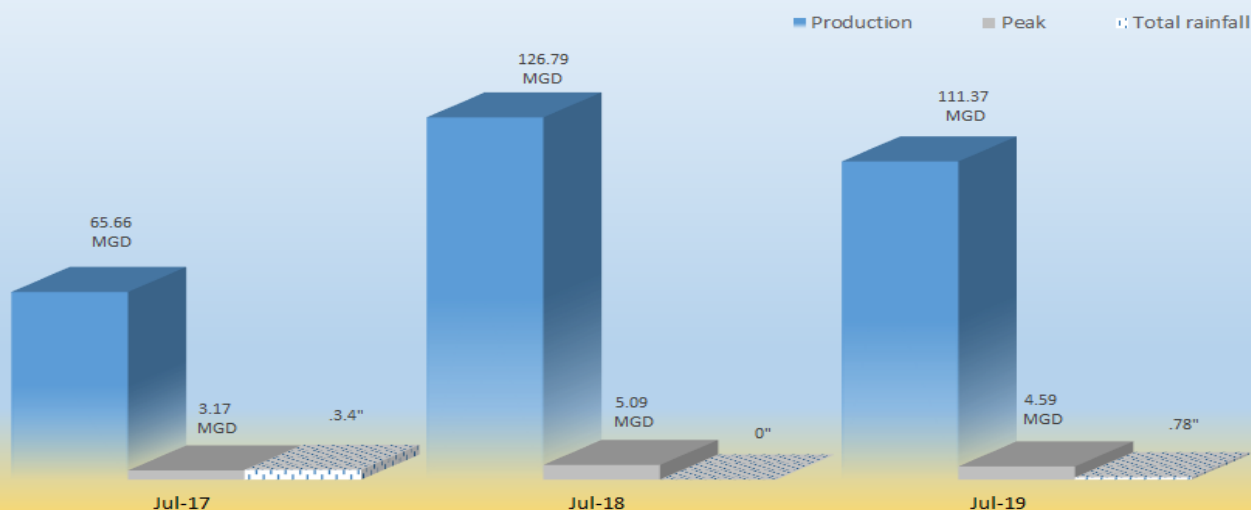
Department of Public Works
City of Celina, Texas

MEMORANDUM

To: Honorable Mayor, Sean Terry and the Celina City Council
From: Alan Fourmentin, Director of Public Works
CC: Jason Laumer, City Manager
Date: 08/13/2019
Re: Monthly Report - July 2019

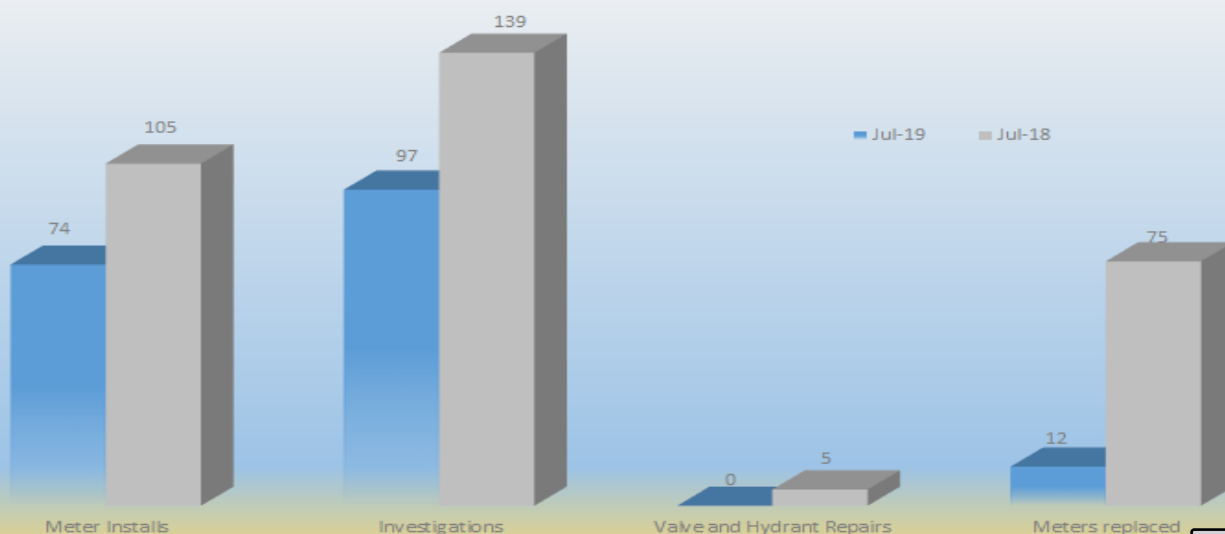
WATER PRODUCTION

Water production decreased 12% from July of 2018.



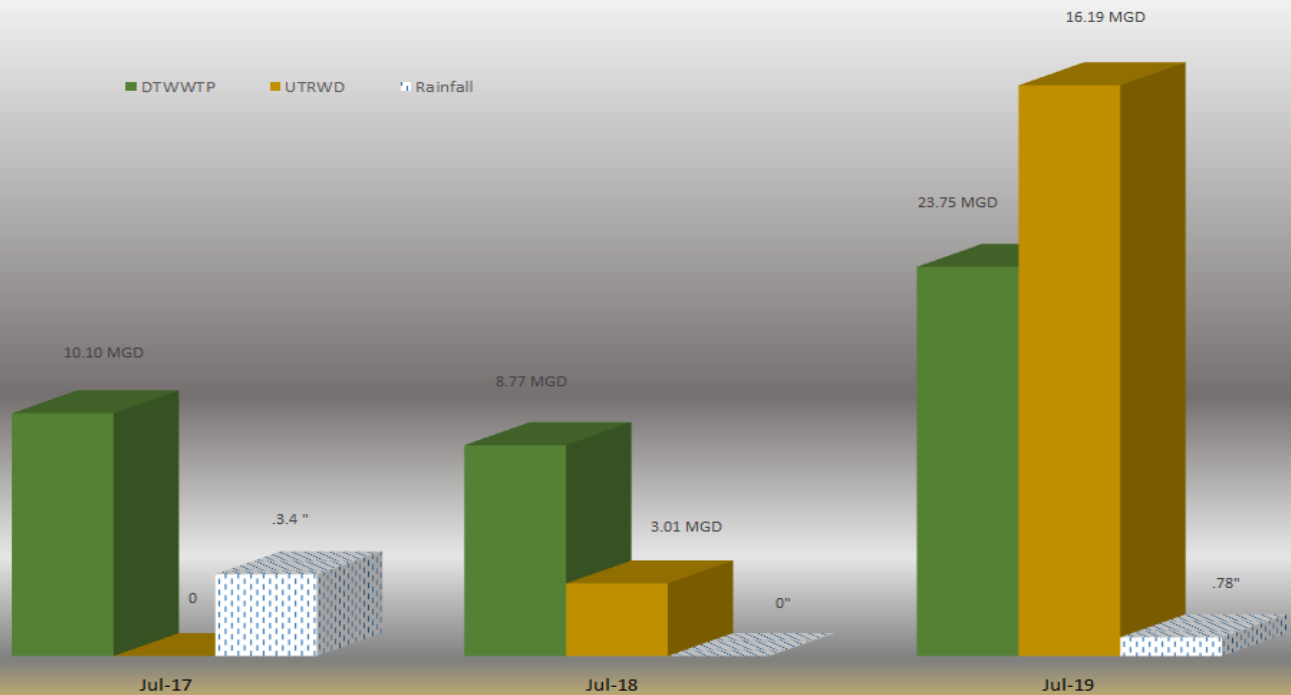
WATER OPERATIONS

Water meter installations decreased 34% while Investigations decreased 36% and Valve and Hydrant repairs decreased 2000%. Meter replacements decreased by 144%.



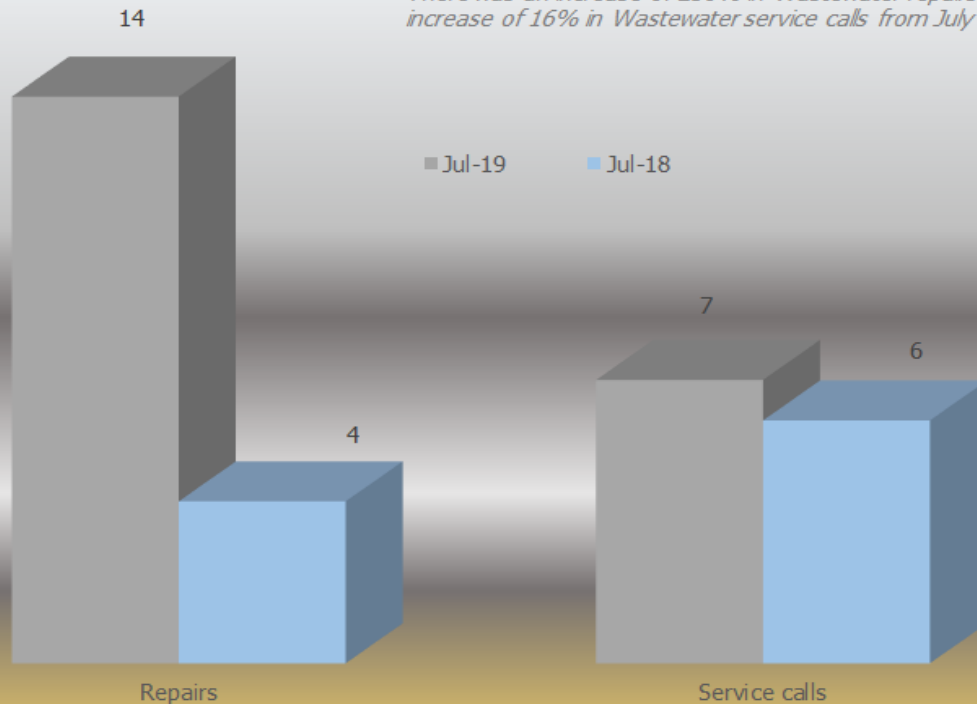
WASTEWATER TREATED

Wastewater treated at the Downtown Wastewater Treatment Plant increased 92% from July 2018. Wastewater sent to Upper Trinity Regional Water District increased 137% from 2018.



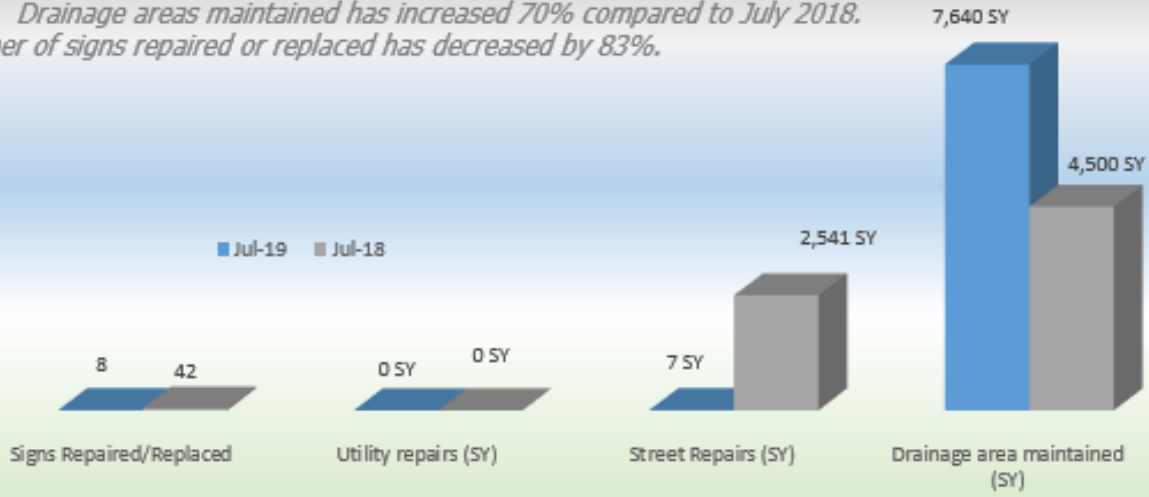
WASTEWATER OPERATIONS

There was an increase of 250% in Wastewater repairs and an increase of 16% in Wastewater service calls from July 2018.



STREET OPERATIONS

Street repairs have decreased by 99% while Utility repairs remained the same as July 2018. Drainage areas maintained has increased 70% compared to July 2018. The number of signs repaired or replaced has decreased by 83%.





Celina Fire Department
City of Celina, Texas

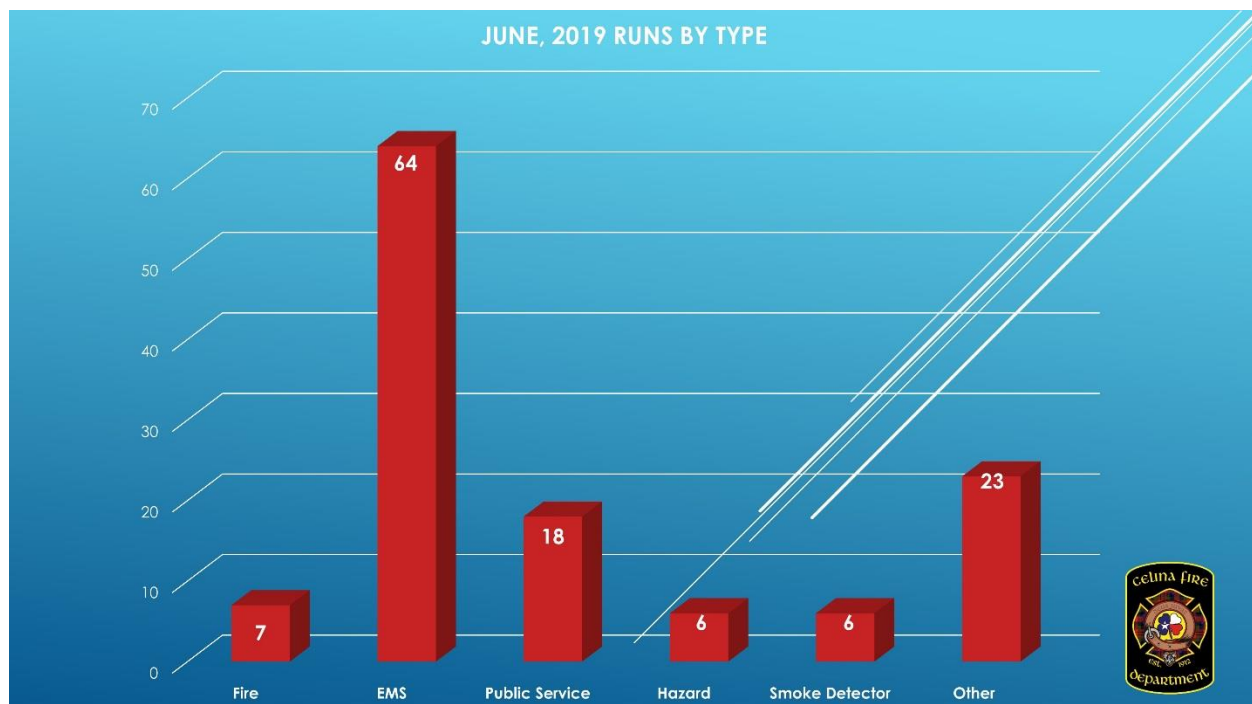
MEMORANDUM

To: Honorable Mayor Sean Terry and the Celina City Council
 From: Mark Metdker, Fire Chief/Fire Marshal
 CC: Jason Laumer, City Manager
 Date: 8/13/2019
 Re: July 2019 Fire Department Activity Report

This is the July Fire Department monthly report. It will detail the activity from Operations, EMS, Emergency Management and Fire Prevention. As always, thanks for your continued support of your Fire Department. Please contact me with any questions or comments.

Calls for Service

Celina FD had a busy month with 124 calls for service. 64 calls were EMS related



Attachment: Fire August Report2019 (Staff Reports)

Celina FD breakdown of calls by month



2019 projections forecast an overall increase in calls



Fire Prevention Monthly Report

Month – July 2019

Fire Prevention and Inspections

Fire Marshal Friday

Training over the New Celina High School indoor field project and the High School Fire Alarm and Fire Sprinkler System with the crews.

Training over the new concrete plant BURNCO-FD access, building layout.

Projects for July 2019

Smoke Detector Battery Replacement Program

Weekly DRC Meetings on New Construction Projects Keller Williams Building (Completed)

Celina Sports Complex (New Construction) Indoor Field-temp C/O till August 10, 2019

Fire Station # 2 (New Construction)

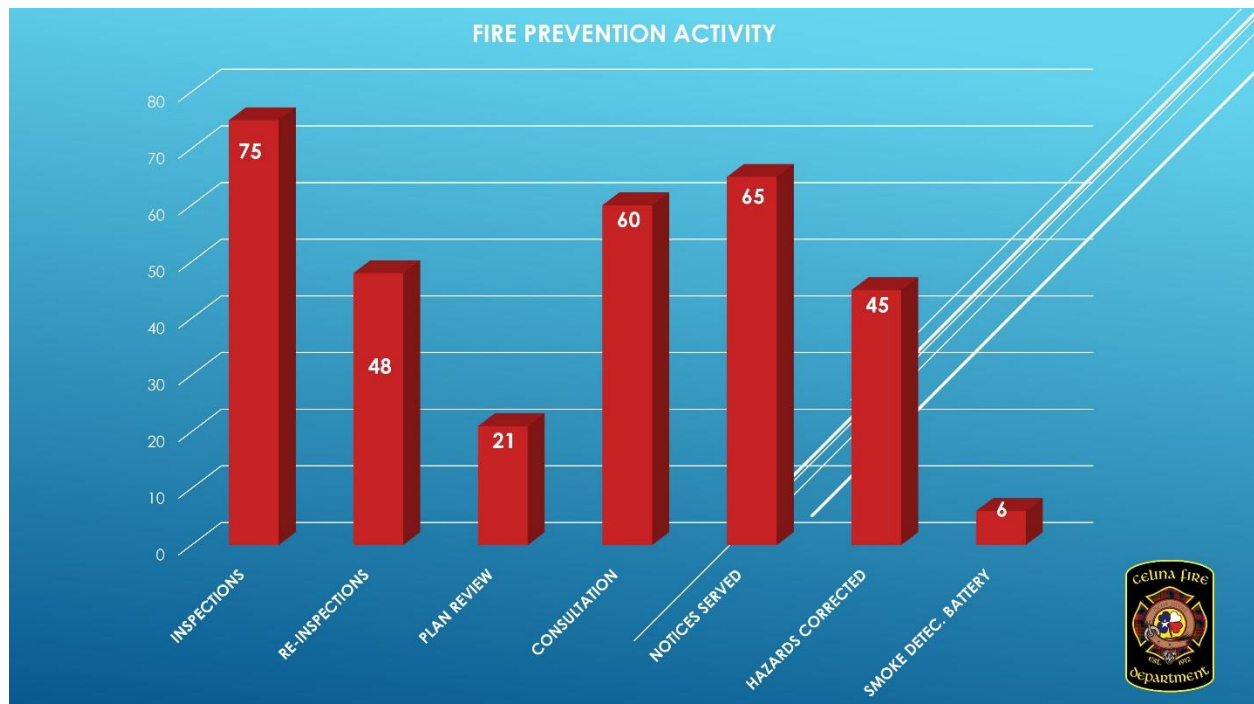
Bongo Beaux (New Construction)

Prosper School # 12 Mustang Lakes (New Construction)

City Buildings Axxen, City Hall, EDC (Remodel)

Celina Office Building 322 W Walnut (New Construction)

Celina Field Press Box (New Construction)



Attachment: Fire August Report2019 (Staff Reports)

Operations/EMS/Emergency Management/Training

Month – July 2019

Updates

EMS/FIRE

- **North Central Texas Trauma Regional Advisory Council (NCTTRAC)** – Attended a training meeting at the NCTTRAC in Arlington. The subject was the EMS committee meeting. Continued updates on local issues with EMS including inter agency training and collaboration. At this meeting lined up future continuing education opportunities.
- **Baylor Scott and White McKinney Meeting**– Attended EMS/ Hospital partnership meeting discussing Trauma activations and the upcoming infectious disease presentation. Regional meeting of all EMS agencies in the surrounding area.
- **Collin County Fire Chief's Meeting**- Attended the Collin County Fire Chief's Meeting to discuss multi-jurisdictional issues and innovations with other chief officers within the county
- **Smoke Detector Battery Replacement Program**- Continued with the smoke detector battery replacement program to install new smoke detector batteries for all residents.
- **Structure Fire (Mutual Aid)** – Celina Fire responded to a structure fire in Pilot Point.
- **Grass Fire**- Celina FD responded to a grass fire on CR 8.
- **Station 2** - Station 2 is currently under construction, the building structure is starting to go up and everything is starting to come together.
- **Medical CE** – Dr Meek from MCP delivered medical CE's at Station # 1



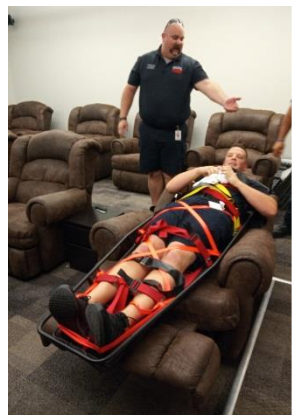


Attachment: Fire August Report2019 (Staff Reports)



TRAINING

- **Paramedic School** – Seven Firefighter/EMT's are in preparation to attend Paramedic school.
- **Ladder Truck Training-** Pierce sent a trainer down to help Celina FD train on the new ladder truck and all three shifts continued to train on the new ladder truck.
- **CoServ Electrical Training-** CoServ conducted gas safety training
- **Fire Sim Training-** Fire Simulation training conducted at Station 1
- **Shift Level Training-** All crews participated in shift level training to include all fire ground operations



Attachment: Fire August Report2019 (Staff Reports)



Public Relations

7/2 – Cawfield Law Firm Ribbon Cutting

7/3 – Light Farms Block Party

7/7 – Packing Event for Settlers Ridge

7/13 – Burnco Open House

7/13 – Settlers Ridge Bingo

7/19 – Grand Opening for Hey Sugar

7/31- Dale Retirement at Brookshires

Multiple Station Tours



Attachment: Fire August Report2019 (Staff Reports)

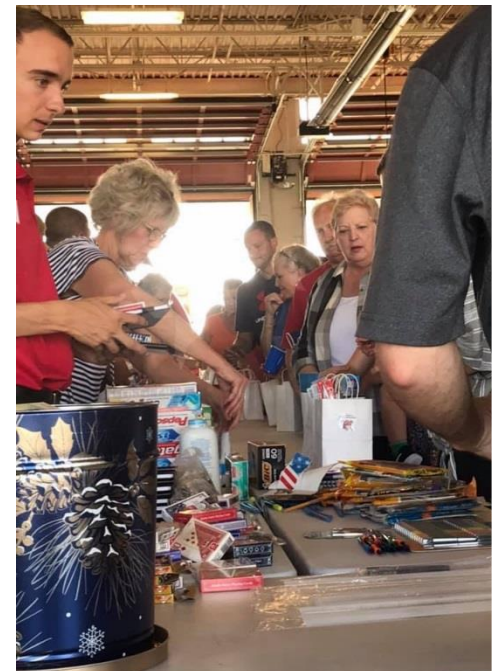


Attachment: Fire August Report2019 (Staff Reports)



Attachment: Fire August Report2019 (Staff Reports)





Attachment: Fire August Report2019 (Staff Reports)

Emergency Management

- **Revised Emergency Management EOC Activation Plan** – Revised the draft EOC activation procedure. This includes a ramping up phased approach to EOC activation. This will outline the roles and responsibilities of all major departments within the city and allow for mutual aid from other agencies. This procedure is still a work in progress and will continue to be revised

- **Tested Outdoor Weather Notification-** Tested all LAWS and Warning Sirens in the city. Ensured that all outdoor warning systems are working properly. Updated the monthly testing log to document successful tests
- **Emergency Management Coordinator Meeting –** Attended monthly emergency management coordinator meeting at Collin County Sherriff's Office. Involving all Collin County Emergency managers
- **Tier II Chemical Reports-** Submitted all Tier II chemical storage reports for businesses in the City of Celina to Collin County Emergency Management Department
- **UAV Certification-** Ongoing process for the Federal Aviation certification to operate and deploy a drone UAV. This program will allow for recon of major fires or other extended emergency operations. This drone will have thermal imaging capabilities.
- **Emergency Operations/THIRA Planning-** Continued to refine the City of Celina Specific Emergency Operations plan and Threat/Hazard assessment plan. Currently we are working under Collin County blanket plans. This is the first step in receiving government grants for emergency management projects.

Thanks for your continued support of the Celina Fire Department. If you have any questions or comments, please let me know. mmetdker@celina-tx.gov



**CITY COUNCIL REGULAR MEETING
CELINA ISD ADMIN BLDG., BOARD ROOM
205 S. COLORADO STREET
TUESDAY, JULY 9, 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	Council Place 1	Present	
Wayne Nabors	City of Celina	Place 2	Present	
Andy Hopkins	City of Celina	Place 3	Present	
Carmen Roberts	City of Celina	City Council Place 4	Present	
Mindy Koehne	City of Celina	Council Place 5	Present	
Chad Anderson	City of Celina	Place 6	Absent	
Sean Terry	City of Celina	Mayor	Absent	

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

II. PLEDGE OF ALLEGIANCE/INVOCATION:

Deputy Mayor Pro Tem Nabors led the pledges of allegiance. Pastor Baldwin of First United Methodist Church gave the invocation.

III. PROCLAMATIONS/PRESENTATIONS/OATHS OF OFFICE:

IV. WORKSESSION/COMMITTEE REPORTS/STAFF REPORTS:

A. Discussion regarding Downtown Programs. (Wilson)

Consultant Brooks Wilson gave the City Council an overview of proposed procedures and incentives for improvements to properties in the downtown area.

B. Staff Reports attached

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

No other items were discussed.

V. OPEN FORUM:

No public comment was received.

VI. EXECUTIVE SESSION:

Minutes Acceptance: Minutes of Jul 9, 2019 5:00 PM (Minutes Approval)

Reconvene Into Open Session

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

VII. CONSENT AGENDA:

Deputy Mayor Pro Tem Nabors announced that item D would be removed from the Consent Agenda. Councilman Hopkins moved to approve the Consent Agenda (with the exception of item D).

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

A. Minutes Approval:

1. City Council - Regular Meeting - Jun 11, 2019 5:00 PM

- B. Consider and act upon approval of Canvass documents submitted by the Collin County Elections Administrator for the June 8, 2019 General Runoff Election. (Faulkner)

- C. Consider and act upon a resolution of the City Council of the City of Celina, Texas, accepting a petition to create the Mustang Lakes (Annex) Public Improvement District and calling for a public hearing. (DeBuff)

(2019-34R)

- D. Item D was moved to Items Moved from consent Agenda

- E. Consider and act upon a resolution authorizing continued participation with the steering committee of cities served by Oncor; and authorizing the payment of eight cents per capita to the Steering Committee to fund regulatory and legal proceedings and activities related to Oncor Electric Delivery Company, LLC. (Toutouchian)

(2019-35R)

- F. Consider and act upon a resolution authorizing continued participation with the Atmos Cities Steering Committee; and authorizing the payment of five cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation. (Toutouchian)

(2019-36R)

ITEMS MOVED FROM CONSENT AGENDA:

- G. Consider and act to authorize the purchase of utility meters in the amount of \$ for continual maintenance and repairs. (Berry)

RESULT:	NO ACTION
----------------	------------------

VIII. PUBLIC HEARING/ACTION:

Minutes Acceptance: Minutes of Jul 9, 2019 5:00 PM (Minutes Approval)

- A. The Celina City Council will conduct the first of two public hearings regarding the proposed voluntary annexation of an approximately 75 acre tract of land within the Extraterritorial Jurisdiction; generally located south of Choate Parkway and approximately 2,500 feet east of Preston Road. (Collin College Annexation) (Mohan)

Deputy Mayor Pro Tem Nabors opened the hearing at 5:14 p.m. No public comment was received. The hearing was closed at 5:15 p.m.

- B. The Celina City Council will conduct the second of two public hearings and consider and act upon an ordinance on the voluntary annexation of an approximately 8.626 acre tract of land within the Extraterritorial Jurisdiction; generally located south of Choate Parkway and approximately 1,300 feet east of County Road 87. (Huie Property Annexation) (Mohan)

(2019-22) Deputy Mayor Pro Tem Nabors opened the hearing at 5:16 p.m. No public comment was received. The hearing was closed at 5:18 p.m.

- C. The Celina City Council will conduct a public hearing to consider 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 approximately 8.626 acres of land to Agriculture District (AG), generally located south of Choate Parkway and approximately 1,330 feet east of County Road 87. (Huie Property Zoning) (Mohan)

(2019-23) Deputy Mayor Pro Tem Nabors opened the hearing at 5:18 p.m. No public comment was received. The hearing was closed at 5:20 p.m.

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

- D. The City Council of the City of Celina will hold a public hearing to consider testimony and act upon a resolution of the City of Celina, Texas authorizing and creating the Celina Hills Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code. (DeBuff)

(2019-37R) Deputy Mayor Pro Tem Nabors opened the hearing at 5:20 p.m. Misty Ventura of Shupe Ventura Law, 9406 Biscayne, Dallas, Texas, requested approval on behalf of the petitioner. The hearing was closed at 5:21 p.m.

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

- E. The City Council of the City of Celina will hold a public hearing to consider testimony and act upon a resolution of the City of Celina, Texas authorizing and creating the Wilson Creek Meadows Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code. (DeBuff)

Minutes Acceptance: Minutes of Jul 9, 2019 5:00 PM (Minutes Approval)

(2019-38R) Deputy Mayor Pro Tem Nabors opened the hearing at 5:21 p.m. Misty Ventura of Shupe Ventura Law, 9406 Biscayne, Dallas, Texas, requested approval on behalf of the petitioner. The hearing was closed at 5:22 p.m.

RESULT: APPROVED [UNANIMOUS]
MOVER: Carmen Roberts, City Council Place 4
SECONDER: Mindy Koehne, Council Place 5
AYES: Steiner, Nabors, Hopkins, Roberts, Koehne
ABSENT: Anderson

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

(2019-24) Deputy Mayor Pro Tem Nabors opened the hearing at 5:22 p.m. Misty Ventura of Shupe Ventura Law, 9406 Biscayne, Dallas, Texas, spoke in support of the levy of assessments based on the improvements proposed. The hearing was closed at 5:24 p.m.

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

IX. ACTION ITEM:

- A. Consider and act upon a resolution of the City of Celina, Texas approving and authorizing the Mayor to execute “PID Reimbursement Agreement—Glen Crossing” between the City of Celina, Texas and W/J CR55 LP. (Glen Crossing West PID Reimb. Agreement) (DeBuff)

(2019-39R)

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

- B. Consider and act upon a resolution of the City of Celina, Texas creating a Census 2020 Complete Count Committee to plan and conduct local educational initiatives, publicity and promotional activities to increase community awareness and participation in the 2020 census. (Howard)

(2019-40R)

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

X. **ADJOURNMENT:**

There being no further comment Deputy Mayor Pro Tem Nabors adjourned the meeting at 5:27 p.m.

Sean Terry, Mayor

Secretary

Date Minutes Approved

Minutes Acceptance: Minutes of Jul 9, 2019 5:00 PM (Minutes Approval)



Finance Department
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dawn Berry, Purchasing Manager
CC: Kim Brawner, Director of Engineering
Date: August 13, 2019
Re:

Action Requested:

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)

Background Information:

At the direction of City Council, staff is formally requesting authorization to terminate the Construction Manager at Risk agreement between the City and Hangartner Commercial, Inc. The agreement was approved by City Council on August 8, 2018 for the construction of Fire Station 2, 3 & 4. The termination is strictly for the services related to Station 3 and 4.

The termination has been discussed with the vendor.

Alternatives:

N/A

Financial Considerations:

There are no financial considerations.

Legal Review:

N/A

Supporting Documents:

None

Staff Recommendation:

Staff recommends terminating the CMAR agreement with Hangartner Commercial, Inc.



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: August 13, 2019
Re: Branding Guidelines/tagline approval

Action Requested:

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

Background Information:

This item approves branding guidelines and tagline of "Life Connected" for the City of Celina. These guidelines will be used to guide usage of the City's logo, color scheme and fonts for all the City's advertising and marketing materials, and any other material or documentation featuring the City's trademarked materials.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

N/A

Supporting Documents:

- Proposed branding guidelines and tagline

Staff Recommendation:

Staff recommends approval.



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: August 13, 2019
Re: Resolution for Prosper ISD fee reductions

Action Requested:

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)

Background Information:

This agreement reduces the permit fees related to Prosper Independent School District elementary school #12 by 50% for assisting with landscaping improvements, including increasing screening, fencing, and berm, next to an adjacent single family home subdivision.

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 resolution

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA

RESOLUTION NO. 2019-_____

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; 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 and operating pursuant to the enabling legislation of the State of Texas and the Constitution of the State of Texas; and

WHEREAS, the City of Celina requested improvements including screening, fencing, and berm work from Prosper ISD in connection with their construction of an elementary school located within Mustang Lakes (the "Project") in the City of Celina that exceeded the standards required for the construction of the same; and

WHEREAS, Prosper ISD agreed to construct those improvements at the Project at considerable cost for the benefit of the City of Celina; and

WHEREAS, the City has determined that it desires to reduce, waive, and refund a portion of the permit fees charged to Prosper ISD in connection with Project, and that the reduction, waiver, and refund is in the best interest of the City of Celina.

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

- Section 1:** The Celina City Manager is hereby authorized to refund to Prosper ISD 50% of the permit, application, and review fees already paid by Prosper ISD in connection with the Project.
- Section 2:** The Celina City Manager is hereby authorized to reduce and waive any permit, application, and review fees already charged Prosper ISD, but not yet paid by Prosper ISD in connection with the Project.
- Section 3:** This Resolution shall be in full force and shall take effect immediately upon its passage.

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

Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

APPROVED AS TO FORM:

Lance Vanzant, City Attorney

Attachment: 2019 0813 Res PISD (Resolution for Prosper ISD fee reductions)



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: August 13, 2019
 Re: CitySmart transition agreement

Action Requested:

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)

Background Information:

This item provides for the transition plan with former technology staff to bring City technology-related projects to completion. All deliverables are to be completed on or before December 31st, 2019. Specific deliverables include:

- The Suddenlink project in North Preston Lakes subdivision to ensure that fiber is deployed to the 80 existing homes
- Fujitsu putting new Wi-Fi on the downtown square
- JCI and the City Planning team to put two solar lights in the lumber yard parking lot
- Black and Veach (Tim Driscoll) on getting a feasibility study completed for the City 911 system
- AT&T/Fujitsu/Ubiquia on improving AT&T service on the square
- The City Marketing team to promote the FTTH (Fiber to the home) buildout in Celina
- Identifying and engaging potential carriers on the possibility of locating equipment on city water tanks

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 agreement

Staff Recommendation:

Staff recommends approval.



**The City of Celina Smart
City Development
Statement of Work
July 26th, 2019**

Client Name: City of Celina
Project Name: Smart City Development
Client Contacts: Jason Laumer
City Manager
142 N. Ohio Drive
Celina, TX 75001

(e) jlaumer@celina-tx.gov
(p) 469.853.3321

Presented By:

Kelley Peters
Principal
City Smart Consulting, LLC
1720 Bray Central Drive
Suite 100
McKinney, Texas 75069

(e) kpeters@citysmartco.com
(p) 214.876.5799

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Appendix A – Terms & Conditions

Notice

City Smart Consulting has made every reasonable attempt to ensure that the information contained within this Statement of Work is correct, current and properly sets forth the requirements as have been determined to date. Each party acknowledge and agree that the other party assumes no responsibility for errors that may be contained in or for misinterpretations that readers may infer from this Statement of Work.

Non-Disclosure Statement

The information in this Statement of Work is City Smart Consulting's Proprietary and Confidential Information (as defined in the Terms and Conditions attached hereto as Appendix A), and cannot be reproduced or redistributed in any way, shape, or form without prior written consent from City Smart Consulting.

1.0 General Information

This Statement of Work (“SOW”) is entered into and made effective this day of August 13th, 2019 (the “Effective Date”) by and between City Smart Consulting, LLC, a Texas Limited Liability Company (“CSC”) and The City of Celina (“Client”).

The parties hereby agree as follows: This Statement of Work is governed by the terms and conditions set forth in the Agreement as referenced in Appendix A (the “Terms and Conditions”). In the event of a conflict between the Terms and Conditions and the terms and conditions of this Statement of Work, the terms and conditions of this Statement of Work shall control.

1.1 Background

The City of Celina is currently undertaking several technology-based initiatives designed to address identified needs/enhancements within city. Recent personnel changes have necessitated the engagement of a uniquely qualified third-party technology advocate to assist with the transition effort. The Client has requested that City Smart Consulting manage the process of bringing designated city personnel up-to-speed on the projects identified in this statement of work.

1.2 Scope of Work

CSC will manage and guide the process of transitioning currently active IT initiatives to designated personnel within the city. CSC will make introductions to all external stakeholders and educate the assigned city representative on the status of and continuing requirements of the identified projects.

1.3 Methodology

CSC will employ a consultative approach working directly with designated city staff to ensure the successful handoff of all currently active projects as identified within this document.

2.0 Service Description

2.1 Specific Projects

- 2.1.1 The Suddenlink project in North Preston Lakes subdivision to ensure that fiber is deployed to the 80 existing homes
- 2.1.2 Fujitsu putting new Wi-Fi on the downtown square
- 2.1.3 JCI and the City Planning team to put two solar lights in the lumber yard parking lot

- 2.1.4 Black and Veach (Tim Driscoll) on getting a feasibility study completed for the City 911 system
- 2.1.5 AT&T/Fujitsu/Ubiquia on improving AT&T service on the square
- 2.1.6 The City Marketing team to promote the FTTH (Fiber to the home) buildout in Celina
- 2.1.7 Identifying and engaging potential carriers on the possibility of locating equipment on city water tanks

2.2 Deliverables

- 2.2.1 Successful transition of all projects specified to designated city personnel

2.3 Schedule

All deliverables completed on or before December 31st, 2019.

2.4 Changes in Scope

Client acknowledges and agrees that if impediments, complications, or Client requested changes in scope arise (the “Change(s)”), these factors are out of the control of CSC, and the Services, schedule and Fees could be impacted. In the event any Change(s) affect the schedule, Services and Fees, the parties will modify the Statement of Work accordingly to account for any additional fees resulting from these changes.

3.0 Commercial Terms

3.1 Fee for Services

CSC will provide the services and deliverables described above for a fee of **\$20,000** pursuant to the following payment terms plus any travel and related production expenses as described below.

3.2 Travel & Expense Reimbursement

All direct project-related expenses – such as travel, meals, and lodging related to vendor and or conference-based activities and the development and/or procurement of software subscription/licenses will be reimbursed by Client. CSC will submit request for Client approval of expenses with supporting documentation prior to incurring said expenses. Reimbursement payments to be made 10 days after receipt of expense reimbursement request.

3.3 Payment Terms

One-time fee of \$10,000 payable on or before August 15th, 2019, and a one-time fee of \$10,000 payable on or before September 15th, 2019

4.0 Signatures

IN WITNESS WHEREOF, the parties have caused this Statement of Work to be executed and do each hereby warrant and represent that their respective signatory whose signature appears below has been and is on the date of this Statement of Work duly authorized by all necessary and appropriate corporate action to execute this Statement of Work.

Agreed to as of July____, 2019:

Kelley Peters
Principal
City Smart Consulting, LLC

Jason Laumer
City Manager
City of Celina

Appendix A

1. PAYMENTS. CLIENT shall pay CSC for services (“Services”) provided by CSC to CLIENT as specified in the applicable purchase order or this Statement of Work without deduction, setoff or delay for any reason, including circumstances arising under any other purchase order or Statement of Work hereunder. Such payment shall be made in U.S. Dollars in accordance with the terms of the SOW made payable to “City Smart Consulting, LLC”. All fees paid are non-refundable. Beginning the 15th day after the due date of the invoice, interest shall be due and payable by CLIENT at the rate of one and one-half percent (1.5%) per month or the highest rate allowed by law, whichever is less, on any portion of the fees due which has not been paid. CLIENT is responsible for payment or reimbursement to CSC of all taxes applicable to this Statement of Work, except for any tax on CSC’s net income; provided, however, that no taxes will be charged if City Smart Consulting receives appropriate tax exemption certificates from CLIENT

2. CONFIDENTIAL AND PROPRIETARY INFORMATION

- a. Proprietary and Confidential Information shall include, but not be limited to, performance, sales, financial, contractual and special marketing information, ideas, technical data and concepts originated by the disclosing party, its subsidiaries and/or Affiliates (defined in Section 9 below) not previously published or otherwise disclosed to the general public, not previously available without restriction to the receiving party or others, nor normally furnished to others without compensation, and which the disclosing party desires to protect against unrestricted disclosure or competitive use, and which is furnished pursuant to this Statement of Work and appropriately identified as being proprietary when furnished.
- b. No Disclosure. The receiving party agrees to maintain all Proprietary and Confidential Information received from the disclosing party, both orally and in writing, in confidence and agrees not to disclose or otherwise make available such Proprietary and Confidential Information to any third party without the prior written consent of the disclosing party; provided, however, that the receiving party may disclose the financial terms of this Statement of Work to its legal and business advisors and to potential investors if such third parties agree to maintain the confidentiality of such Proprietary and Confidential Information. The receiving party further agrees to use the Proprietary and Confidential Information only for the purpose of performing this Statement of Work. In addition, except as required by this Statement of Work, the receiving party shall not reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody Proprietary and Confidential Information, and which are provided to the receiving party hereunder. Whenever requested by the disclosing party, the receiving party shall immediately return to the disclosing party all manifestations of the Proprietary and Confidential Information or, at the

disclosing party's option, shall destroy all such Proprietary and Confidential Information as the disclosing party may designate. The receiving party's obligation of confidentiality shall survive this Statement of Work for a period of five (5) years from the date of its termination or expiration, and thereafter shall terminate and be of no further force or effect.

- c. Exclusions. The receiving party's obligations under Sections 2(a) and 2(b) above shall not apply to Proprietary and Confidential Information which: (i) is or becomes a matter of public knowledge through no fault of or action by the receiving party; (ii) was rightfully in the receiving party's possession without being subject to another confidentiality obligation prior to disclosure by the disclosing party; (iii) subsequent to disclosure, is rightfully obtained by the receiving party from a third party who is lawfully in possession of such Proprietary and Confidential Information without restriction; (iv) is independently developed by the receiving party without resort to the disclosing party's Proprietary and Confidential Information; or (v) is required by law or judicial order, provided that prior written notice of such required disclosure is furnished to the disclosing party as soon as practicable in order to afford the disclosing party an opportunity to seek a protective order and that if such order cannot be obtained disclosure may be made without liability. CLIENT will comply with the Federal Freedom of Information Act, the Texas Public Information Act and any other relevant statutory requirements within the timeframes as mandated by such legislation and authorities in the event that CSC has not yet obtained such relief.

3. NON-CIRCUMVENTION AGREEMENT

- a. Non-solicitation of Officers and Employees. Recipient shall not solicit any Relationships of the Disclosing Party for employment or any type of business relationship without prior written consent from the Disclosing Party.
- b. No Interference. During the term of this agreement, and for the period ending two (2) years after the termination of this agreement, with regard to Relationships of the Disclosing Party, Recipient agrees that Recipient shall not:
 - i. take any action to induce any Relationship of the Disclosing Party to terminate or modify in any manner said Relationship's existing relationship, whether contractual or not, with the Disclosing Party; nor,
 - ii. participate in any communications, in any manner, whether initiated by any such Relationship of the Disclosing Party, regarding any such Relationship terminating or modifying said Relationship's existing relationship, whether contractual or not, with the Disclosing Party; nor,

- iii. introduce any such Relationship to any third party that a reasonable person would consider to be providing services competitive to those provided by the Disclosing Party.
- c. Non-Circumvention. At any time prior to the termination of this Agreement and for two years thereafter, it is expressly agreed that in regard to any individual or entity and any other third parties (including, without limitation, prospects, clients, customers, financial sources, and consultants) and any business opportunity of which Recipient becomes aware primarily by the actions of Disclosing Party pursuant to the term of this Agreement (“Opportunity”) shall constitute Confidential Information and the Recipient or any affiliate, company or associated entity or individual shall not, without the prior written consent of Disclosing Party:
 - i. Unless Recipient has entered into a commission or other agreement requiring Recipient to do so prior to the Effective Date, directly or indirectly initiate, solicit, negotiate, contract or enter into any business transactions, agreements or undertakings with regard to any Opportunity under which Recipient would provide services competitive with the services of Disclosing Party;
 - ii. Refer such Opportunity to any third party that would provide services competitive with the services of Disclosing Party or that would act in a manner to reduce Disclosing Party’s probability of completing a business relationship related to any Opportunity; or
 - iii. Seek to by-pass, compete, avoid or circumvent the Disclosing Party from any business opportunity of any kind by utilizing any Confidential Information or by otherwise exploiting or deriving any benefit from the Confidential Information.
 - iv. For purposes of this Section 3, no individual, entity, or related business opportunity shall be an Opportunity if it was known to Recipient prior to Recipient becoming aware of the third party or business opportunity the actions of Disclosing Party pursuant to the terms of this Agreement, as demonstrable by Recipient’s records, or by other evidence reasonably acceptable to Disclosing Party.

4. RELATIONSHIP BETWEEN CSC AND CLIENT. The parties to this Statement of Work are independent contractors. Neither party is an agent, representative, or partner of the other party. Neither party shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Statement of Work shall not be interpreted or construed to create an association, joint venture or partnership between the parties or to impose any partnership obligation or liability upon either party. Each party shall bear its own costs and expenses in performing this Statement of Work. Except as otherwise expressed within this

Statement of Work, CSC and CLIENT expressly exclude any and all third parties from the benefits of this Statement of Work.

5. OWNERSHIP. (a) CSC, on behalf of itself and its subcontractors, reserves all proprietary rights in and to (i) all methodologies, designs, engineering details, and other data pertaining to the Services and the materials delivered; (ii) all original works, computer programs and updates developed in the course of providing the Services (except programs developed by CLIENT); (iii) discoveries, inventions, patents, knowhow and techniques arising out of the Services; and (iv) any and all products (including software and equipment) developed as a result of the Services. The performance by CSC of Services shall not be deemed work for hire. (b) CSC grants to CLIENT a perpetual, exclusive, world-wide, paid up license to use, copy and modify the materials produced by CSC and delivered to CLIENT in the performance of Services solely for CLIENT's internal business purposes. It is understood between the parties that CSC will employ its know-how, techniques, concepts, experience and expertise, as well as all other intellectual property, including that to which it reserves its rights hereunder, to perform services the same as or similar to the Services for others.

6. REPRESENTATIONS AND WARRANTIES. CSC warrants to CLIENT that (i) the professional staff it assigns to perform Services under this Statement of Work shall be competent to perform the Services rendered by them and (ii) the Services (excluding third party software and/or hardware provided by CSC) performed under this Statement of Work shall be performed or provided in a professional and workmanlike manner. If Services are not performed as warranted and CSC is notified in writing by CLIENT within 30 days, CSC will re-perform the non-conforming Services. EXCEPT AS OTHERWISE SET FORTH HEREIN, THE SERVICES PERFORMED, AND ANY ITEMS FURNISHED UNDER THIS STATEMENT OF WORK, INCLUDING BUT NOT LIMITED TO DATA, REPORTS, DOCUMENTATION, SCRIPTS HARDWARE AND SOFTWARE OF ANY KIND, AND ANY RECOMMENDATIONS OR CONCLUSIONS CONTAINED THEREIN, ARE PROVIDED ON AN "AS IS" BASIS WITH NO WARRANTIES OR REPRESENTATIONS OF ANY KIND. NOTWITHSTANDING ANY CONTRARY TERMS IN ANY CONTRACT DOCUMENT, IF CLIENT REQUESTS CSC TO PERFORM WORK ON SOFTWARE OR HARDWARE, CLIENT REPRESENTS AND WARRANTS THAT IT HAS THE RIGHT TO DO SO AND AGREES TO PROTECT, DEFEND, HOLD HARMLESS AND INDEMNIFY CSC FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITIES, LOSSES AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES) ASSERTED BY A THIRD PARTY (INCLUDING, WITHOUT LIMITATION, A LICENSOR OF THAT SOFTWARE OR HARDWARE) BASED ON OR ARISING OUT OF ALLEGED OR ACTUAL INFRINGEMENT OR OTHER VIOLATION BY CSC OR CLIENT OF THAT THIRD PARTY'S RIGHTS.

7. DISCLAIMER OF IMPLIED WARRANTY. CSC SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY WITH RESPECT TO THE SERVICES PROVIDED TO CLIENT HEREUNDER, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT, AS WELL AS ANY WARRANTIES ALLEGED TO HAVE ARISEN FROM CUSTOM, USAGE, OR PAST DEALINGS BETWEEN THE PARTIES.

8. LIMITATION OF LIABILITY

A. EACH PARTY'S LIABILITY TO THE OTHER PARTY FOR ANY ACTUAL DIRECT DAMAGES, INCLUDING ALL LIABILITIES ARISING OUT OF OR RELATED TO THIS STATEMENT OF WORK, FROM ANY CAUSE OR CAUSES, AND REGARDLESS OF THE LEGAL THEORY, WHETHER BASED ON CONTRACT, EQUITY, INDEMNITY, TORT (INCLUDING THE OTHER PARTY'S NEGLIGENCE), INTENDED CONDUCT, STRICT LIABILITY, OR STATUTORY LIABILITY OR OTHERWISE, SHALL NOT: (I) WITH RESPECT TO CSC, IN THE AGGREGATE EXCEED THE AMOUNTS PAID TO CSC UNDER THIS STATEMENT OF WORK GIVING RISE TO THE CLAIM, AND (II) WITH RESPECT TO CLIENT, IN THE AGGREGATE EXCEED THE AMOUNTS DUE AND OWING TO CSC, PLUS INTEREST.

B. IN NO EVENT SHALL CSC OR CLIENT BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR ECONOMIC DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE OF DATA AND LOST BUSINESS OPPORTUNITY), REGARDLESS OF THE LEGAL THEORY UNDER WHICH DAMAGES ARE SOUGHT, AND EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. INDEMNIFICATION. To the extent not prohibited by law, each party shall indemnify, defend and hold harmless the other party and its officers, directors, employees, agents, subsidiaries and Affiliates (as defined below) from and against any and all third party claims, demands, lawsuits, causes of action, losses, damages, liabilities, costs and expenses, including reasonable attorney's fees, related to or arising out of any of infringement of intellectual property arising from the use of any materials or services supplied by the indemnifying party. No indemnifying party will have any obligation or liability in respect to any infringement claim in the event that the affected materials: (i) are used in a manner or for a purpose not contemplated by this Statement of Work; (ii) are used in combination with other products or applications not provided under this Statement of Work; or (iii) are modified, provided the infringement claim arises from such modification. The indemnified party agrees to promptly notify the indemnifying party of any such claims, to permit the indemnified party to control

any resulting litigation or settlements and to reasonably cooperate with the defense of any such claims at the indemnifying party's expense. The indemnifying party shall not have any right, without the other party's consent, (which will not be unreasonably withheld), to settle any such claim if such settlement arises for or is part of any criminal action, suit or proceeding or contains a stipulation to or an admission or acknowledgement of, any liability or wrongdoing (whether in contract, tort, or otherwise) on the part of the other party). As used herein, "Affiliate" means any entity controlling, controlled by, or under common control with CSC or CLIENT. The term "control" and its correlative meanings, "controlling," "controlled by," and "under common control with," means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the aggregate of all voting equity interests in an entity.

THE PROVISIONS OF THIS SECTION 8 CONSTITUTE THE EXCLUSIVE RECOURSE OF EACH PARTY AND THE ENTIRE OBLIGATION AND LIABILITY OF EACH PARTY WITH RESPECT TO ANY CLAIM FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

10. TERM

a. Term. This Statement of Work shall commence as of the Effective Date and shall then remain in force until December 31st, 2019 or until all deliverables contemplated herein have been delivered and accepted ("Term"). ("Term").

b. Termination for Cause. If a party breaches any material provision of this Statement of Work (except for payment default), the non-breaching party may terminate this Statement of Work by giving thirty (30) calendar days' written notice of that termination, except that such a termination shall not take effect if the breaching party cures that breach before the end of that thirty (30) day period. If CLIENT fails to pay CSC's invoices as they become due, CSC may terminate this Statement of Work or any Statement of Work by giving fifteen (15) calendar days' written notice of such termination, except that such termination shall not take effect if CLIENT pays all outstanding invoices and all accrued interest before the end of that fifteen (15) day period. The right to terminate described in this Section shall be in addition to any other remedies the non-breaching party may have under the circumstances.

c. Termination for Bankruptcy. A party may terminate this Statement of Work by giving written notice to the other party if that other party makes an assignment for the benefit of creditors, becomes unable to pay its debts as they become due, dissolves or liquidates or files a voluntary petition in bankruptcy or a similar proceeding; if an involuntary petition in bankruptcy or a similar proceeding is filed against that other party and is not stayed or dismissed within thirty (30) days; if a receiver is appointed for all or substantially all of that other party's assets; or if execution is made on all or substantially all of that other party's assets.

d. Effect of Termination. Upon the effective date of a termination, CSC shall inform CLIENT of the extent to which CSC's performance is completed through such date. At the same time, CSC shall collect and deliver to CLIENT whatever portion of the deliverable has been completed, provided, however, that CSC has received all payments in full described in this Section. CSC shall be entitled, in the event of any termination, to be paid for all Services performed through the effective date of termination. CSC shall also be entitled, in the event of a termination by CSC under Section 10(b) (Termination for Cause) above, to be paid a redeployment fee in an amount equal to three (3) monthly installment payments as described in this Statement of Work.

e. Survival. In addition, the terms of this Section and of Sections 1 (Payments), 2 (Confidential and Proprietary Information), 3 (Non-circumvention), 5 (Ownership.), 6 (Representations and Warranties), 7 (Disclaimer of Implied Warranty), 8 (Limitation of Liability), 9 (Indemnification), 11 (Miscellaneous) shall survive any termination or expiration of this Statement of Work.

11. MISCELLANEOUS

a. Entire Agreement. This Statement of Work and any amendments thereto, constitutes the entire agreement between the parties hereto relating to the subject matter hereof and supersedes all prior oral and written and all contemporaneous oral negotiations, commitments and understandings of the parties. Any other terms or conditions included in any quotes, acknowledgements, bills of lading, purchase orders, invoices or other forms utilized or exchanged by the parties hereto that are in addition to or in conflict with those set forth in this Statement of Work will be of no force or effect and will not be incorporated herein or be binding unless specifically and expressly agreed to in writing by both parties. This Statement of Work shall not be modified or amended in any respect, nor shall any of its terms or conditions be waived, except by a subsequent writing, mutually agreed upon and executed by the authorized representatives of both parties.

b. Publicity. Each party agrees that it will not, without the prior written consent of the other party in each instance, refer to the existence of this Statement of Work or any matter related to this Statement of Work to prospective customers, public and non-public entities, and the general public, in any manner including but not limited to press releases, advertising, and marketing materials without prior written consent of the other party, which consent may be withheld.

c. Legal Effect. If any provision of this Statement of Work shall be held illegal, invalid or unenforceable, the remaining provisions shall continue in full force and effect, and the parties shall substitute for the invalid provision a valid provision which most closely approximates the economic effect and the intent of the invalid provision.

d. Waiver. No delay or failure by either party to exercise or enforce at any time any right or provision of this Statement of Work shall be considered a waiver

thereof or of such party's right thereafter to exercise or enforce each and every right and provision of this Statement of Work. A waiver to be valid shall be in writing but need not be supported by consideration. No single waiver shall constitute a continuing or subsequent waiver.

e. Force Majeure. Neither party shall be deemed in default hereunder, nor shall it hold the other party responsible for, any cessation, interruption, or delay in the performance of its obligations hereunder (except for payment obligation) due to earthquake, flood, fire, storm, natural disaster, act of God, war, armed conflict, labor strike, lockout, or boycott, provided that the party relying upon this Section shall have given the other party written notice thereof promptly and, in any event, within five (5) days of discovery thereof and (ii) shall take all steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event upon which such notice is based; provided further, that in the event a force majeure event described in this Section extends for a period in excess of thirty (30) days in the aggregate, either party may immediately terminate this Statement of Work.

f. Governing Law. This Statement of Work shall be governed and construed in all respects in accordance with the laws of the State of Texas, without giving effect to conflict of laws principles thereof. The parties hereby consent to the jurisdiction of the state courts of the State of Texas and the United States Federal District Court for the Eastern District of Texas in Collin County for any action or proceeding brought by either of them on or in connection with this Agreement or any alleged breach thereof.

g. Assignment. Neither CLIENT nor CSC may assign or transfer this Statement of Work without the prior written approval of the other party; provided, however, that the sale of any portion of the assets of one party, or any of its subsidiaries, its acquisition by or merger into another company, shall not be deemed an assignment of this Statement of Work. Any assignment in violation of this Section shall be void. Subject to the foregoing, this Statement of Work shall be binding upon and inure to the benefit of the successors and assigns of CLIENT and CSC.



Finance Department
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dawn Berry, Purchasing Manager
Date: August 13, 2019
Re:

Action Requested:

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

Background Information:

Consider a resolution recommending adoption of the City's Procurement Policy. The resolution sets guidelines for contracting and procurement authority while providing guidance to City employees involved in the procurement process.

The policy is beneficial to the City and to employees as it provides a set of standard rules for staff and the Purchasing Manager while clearly outlining delegated authority.

All aspects of the policy are in accordance with current State of Texas statutes.

All employees involved in the procurement process will attend mandatory training on the policy and related procurement software.

Alternatives:

Council may reject the policy and provide additional direction.

Financial Considerations:

There is no financial impact.

Legal Review:

The City Attorney has reviewed the policy.

Supporting Documents:

- Resolution
- Exhibit A

Staff Recommendation:

Staff Recommends adopting the procurement policy.

CITY OF CELINA, TEXAS

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA TEXAS, ADOPTING THE CITY'S PROCUREMENT POLICY; REPEALING ALL CONFLICTING POLICIES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 4.03 (7) of the City's Charter provides that the City Manager shall see that all laws and ordinances are enforced;

WHEREAS, Section 4.03 (8) of the City's Charter provides that the City Manager shall have the authority to appoint employees;

WHEREAS, Section 4.03 (10) of the City's Charter provides that the City Manager shall recommend to Council such measures as necessary to execute various legal documents including contracts;

WHEREAS, the City Council has determined that various procurement laws should be assembled and adopted into one document ("Purchasing Policy") to guide purchasing functions of the City in accordance with all applicable laws and City policies, practices and procedures; and

WHEREAS, the City Council has determined that the adoption and implementation of granting contracting authority as outlined in the City's Procurement Policy, is in the best interest of the City.

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

Section 1. Findings

The facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct and are adopted as part of this Resolution for all purposes.

Section 2. Adoption of City Procurement Policy

Pursuant to federal, state and local law and from and after the effective date of this Resolution, the City Council hereby adopts the City's Procurement Policy, attached hereto as **Exhibit A**. This document is on file in the office of the City Secretary for permanent record and inspection. A copy of this document may also be obtained on the City's

website and from the Finance Department.

Section 3. Effective Date.

This Resolution shall take effect immediately upon its adoption in accordance with and as provided by law and the City Charter.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, this the 13th day of August, 2019.

Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

APPROVED AS TO FORM:

Lance Vanzant, City Attorney

Attachment: Procurement Policy Resolution (Procurement Policy)

Exhibit A
Procurement Policy

Attachment: Procurement Policy Resolution (Procurement Policy)



Procurement Policy

PROCUREMENT POLICY

DESCRIPTION	DATE	RESOLUTION #
Adopted by Resolution on:	August 13, 2019	
Initial Effective Date		
REVISIONS		
Revision # 1		
Revision # 1 Council Adopted Date		

PROCUREMENT POLICY

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SECTION 1: Purpose & Policy

Procurement Policy

PURPOSE

The Purchasing Division will serve as the central procurement office of the City and will determine which method of procurement provides the best value for the City, adopt operational procedures consistent with sound business practices and state law which govern the procurement and management of all materials, services and construction to be procured by the City, and to manage disposal of materials.

The purpose of the Purchasing Policy is to provide the City with the requisite parameters for purchasing goods and services under applicable state statutes. More specifically, the purposes are:

- A. Simplify and clarify the laws governing purchasing by the City;
- B. Permit the continued development of purchasing policies and practices;
- C. Provide consistency in the purchasing practices of the City;
- D. Increase public confidence in public purchasing;
- E. Ensure the fair and equitable treatment of all persons who participate in the purchasing process;
- F. Provide increased economy and efficiency in purchasing activities by avoiding unnecessary, unwarranted, and duplicative purchases;
- G. Provide safeguards for the maintenance of a purchasing system;
- H. Ensure that full accounting is available and given for all purchases.

POLICY

It is the policy of the City to conduct procurement functions efficiently, effectively, and in full compliance with all federal and state laws, City Charter, and administration policy and procedures. The City Council's authority to contract for all goods and services and make all sales is delegated to the City Manager as set forth in this manual and to those employees to whom the City Manager delegates that responsibility. The Purchasing Manager has been delegated authority by the City Manager to contract for the City in accordance with this manual. Additionally, selected personnel in the City's requesting departments are authorized to make purchases as provided herein.

Personnel who attempt to contract in the name of the City, or personnel making authorized or unauthorized purchases outside of the scope of this manual, may be subject to disciplinary action up to and including termination, legal action, and personal financial liability.

If a person fails to comply with the competitive bidding or competitive proposal procedures required by law, that person may be convicted of a Class B misdemeanor. This includes a situation in which a person knowingly or unknowingly makes or authorizes separate, sequential, or component purchases in an attempt to avoid the competitive bidding requirement.

ENFORCEMENT

It shall be the responsibility of the City Manager and Purchasing Agent to enforce all procurement procedures.

- A. A violation is defined as an employee's action or omission that indicates disregard for purchasing laws, policy, or procedures. A violation also may be noted if the employee's action was unintentional but violates federal law, state law, City charter, ordinance, policies, or procedures.
- B. Violation of purchasing procedures will be noted to the appropriate Director in writing from the Purchasing Agent through a Statement of Non-Compliance form.
- C. Repetitive violations of purchasing procedures by one department or individual will be communicated to the City Manager from the Purchasing Manager.
- D. Texas Local Government Code § 252.062, 252.063 and 271.029 provide criminal penalties for officers and employees who knowingly violate state statutes.

SECTION 1: Purpose & Policy**Procurement Policy****PERSONAL USE PROHIBITIONS AND PERMISSIONS**

- A. If an employee acquires merchandise or services for the employee's personal use from a vendor doing business with the City, such merchandise or services may not be delivered to the employee or another City employee unless the acquisition is paid directly to the vendor by the employee. No personal invoices are to be mailed to an employee (or another City employee for or on behalf of the employee) at the employee's (or other employee's) place of work. Employee is responsible for payment of applicable sales tax.
- B. Employees may purchase merchandise or services from a vendor doing business with the City provided that the price at which the item is purchased is the same price charged to all officers and employees of the City. Employees cannot use the City's business accounts for personal purchases. Employees that are involved in contract negotiations should not purchase merchandise or services for personal use with a vendor that is currently working, seeks to work, or has worked for the City.
- C. Employees shall **NOT** use the City of Celina tax exemption forms for personal use.

POLICY UPDATES

This policy may be amended at any time with Council approval. Any amendments to State or Federal law will automatically take effect on the date stated in the legislative update.

SECTION 2: Authority

Procurement Policy

This Section covers delegated authority for all Procurement related issues.

CITY COUNCIL

City Council as required by Local Government Code, §252, must authorize:

- A. All Anticipated expenditures exceeding \$50,000
- B. All Change Orders greater than \$50,000 or 25% of the contract amount; and
- C. Purchases not budgeted and greater than \$50,000.

CITY MANAGER

The City Manager shall establish the rules and regulations for the purchase of all goods and services by means of this manual.

Delegated Authority – City Manager:

The City Manager as authorized by City Council may authorize:

- A. All items less than \$50,000
- B. Authorize Change Orders less than \$50,000
- C. Procure and Authorize Items not budgeted and less than \$50,000
- D. Execute all Purchase Orders under \$50,000 and those over \$50,000 that have been approved by the City Council.
- E. Execute all contracts and change orders under \$50,000 and those over \$50,000 that have been approved by City Council.

PURCHASING MANAGER

The Purchasing Manager oversees all procurement requirements for goods and services and ensures all are in accordance with all federal, state and local procurement laws. The Purchasing Manager ensures all procurement activities are conducted with the highest level of ethical standards, provide suppliers a fair opportunity to compete for City business and to protect public funds.

Delegated Authority – Purchasing Manager:

The City Manager delegates to the Purchasing Manager the authority to procure all goods and services, to dispose of all salvage, surplus and seized property, to execute contracts and agreements for all departments and to administer the rules and regulations as established by all federal, state and local procurement laws.

The Purchasing Manager as authorized by the City Manager may:

- A. Execute all Purchase Orders under \$50,000 and those over \$50,000 that have been approved by the City Council.
- B. Execute all Interlocal or Cooperative Purchasing agreements.
- C. Purchase budgeted goods or services from an Interlocal or Cooperative Agreements competitively bid contract, as approved by the City Council, City Manager, and/or other appropriate staff.
- D. Execute contracts and change orders up to \$50,000 and those over \$50,000 that have been approved by the City Council.
- E. Reject any and all bids, in concurrence with requesting department, when in the best interest of the City, and make recommendation to the City Manager and/or City Council, as appropriate. Items over \$50,000 require a formal rejection by City Council.
- F. Manage the solicitation process in collaboration with the responsible department including:

SECTION 2: Authority**Procurement Policy**

1. Solicitation documents and methods
 2. Ensure competition.
 3. Facilitate the evaluation and recommendations for award.
 4. Concurrence with staff prior to Council recommendations.
 5. Prepare and submit Council Agenda
- G. Determine which method of procurement provides best value for the City.
- H. Approve all required ratings for bonds and insurance.
- I. Review all insurance certificates for compliance.
- J. Determine and implement the most appropriate method of disposal of salvage, surplus, and seized property in accordance with applicable laws.
- K. Review and question requisition/solicitation documents. Review and update, as needed, all procurement forms, templates, policies, and procedures and ensure compliance.
- L. Purchasing Manager may consult with the City Attorney for review of all procurement related issues.
- M. Provide guidance and assistance for all City employees regarding the purchasing process;
- N. Ensure the City acquires, stores, disburses, utilizes and disposes of goods and services in the best interest of the City and its citizens;
- O. Provide the City with quality products and services at the best possible price;
- P. Guide all departments in the use and understanding of established purchasing procedures;
- Q. Conduct procurement in fair, open, inclusive, and transparent environment.

DIRECTORS

Directors are responsible for ensuring procurement related activities are completed in a timely basis, within policy compliance, and to promote conduct that fosters public confidence by:

- A. Ensuring adequate funds are appropriated. If appropriations are exceeded a budget transfer request must be submitted before the expenditure is captured.
- B. Expenditures not included in the budget must have approval of the City Manager and Finance Director. Evidence of the approval shall be in the form of either:
- A memo or email issued by the City Manager, or
 - Approval of a memo or email to the City Manager requesting approval of the expenditure.
- C. Manage, review, and approve department credit cards.
- D. Utilize the electronic bid system and the Purchasing Manager for purchases between \$3,000 and \$50,000 when possible.
- E. Goods or services requiring insurance/indemnification or a pre-bid conference will be managed and solicited by the Purchasing Agent.
- F. Ensure Historically Underutilized Business (HUB) participation in accordance with the provisions of Texas Local Government Code Chapter 252.
- G. Assist in specification development and provide vendor sources.
- H. Provide names of departmental staff authorized to use the requisitions system including first level approval and any changes in delegation of such authority.

SECTION 2: Authority**Procurement Policy**

- I. Permanent authorization will remain in effect until written notification of a change is received by Purchasing.
- J. Guard against misappropriation of City funds by safeguarding public funds and ensure fair, open, and transparent processes by providing equal opportunities to all vendors.

DEPARTMENT STAFF

Delegated individuals within a department who have been properly trained may submit requisitions and manage PCard reconciliation in accordance with this manual.

FINANCE DEPARTMENT

The Finance Director and/or Purchasing Manager are responsible for ensuring the proper expenditures of funds, both budgeted and unbudgeted, and for verifying the availability of funds prior to making a recommendation to City Council.

APPROVAL AUTHORITY

The following approval levels shall be utilized in all procurement related matters.

- A. All procurement card (PCard) transactions must be approved by the respective department Director.
- B. All other Procurement Related Expenses:

Amount	Approval Requirements			
\$0 - \$2,999	Authorized Staff	Purchasing Mgr.		
\$3,000-\$49,999	Authorized Staff	Director	Purchasing Mgr.	
\$25,000 +	Authorized Staff	Director	City Manager	Purchasing Mgr.
\$50,000 +	Authorized Staff	Director	City Council	Purchasing Mgr.

All Fixed Asset purchases (\$5,000 or greater) will be processed by Procurement.**Quote - Purchases Less Than \$3000 for Supplies**

A onetime purchase or cumulative purchase by a single department or from multiple departments for supplies requires a single written quote. Purchase may be made with the purchasing card or by obtaining a purchase order prior to placing the order.

Quote - Purchases More Than \$3000 and Less Than \$50,000 for Supplies

A onetime purchase or cumulative purchase by a single department or from multiple departments for supplies requires three written quotes and two must be from HUB vendors as required by statute. Purchase may be made by obtaining a purchase order prior to placing the order.

Quote - Purchases Less Than \$3000 for Service

A onetime purchase or cumulative purchase by a single department or from multiple departments requires a single written quote. If service is performed on City property, all vendors should be given a copy of the standard insurance requirements and a certificate of insurance obtained. Work should not be started until a purchase order has been issued and a copy of the insurance verified by Purchasing.

Quote - Purchases More Than \$3000 and Less Than \$50,000 for Service

A onetime purchase or cumulative purchase by a single department or from multiple departments requires three written quotes and two must be from HUB vendors as required by statute. If service is performed on City property, all vendors should be given a copy of the standard insurance requirements and a certificate of insurance obtained. Work should not be started until a purchase order has been issued and a copy of the insurance verified by Purchasing.

SECTION 2: Authority**Procurement Policy****Bid/RFP/RFQ – Purchases Greater Than \$50,000 for Supplies or Service**

A onetime purchase or cumulative purchase by a single department or for multiple departments must be processed by Purchasing. The appropriate process will be used and a standard contract/purchase order will be issued.

All purchases greater than \$50,000 must include a contract, insurance, bonds (if needed), and a purchase order. City Council approval is required and will be processed by Purchasing.

ENFORCEMENT

It shall be the responsibility of the City Manager and Purchasing Agent to enforce all procurement procedures.

- A. A violation is defined as an employee's action or omission that indicates an intentional or reckless disregard for purchasing laws, policy, or procedures. A violation may be noted if the employee's action was unintentional but violates federal law, state law, City charter, ordinance, policies, or procedures.
- B. A Non-Compliance form will be used as a means of obtaining and sharing violation information with appropriate staff.
- C. Repetitive violations of purchasing policy by one department or individual will be communicated to the City Manager from the Purchasing Manager.
 - a. First infraction – warning
 - b. Second infraction – Suspension of procurement duties / access / disciplinary action
- D. Texas Local Government Code § 252.062, 252.063 and 271.029 provide criminal penalties for officers and employees who knowingly violate state statutes.

SECTION 3: Statute

Procurement Policy

The Procurement policy is based on Texas statutory provisions as found in the Texas Government Code, Texas Local Government Code, Texas Insurance Code, and Texas Labor Code, as amended. Although all such provisions apply to the policies and procedures set forth in this policy, selected statutes are provided herein for guidance, as follows:

DEFINITIONS, Texas Local Government Code, §252.001

1. **Component Purchases** – purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
2. **High Technology Procurement** – the procurement of equipment, goods, or services of a highly technical nature, including:
 - a. data processing equipment and software and firmware used in conjunction with data processing equipment;
 - b. telecommunications equipment and radio and microwave systems;
 - c. electronic distributed control systems, including building energy management systems; and
 - d. technical services related to those items.
3. **Separate Purchases** – purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
4. **Sequential Purchases** – purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

QUOTES/BIDS THRESHOLD, Texas Local Government Code, §252.021

Expenditures of more than \$3,000, but less than \$50,000, require the buyer to obtain a minimum of three quotes. Two of the quotes must be from Historically Underutilized Businesses (HUB).

The City must competitively bid or accept sealed proposals for any goods/services over \$50,000.

PAYMENTS, Texas Government Code, §2251.021 through 2251.030

A payment by a governmental entity under a contract is overdue on the **31st day after the later of:**

- A. the date the governmental entity receives the goods under the contract; or
- B. the date the performance of the service under the contract is completed; or
- C. the date the governmental entity receives an invoice for the goods or service.

If goods or services are incomplete City staff must document any issues/shortages and notify the vendor in writing. All deliveries should be verified upon receipt. **Payments are not made until goods and services are accepted.**

Interest on overdue payments accrues at the interest rate established by law.

Departments are encouraged to take advantage of prompt or early payment discounts.

Payments will only be made to vendors that have a valid purchase order or through use of a procurement card (PCard). Violations will be treated as follows:

1. A form letter will be sent to the vendor notifying it of policy requirements.
2. Employee will be sent a statement of non-compliance form to be completed.

Vendors / Contractors must pay subcontractor or supplier who supplies goods/services for which payment is made within ten (10) days after receipt of payment from the City.

SECTION 3: Statute**Procurement Policy****CRIMINAL PENALTIES, Texas Local Government Code, §252.062**

- a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.
- b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.
- c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described in Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

REMOVAL / INELIGIBILITY, Texas Local Government Code, §252.063

- a) The final conviction of a municipal officer or employee for an offense under Section 252.062 (a) or (b) results in the immediate removal from office or employment of that person.
- b) For four years after that date of the final conviction, the removed officer or employee is ineligible:
 - 1. to be a candidate for or to be appointed or elected to a public office in this state;
 - 2. to be employed by the municipality with which the person served when the offense occurred; and
 - 3. to receive any compensation through a contract with that municipality.

INSURANCE REQUIREMENTS, Texas Labor Code, §406.096

All contractors and subcontractors shall have insurance coverage including worker's compensation. Proof of coverage must be provided prior to any work beginning. *Certificates must be issued to the City and submitted to Purchasing.*

Minimum Required Insurance: Workers Compensation, General Liability, and Auto Liability. Other types of insurance may be required depending on the type of work or service requested.

"Building or construction" includes:

- (A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance; or
- (B) remodeling, extending, repairing, or demolishing a structure; or
- (C) otherwise improving real property or an appurtenance to real property through similar activities.

PUBLIC RECORDS

Vendors or the public may request a copy of a Bid Tabulation that is compiled when bids are opened in accordance with Chapter 552 of the Texas Government Code.

The City will not release copies of submitted bids or bid evaluations until after the contract has been awarded in accordance with §552.104 of the Texas Government Code. This is not a waiver of any exception to the requirements of public disclosure contained in the Texas Public Information Act including, but not limited to, trade secrets or other commercial or financial information that is made confidential by law.

SECTION 4: Ethics**Procurement Policy****PROCUREMENT CODE OF ETHICS**

A special responsibility is imposed on all City of Celina employees entrusted with the allocation of City funds. In government procurement, employees are held to the highest degree of integrity, to secure best economic results, and to comply with the procurement process.

It is critical that employees involved in procurement and procurement-related functions remain independent, free of obligation or suspicion, and completely fair and impartial. Credibility and public confidence are vital. A shadow of doubt can be as harmful as the conduct itself. It is with this in mind that the following procedures are set forth. Every person employed by the City of Celina and performing public purchasing and purchasing-related functions shall abide by this code of ethics.

PERCEPTION

- A. Avoid the intent and/or appearance of unethical or compromising practice in relationships, actions, and communications. If a situation is perceived as real, then it is in fact real in its consequences.
- B. Avoid business relationships with personal friends and relatives. Request a reassignment of responsibility if the situation occurs.
- C. Avoid noticeable displays of affection, which may give an impression of impropriety.
- D. Avoid holding business meetings with suppliers outside the office. If such a meeting is necessary, carefully choose the location so there will be no perception by others in the business community or your peers of impropriety.

RESPONSIBILITY TO YOUR EMPLOYER

- A. Demonstrate loyalty to the City of Celina by adhering to lawful instructions, using reasonable care, and only granted authority.
- B. Follow the letter and spirit of all laws, policies, and procedures. Interpretation of the law should be left to legal counsel.
- C. Understand the authority granted by the City of Celina.
- D. Refrain from conducting any private business or professional activity that would result in a conflict of interest between the employee and employer.

NO EMPLOYEE OF THE CITY MAY:

- A. Have any financial or other interest, directly or indirectly, in any proposed or existing contract, purchase, work, sale, or service to, for, with, or by the City. The City Manager may, at his discretion, waive this requirement.
- B. Use City employment, authority, or influence in any manner for personal betterment, financial or otherwise;
- C. Have a financial interest, directly or indirectly, in the sale to the City of any materials, supplies, or services.
- D. Have discussions or participate in discussions of any City agency, board, commission or instrumentality if the employee has a personal economic interest or is employed, directly or indirectly, by the person or entity that is the subject of the discussion or decision, except as noted below:
 - 1) Accept other employment or engage in outside activities incompatible with the performance of duties and responsibilities as a City employee or that might impair independent judgment in the performance of duties to the City; or
 - 2) Accept monetary payment or provide services for compensation, directly or indirectly, to a person or organization requesting an approval, investigation, or determination from the City.

SECTION 4: Ethics

Procurement Policy

CONFLICT OF INTEREST

City employees and officials must become familiar with the requirements in Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers; and Texas Local Government Code Chapter 171, Regulation of Conflicts of Interest of Officers of Municipalities; and the penalties provided therein.

GRATUITIES (GIFTS AND ENTERTAINMENT)

Employees of the City must:

- Refrain from soliciting and/or accepting gifts of any kind from vendors, actual or potential;
- Never provide special favors or privileges to anyone, either as payment or under any other circumstance;
- Never accept for self, friends, or family any favors or benefits which might be construed as influencing the performance of duties;
- Adhere to City of Celina Personnel Policy regarding ethics/gifts.

SUPPLIER/VENDOR RELATIONS

Employees of the City must:

- Promote positive vendor relations through courtesy and impartiality in all phases of the procurement process;
- Handle confidential or proprietary information belonging to the City, fellow employees, or vendors with care and proper consideration of ethical and legal ramifications, and governmental regulations;
- Never use information gained confidentially in the performance of duties for profit;
- Exhibit a friendly, cooperative and yet objective relationship to all suppliers; this will help avoid the appearance of partiality in business dealings; and
- Actively strive to comply with City policies and federal and state laws regarding purchases from small businesses and those owned by minorities and other disadvantaged groups.

City employees must discharge their duties impartially so as to assure fair competitive access to government procurement by responsible suppliers. City employees must conduct themselves in such a manner as to foster public confidence in the integrity of the City of Celina procurement organization. It is each employee's duty to report any potential violations to the proper authorities.

SECTION 5: Environmental

Procurement Policy

The purpose of this policy is to establish a guide to encourage the purchase and use of materials, products and services that support the purchase of recycled and environmentally preferred products in order to minimize the City's environmental impact.

DEFINITIONS

- A. Environmental Purchasing – is defined as the procurement of goods and services that have less environmental and social impacts than competing products and services. The Purchasing Manager shall encourage whenever possible specifications, which provide for expanded use of durable goods and reusable goods containing the maximum post-consumer waste and recyclable content without affecting the intended use. Environmental factors to be considered may include recycled content, pollutant, releases, waste generation, energy consumption, depletion of natural resources and potential impact on human health and the environment.
- B. Recycled Products – products manufactured with waste material that has been recovered or diverted from the waste stream. Recycled materials may be derived from post-consumer waste, industrial scrap, manufacturing waste and/or other waste that would not have been utilized.
- C. Cooperative Purchasing – System for allowing organizations to combine their purchasing power in order to negotiate better prices and reduce purchasing costs of a formal bid process.
- D. Environmentally Preferable Product or Service – Products and services that have a lesser or reduced effect on human health, use of resources, and the environment when compared with competing products and services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance and/or disposal of the product or service.
- E. Life Cycle Assessment – The comprehensive examination of a product's environmental impacts throughout its lifetime.
- F. Post-Consumer Recycled Content – Percentage of a product made from materials and byproducts recovered or diverted from the solid waste stream after having completed their usefulness as a consumer items and used in place of raw or virgin material. Post-consumer content includes materials such as paper, glass or plastic bottles, and cans collected for recycling.
- G. Pre-Consumer recycled Content – Percentage of product made from materials byproducts, diverted from the solid waste stream during the manufacturing process. Pre-consumer materials excludes reutilization of the material such as rework, regrind or scrap generated in a process and capable of being reclaimed within the same process that generated it such as wood chips, trimmed printed materials and overruns and obsolete inventories.
- H. Practicable – Sufficient in performance and available at a reasonable cost.
- I. Performance – The ability of a product or service to accomplish or contribute to the accomplishment of a job or task.
- J. Solid Waste – Defined in Federal statute USEPA 40 CFR 261.2.

POLICY

The City shall make every effort to purchase and use materials, products, and services that are economically responsible, that support the City's economic, environmental, and social goals and that reduce resource consumption and waste.

- A. ***Nothing in this policy shall be construed as requiring the purchase of a product that does not perform adequately and/or are not available at a reasonable cost.***

SECTION 5: Environmental**Procurement Policy**

- B. Incorporated into the conventional purchasing decision making process, this policy identifies the following economic, environmental and social factors that may be incorporated into the specifications and used as part of the best value criteria.
1. **Environmental Factors:**

Pollutant releases	Greenhouse gas emissions
Energy Consumption	Depletion of natural resources
Waste generation	Recycled, recyclable content
General impact on the environment	
 2. **Economic Factors:**

Best Value	Leveraging our buying power
Staff time and labor	Technological advances
 3. **Social Factors:**

Health and Safety	End of life disposal
Use of Locally or regionally produced products and services to minimize transportation requirements.	

RESPONSIBILITIES

Procurement is responsible for:

- A. Designating products, processes, and procedures to be evaluated by departments. Maintain a list of acceptable options.
- B. Provide technical assistance in policy implementation.
- C. Monitor and revise procedures, as necessary.
- D. Research and communicate environmentally preferable products to departments for evaluation.
- E. Collect data on recycled and other environmental preferable products.

All departments are responsible for:

- A. Identify key personnel to evaluate products when feasible.
- B. Monitor and report to Procurement the success or failure of all designated products.
- C. Evaluate and assess current policies and practices for opportunities to incorporate environmentally preferred products.
- D. Be familiar with third party certification organizations such as Energy Star and Green Seal.

All Contractors/Suppliers are responsible for:

Laws

Abide by the following environmental specifications while working on City projects in addition to all Federal, State, and local laws.

Contractors and Suppliers shall:

Air Emissions

- Strive to minimize vehicle & equipment idling and shall comply with any current or future ordinance regarding idling.
- Ensure their staff is trained in the proper use of handling all materials and chemicals in order to minimize air emissions.
- Avoid open burning of waste materials.
- Cover or wet down dry materials and rubbish to prevent blowing dust and debris.

SECTION 5: Environmental**Procurement Policy****Drainage**

- Do not pump or dump water containing contaminated materials into waterways, sewer or drainage systems.

Dust Control

- Keep public roadways clean and free of mud unless closed to through traffic in accordance with authorized traffic control plans.
- Install a Mud Mat at the construction access site.

Energy Consumption

- Use energy efficient equipment and work practices (turn off lights and equipment when not in use) when undertaking work on City projects.

Erosion & Sedimentation Control

- Ensure work near water and environmental sensitive areas follows all requirements and permits.
- Be responsible for implementing and maintaining erosion and sediment control measures, when required by specification.

Spill Prevention

- All spills must be reported immediately and proper reporting to all required agencies including City staff.
- All spills shall be controlled, contained, and cleaned as soon as possible.

Waste Management

- When possible, contractors and supplies should employ the “reduce, reuse, and recycle”, principles when working on the City projects to help minimize the amount of waste produced and sent to the landfill.
- Do not bury waste materials.
- All waste shall be disposed of per Federal, State, and Local laws & regulations.

Management of Chemicals

- Hazardous materials brought to and removed from a work site shall be managed in accordance with all Federal, State and local laws & regulations.
- All containers must be properly labeled.
- All paint is low-odor, low VOC.
- Material Safety Data Sheets must be maintained on site.

Noise

- Minimize noise onsite resulting from work activities whenever practical.
- Adhere to required working hours.
- Use vehicles and equipment with properly working muffling devices.

SECTION 6: Grants

Procurement Policy

This policy establishes the responsibility for ensuring compliance and provides for a review process that shall be completed before signing any grant or award document and acceptance of said grant or award.

Identification and application – Departments seeking grants must provide advance notice to Finance. This ensures grant requirements can be reviewed and understood by those affected including budget, procurement, and audit.

1. Copies of all award documents, applications, funding agreements, etc., must be submitted to Procurement prior to the bidding process.
2. Grant account number must be set up and financial concerns addressed before submitting/requesting any procurement process.
3. § CFR 200.318
 - (a) The City (Non-Federal entity) must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.
 - (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
 - (c) Conflict of Interest – No employee, officer, or agent may participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

SECTION 7: Miscellaneous Guidelines

Procurement Policy

BID PROTESTS

All protests regarding the bid solicitation process must be submitted in writing to the Purchasing Manager within five (5) working days following the opening of bids. This includes all protests relating to advertising of bid notices, deadlines, bid opening, and all other related procedures under the Texas Local Government Code, as well as protests relating to alleged improprieties or ambiguities in the specifications.

The 5-day limitation does not apply to protests relating to staff recommendations as to award of a bid. Protests relating to staff recommendations may be directed to the City Council by contacting the City Secretary PRIOR to Council Award.

BUDGETED FUNDS

Funds must be available and in the proper account prior to issuance of a purchase order and before the use of a purchasing card.

CHECK REQUEST

Check requests are used for the following purchases:

- **Refunds** – Include the reason for request and attach documentation indicating the person or organization name; date of original purchase, contract date or class date; and reason for refund.
- **Contract Labor** – Include the reason for request and attach as backup, a copy of the employee contract for a one-time payment, jury duty, or for instructors. Submit proper documentation such as a copy of the instructor contract.
- **Reimbursements** – Include copy of detailed invoice or receipt.

Check requests must be submitted with proper documentation such as an agreement or detailed receipt. Invoices are not paid by check requests and check requests do not require a purchase order.

DEBRIEFING

A debriefing is a review of the vendor's quote, bid, or proposal. It is normally provided to unsuccessful vendors. Debriefings are normally requested during the proposal process, but may be done for any type of solicitation that evaluates factors other than price. The process may be formal (face-to-face) or informal (over the phone/email).

Outline the vendor's strengths and weaknesses. This provides detailed information for the vendor to learn from and to better prepare for future proposals.

Do not discuss competing proposals.

FREIGHT CHARGES AND FEES

Include freight costs and fees in the total cost when obtaining quotes. Freight and fees must be considered in determining the award.

All freight should be requested as FOB Destination (delivery address) freight pre-paid and allowed.

INVOICES

All invoices must be submitted to Accounts Payable within five days of receipt. Invoices shall be documented and the following information included.

- Receiving information (received in full / received partial)
- Signature of department representative
- PO Number

The authorized purchaser is responsible for verifying that all materials/services are received in working order and meet specifications. Once materials/services have been received and verified to be correct, indicate

SECTION 7: Miscellaneous Guidelines

Procurement Policy

receipt of materials on the invoice by noting “received in full” or “received partial” for each line item on the Purchase Order.

- If the quantity received does not agree with the vendor's packing slip or the material does not conform to specification, the vendor must be notified immediately.

INFORMATION TECHNOLOGY PURCHASES

All IT-related purchases/contracts, including software, hardware, copier and printer purchases, rentals, and leases, must be initiated by the Information Services Department to ensure proper security controls are met.

NEW VENDORS

The authorized purchaser should provide the vendor with a new vendor packet. This should be submitted to accounts payable when received.

Authorized users should encourage all potential vendors to register as a supplier at www.celina-tx.gov/bids.

NON-DISCRIMINATION POLICY

It is the policy of the City of Celina to afford all suppliers an equal opportunity to bid on any contract being issued.

This policy prohibits discrimination against any person because of race, color, sex, religious affiliation, age, disability, or national origin, in the award or performance of any contract.

The policy requires its officers, employees, agents, and contractors to adhere to this Policy.

PETTY CASH

Petty cash is limited to \$25.00. Detailed receipts and a petty cash voucher must be submitted to receive reimbursement.

PLACING ORDERS

Purchase Orders - When placing orders, provide the vendor with a copy of the Purchase Order, name of person placing the order, department name, and the City's billing address.

Billing Address: City of Celina
Accounts Payable
142 N. Ohio
Celina, TX 75009

Billing Email: AccountsPayable@celina-tx.gov

Instruct vendors to clearly display the name of the person placing the order, the department, and the Purchase Order Number on all invoices, delivery slips, cases, cartons, boxes, packing slips and bills of lading.

A Purchase Order must be obtained prior to placing the order and sent to the vendor when order is placed.

PCard – Purchasing card (credit card) may be used for any amount under \$3000. When placing an order, card information must be given at the time orders are placed. **Invoices may not be paid with a credit card.**

REVOLVING CREDIT ACCOUNTS

Credit accounts are available for end user use; however, they may only be opened or closed by Finance/Procurement.

SALES TAX EXEMPTION

The City is exempt from sales, excise and use taxes under Texas Tax Code, § 151.309. End users are responsible for ensuring tax is not paid. If a mistake occurs, end users are responsible for correcting the tax or reimbursing the tax.

SECTION 7: Miscellaneous Guidelines**Procurement Policy**

The City is NOT exempt from sales tax for food, lodging or transportation-related purchases for employees during travel.

TIE BIDS

If all factors and conditions relating to the bids are equal, then the tie bid will be awarded to the local vendor. If more than one vendor is local or none are local, then a coin toss will be conducted by the Purchasing Manager with at least one witness.

VENDOR PERFORMANCE

Vendors play a crucial role in the City's day-to-day operations. As such, maintaining communication during the vendor obligation period is important. Both City staff and the vendor should provide open communication on project status, current issues, and potential issues.

NON-PERFORMING VENDORS

When a vendor fails to perform according to the Agreement (Purchase Order, Annual Agreement, Contract, and/or Specification), the Department Director, or designee will:

1. Document the issues in writing to the vendor and to Purchasing.
2. Schedule a meeting to discuss the issues.
3. Document the resolution to the issue, as agreed upon by the department and the vendor. Documentation shall be in writing and signed by the department and the vendor and a copy forwarded to Purchasing.

If a vendor's performance remains non-compliant or otherwise unsatisfactory, the department will notify the Purchasing Manager who will attempt to facilitate a resolution. If Procurement cannot resolve the issues, the Purchasing Manager and the Department Director will make a joint determination to cancel the contract per its terms and conditions. Purchasing will then work with the department to obtain a substitute vendor or issue a new solicitation in accordance with purchasing policy.

SECTION 8: Bonds, Insurance and Indemnification

Procurement Policy

BOND POLICY

Bidders may be required to provide certain bonds for Public Works Contracts. § 2269.001 (6) A public work contract means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

The City will only accept corporate sureties duly qualified and authorized. Personal sureties will not be accepted. All required bonds must be approved by the Purchasing Manager prior to contractors or vendors commencing work.

- A. The City may require bonding on other projects to mitigate risk.
- B. The City of Celina requires payment, performance, and maintenance bonds to be provided on City approved forms in accordance with statute.

Types of Bonds

Bid Bonds –The Bid Bond minimum limit is five percent (5%) of the total amount bid and would typically apply to construction contracts. It is the City's option to require a bidder to provide a Bid Bond. This ensures the City will not suffer loss if the bidder attempts to withdraw his or her bid after the bid is accepted.

Personal, Certified or cashier's checks will NOT be accepted in lieu of a Bid Bond. Bid Bonds are provided on surety forms. Bid Bonds will be returned to the issuing vendor upon request. Bond must be requested within ten days of award.

Payment Bonds are required for Public Works Contracts in excess of fifty thousand dollars (\$50,000) and must be written for one hundred percent (100%) of the total bid price. The Payment Bond is for the protection of those performing work as subcontractors or suppliers for the prime vendor/contractor. See *Texas Government Code § 2253.021*

Performance Bonds are required for all Public Works Contracts when the vendor's bid exceeds one hundred thousand (\$100,000), and they must be written for one hundred percent (100%) of the total bid price. These bonds are solely for the protection of the City in the event of a contractor/vendor default under Contract terms and conditions. See *Texas Government Code § 2253.021*

Maintenance Bonds can be written for a term relevant to the project. The coverage provided by a Maintenance Bond guarantees against defective workmanship and materials.

INSURANCE AND INDEMNIFICATION POLICY

Contractors performing work on City property or public right-of-way shall provide indemnification and certificates of insurance or a copy of their insurance policy(s) including a copy of the endorsements. The required language is inserted in solicitation documents by the Purchasing division or owner of the specifications.

Contractual agreements must contain a provision that transfers the risk of the project from the City to the contractor. Because the contractor may not have the financial resources to handle the risks that are transferred in the contract, the City requires that insurance be purchased and maintained by the contractor for financial security.

Workers' Compensation Insurance – Contractors and subcontractors hired for building and construction projects must provide Workers' Compensation Insurance for their employees regardless of the project's cost. Texas Labor Code, § 406.096.

Purchasing must verify and approve all insurance documents prior to the contract, purchase order, or commencement of work to be performed.

SECTION 9: Contract Types, Requirements & Management

Procurement Policy

CONTRACTS

A contract is a written, legally binding document or obligation.

A **Purchase Order is a contract.** Purchase orders are written and approved before goods or services are ordered and received. This ensures purchases are approved and within budget. A Purchase Order or Contract is **required** when insurance and indemnification is required.

All guidance provided to a contractor must be within the scope of the contract.

Contracts Greater than \$10,000

All purchases greater than \$10,000 must include a standard contract, insurance, bonds (if needed), and a purchase order.

City Attorney review is required for all non-standard and City Council approval is required and will be processed by Purchasing.

Annual/Term Contracts. The City may use an annual fixed price contract to obtain required goods or services from a chosen vendor for a specified time period. These contracts eliminate the necessity of bidding commodities each time they are needed. Annual contracts require a bid solicitation, award process, and purchase order.

CAUTION: Items or a service purchased from a vendor other than the vendor awarded the work is a direct violation of purchasing policy and the contract.

CONTRACT MANAGEMENT

The City has purchased contract management software to assist in the management of all City contracts. The software shall be used by all departments to manage all City-related contracts. Failure to manage and control changes can result in an unintentional attempted modification to the scope of work, extension of the schedule, increase in the contract cost, circumvention of management controls, and diminished contractor accountability.

Purchasing Responsibility

Purchasing will be responsible for setting up all contracts that are issued through an informal or formal solicitation. The following documents will be added to the electronic file.

Bid related documents	Insurance
General Terms & Conditions	Bonds
The Contract	Notice to Proceed
Payment requests	Change Orders
Lien Releases	Correspondence
Blank Forms: Payment Request, Change Order Request, Release of Liens, etc.	

Staff Responsibility

Staff will be responsible for uploading all documents relating to the following:

Monitoring	Meetings Minutes/Notes
Reporting	Request for Payments
Correspondence	Inspection /Testing
Acceptance	Site Visit Schedules
Correspondence Relating to the Contract	Change Orders
Lien Releases	Bonds changes

SECTION 10: Surplus Property

Procurement Policy

The City of Celina is committed to ongoing monitoring and periodic review of surplus and obsolete materials. The purpose of the policy is to ensure disposal is completed in a consistent manner throughout the organization.

DEFINITIONS

Disposal – The sale, donation or destruction of surplus property or equipment.

Item – Surplus or obsolete movable assets such as vehicles and equipment, materials and unclaimed property.

Surplus – All supplies, assets, materials and unclaimed property that are either obsolete, at the end of their life cycle or not required by operations.

Obsolete – going out of functional use or out of date.

There are multiple formats for the disposal process. These include auction, trade-in, recycling, and destruction. All methods require written approval.

- All fixed assets and capital equipment must be disposed of through Procurement. Departments should complete the required disposition form prior to submitting to Procurement. The current capital / fixed asset amount is \$5000.00.
- Any item that is still operable and has a potential value shall be auctioned or traded during the replacement process or as they become obsolete.
- Scrap Metal – Staff shall obtain from Procurement a letter of authorization to recycle specific items. Funds received for the recycling must be submitted to Procurement and will be deposited. Written receipts from the recycling center must be provided with the payment.
- Disposition forms / Fixed Asset Forms are available from Finance or on the City web site.

POLICY PROCEDURES

	Steps	Responsibility
1	Identify surplus property	Department Director or designated employee
2	Notify all departments of the availability of the surplus property. • Email to all departments/users • Allow a minimum of seven days	Designated Department employee
3	If a department is interested, complete the City's Surplus Property Form and submit to Procurement. • Requesting department must pick up the equipment within seven days.	Designated Department employee
4.	If no interest, notify Procurement. • Complete Disposition form and send to Procurement	Designated Department employee
5	Procurement will determine the best method of disposal through: • Auction • Trade In • Recycling • Donation • Destruction	Procurement

SECTION 10: Surplus Property**Procurement Policy****AUCTION**

	Steps	Responsibility
1	Prior to Sale: Department must remove all City of Celina identification, markings, or equipment (logo, department numbering, equipment that will be used on other equipment, etc.)	Designated Department Employee
2	Move item to a secure location	Designated Department Employee
3	Take pictures and submit to Procurement - For vehicles & equipment, take a minimum of four pictures (one on each side). - Additional pictures of the inside, damage to exterior or interior, etc. - The more information/pictures provided will help with the sell and less questions will be generated by the public.	Designated Department Employee
3	Create a log with the identification, location, value and date.	Procurement
4	Proceed with auction. Auctions will be completed quarterly or sooner, IF needed.	Procurement
5	Receive funds and close out auction.	Procurement

DESTRUCTION/RECYCLING (IT Equipment)

	Steps	Responsibility
1	Confirm items are eligible for destruction.	IT
2.	Complete the destruction form	IT
3.	Send form to vendor and Procurement	IT
4	Copy procurement on all correspondence.	IT
5	Bring proceeds to Procurement for deposit.	IT

UNCLAIMED, SEIZED, OR LOST PROPERTY

	Steps	Responsibility
1	Confirm items are eligible for sale	Designated Department Employee
2	For Lost and Unclaimed Property, provide documentation that all internal policies have been followed.	Designated Department Employee
3.	For Seized property, follow Auction Procedures and provide copy of Court Order which indicates property has been awarded to the City of Celina.	Police Department

PERSONAL USE PROHIBITIONS AND PERMISSIONS

City employees may purchase items from City issued third party auctions.

PURCHASE OF CITY EQUIPMENT NOT SOLD THROUGH AUCTION.

Used “disposable” equipment such as cell phones and other electronic equipment may be sold to an employee when available and approved by the IT Manager at a cost equal to the current fair market value. Equipment must be close to or eligible for replacement.

SECTION 11: Public Works/CIP Projects**Procurement Policy**

Public Works projects are those projects that require the construction, repair, or renovation of a structure, building, street, highway, bridge, park, water and wastewater distribution facility, airport runway or taxiway, drainage project, or other improvement or addition to real property.

BID TYPE

Texas Government Code Chapter 2269 requires the City Council or its designee to determine which method of procurement provides the best value for the City. This policy designates the Purchasing Manager such authority.

PREVAILING WAGE RATES

- A. Texas Government Code Chapter 2258 mandates that any Public Work contract awarded by the City include the requirement to pay prevailing wage rates. The statute requires the payment of a prevailing wage rate for laborers and mechanics and applies to both contractors and subcontractors. Wages for workers on construction projects shall not be paid less than the schedule of general prevailing rates of per diem wages as mandated.

The City has adopted the U.S. Department of Labor's Wage Determinations for Collin County, Texas, for use in all Public Works projects. Rates may be accessed at: <http://www.wdol.gov/dba.aspx>.

- B. The prevailing wage rate or a link to the wage rates with the date shall be included in public works projects.
- C. Rates shall be verified by the Purchasing Manager.

BONDING REQUIREMENTS

Bonds shall be in accordance with Texas Government Code Chapter 2253.

- A. The bond must be executed by a corporate surety in accordance with the policies and an approved City of Celina.
- B. The corporate surety must be licensed by the State of Texas to issue surety bonds and appear on the U.S. Treasury List of acceptable sureties.
- C. A Power of Attorney must be included.
- D. Bonding shall be verified by the Purchasing Manager prior to award.

INSURANCE AND INDEMNIFICATION REQUIREMENTS

- A. The minimum insurance required are specified by the City of Celina.
- B. For construction-related projects, all contractors and sub-contractors, including those delivering equipment or materials or performing a service shall provide workers' compensation for all employees. General contractors are responsible for ensuring that sub-contractors carry the same or higher insurance amounts as those required.
- C. All contractors shall provide proof of coverage satisfactory to the City. Contractors shall post required signs at job site(s) informing all workers of their right to workers' compensation coverage. Texas Labor Code § 406.096

AWARD OF CONTRACT/AGENDA ITEM

- A. Staff in conjunction with Purchasing will review and prepare a recommendation for award. Purchasing will prepare the agenda.
- B. Contracts will be processed by Purchasing and added to the contract management software.

SECTION 11: Public Works/CIP Projects

Procurement Policy

A change order is the written documentation and approval process that must be performed when changes in the scope of a project are proposed after the performance of a contract has begun. Such changes may include a significant change in the quantity of work to be performed, the cost of work to be performed, or of the materials, equipment, or supplies to be furnished. A change order is usually written for a construction contract but may be necessary in other types of contracts.

Refer to Texas Local Government Code Chapters 252 and 271.

Threshold for Change Orders

A “threshold” is defined as a financial limit on the amount of expenditures which can be authorized by the City Manager on a construction project before requiring City Council approval. (Texas Local Government Code Chapters 252 and 271.

- A. **Change Orders Greater than \$50,000** – If the change order is greater than \$50,000 it must be approved by the City Council.
- B. **Change Orders Less than \$50,000** – If the change order is less than \$50,000 it may be approved by the City Manager or designee.
- C. Once the total of all approved change orders on a project (including the contingency amount) totals more than \$50,000, all subsequent change orders must be approved by the City Council.
- D. The original contract price may not be decreased by more than 25% without the consent of the contractor.
- E. The original contract price may not be increased by more than 25% without approval by Council.
- F. Change order forms must be used to document each change.
- G. Change orders shall be listed in number sequence on the Purchase Order.

APPROVAL FOR CHANGE ORDERS

- A. If a change order is greater than \$50,000 and is extremely time sensitive and qualifies as an emergency, the City Manager may approve such a change order prior to City Council approval; however, such change order must be presented to City Council as soon as possible for approval. Emergency conditions are defined in this manual.

CONTINGENCY FUNDS

The City Council may establish a contingency fund for a construction project at the time of award of a bid to be used during the course of a project. A contingency fund may be established at any dollar amount above the bid award provided that is reasonable and prudent.

10% or less as determined by staff/budget.

SECTION 12: Professional Services

Procurement Policy

Purpose of Policy

The following policies are designed to assist the City's staff in the selection of individuals or firms to perform professional services. The desire is to establish fairness and consistency in the selection process while obtaining the best value (quality services at a reasonable price) for the City in accordance with applicable legal requirements.

Departments are required to seek proposals or qualifications for professional services at least every five years to help ensure the greatest and fairest competition in the selection of professional services by the City of Celina.

Definition of Professional Services

- A. Professional services generally refer to those services performed by an individual or group of individuals where education, degrees, certification, license, and/or registration are required for qualification to perform the service. The term "professional services" includes labor and skill that is predominantly mental or intellectual, rather than physical or manual, in nature. (See Texas Attorney General Opinion No. JM-940, at p. 3 (1988)).
- B. Certain professions are specifically named in the Professional Services Procurement Act (ACT), Texas Government Code Chapter 2254, Subchapter A. This includes services within the scope of the practice, as defined by state law, of:
 - 1. accounting
 - 2. architecture
 - 3. landscape architecture
 - 4. land surveying
 - 5. medicine
 - 6. optometry
 - 7. professional engineering
 - 8. real estate appraising
 - 9. professional nursing
 - 10. Interior Design Services
- C. If a department is not sure if a service is a "professional service," the department should contact the Purchasing Manager before securing such services.

Procurement of Architectural, Engineering, or Land Surveying Services

When procuring architectural, engineering or land surveying services, the City shall use a two-step selection process (see Texas Government Code § 2254.004):

- A. First, the City shall select, through the RFQ process, the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- B. Second, attempt to negotiate with that provider a contract at a fair and reasonable price. Negotiations will be facilitated by Purchasing as lead for a team of stakeholders.

If the City is unable to negotiate a satisfactory contract with the most highly qualified provider of architectural, engineering or land surveying services:

- A. First, the City shall formally end negotiations with that provider;
- B. Second, select the next most highly qualified provider; and

SECTION 12: Professional Services**Procurement Policy**

- C. Third, attempt to negotiate a contract with that provider at a fair and reasonable price. The City must continue this process until a contract is entered into.
- D. A purchase order must be issued upon award of contract.

Fees Estimated to be under \$25,000 per Year

- A. The Department and/or Purchasing Manager may solicit proposals from qualified professionals. Proposals will be ranked based on the demonstrated competence and qualifications of the individual or company. Negotiations may be entered into with the most highly qualified according to rank. Selection will follow the procedures established by the Professional Services Procurement Act.
- B. A Purchase Order is required.

Fees Estimated to be \$50,000 or Greater per Year

- A. The solicitation process will be managed by the Purchasing Agent.
- B. The process shall contain sufficient information to inform potential Professional service vendors as to the type of project, scope of services to be performed, the selection criteria to be used and weighting assigned to each of the criteria.
- C. After the evaluation of submitted Requests for Proposals, it may be necessary (as determined by the Purchasing Agent) to interview several of the firms and further evaluate them on the basis of the interview or a presentation, narrowing the field until one firm is selected for negotiations. Negotiations will be facilitated by the Purchasing Agent as lead for a team of stakeholders.
- D. When negotiations are concluded, a recommendation will be made to the City Council.
- E. A Purchase Order is required.

Procurement of Other Professional Services

- A. Professional services may be contracted through the use of Request for Proposals (RFP) or Competitive Sealed Proposal (CSP) and selection should be made as listed above, however, cost is an additional criterion.
- B. Services with fees under \$50,000 per year may be solicited, evaluated, and awarded by the using department's director and/or the Purchasing Agent.
- C. Over \$50,000, the solicitation process will be managed by the Purchasing Agent. The solicitation may be advertised in one edition of the newspaper to run at least one week prior to the due date for RFP or CSP.
- D. The selection process will be similar to that used for professional engineers, architects, and land surveyors, and after negotiations are successfully concluded the City Council shall be asked to award a contract.
- E. To determine the best solicitation process to use when procuring "other" professional services or if the service is considered "members of disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence" contact the Purchasing Agent.
- F. A Purchase Order is required.

SECTION 13: Emergency Procurement

Procurement Policy

EMERGENCY PURCHASES, Texas Local Government Code §252.022

An emergency condition creates an immediate and serious need for materials, services, or construction that cannot be met through normal procurement methods and that seriously threatens the functioning of the City or the protection of property or the health or safety of any person.

Emergency purchases are for critical, unforeseen government need. Because the City's ability to serve the public would be impaired if purchases are not made immediately, emergency purchases are exempt from standard procurement procedures.

True emergencies almost always occur as a result of parts and labor needed for unforeseen repairs to equipment that must be kept operational. When an emergency occurs, the need for quotes will be eliminated; however, written explanation must be indicated on the Statement of Compliance for Irregular Purchases.

1. If the product or services is over \$3,000 and under \$50,000, obtain the City Manager's authorization. Once authorization has been received, submit a requisition to Procurement and obtain a purchase order, call the vendor to initiate repair services or order the needed materials. Immediately or as soon as feasible, submit a copy of the invoice, delivery ticket and the irregular purchase form to Purchasing.
2. In the event the emergency expenditure exceeds \$50,000, follow the same procedures outlined in item 1 above, and prepare an agenda item and/or resolution for City Council approval prior to payment for the products or services purchased.
3. In extreme cases involving a disaster, an emergency declaration will be made. All purchases must be documented through proper state & federal forms and authorized by the Emergency Operations Center or designated employee. Refer to Disaster Procurement Policy below.

An emergency created through neglect will not be processed as an emergency.

Typical examples of such neglect are:

- a. Depletion of stock due to lack of planning.
- b. Building or equipment needing repairs for some time, suddenly becoming an emergency overnight.
- c. Orders of materials for projects most of which must be planned weeks or months ahead of time, and requested just before desired use.

SECTION 14: Disaster Procurement

Procurement Policy

DISASTER PROCUREMENT POLICY (FEDERAL)

1. **PURPOSE** - This policy modifies the City of Celina's normal procurement practices to assure that, in both emergency and exigent circumstances caused by a proclaimed disaster or emergency, the City of Celina is able to acquire the goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improve public and private property through cost-effective measures while still maintaining an effective purchasing process and complying with applicable local and state purchasing laws. Where the City is included in a major disaster or emergency declared by the President of the United States, this policy also assures that City procurements comply with Federal regulations applicable to FEMA disaster grant reimbursement as defined in Title 2 of the Code of Federal Regulations, Part 200. (2CFR Part 200)

2. **DEFINITIONS:**
 For the purposes of this policy,
 - A. A proclaimed disaster or emergency exists if:
 1. The Governor has declared a state of emergency for an area which includes the geographic territory of the City of Celina, or
 2. The Chief Executive Officer (Mayor, City Manager) of the City of Celina has declared an emergency in the City.
 - B. Exigent Circumstances are situations in which:
 1. A disaster or emergency has been proclaimed, and
 2. The public exigency for goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures will not permit competitive solicitation.

3. **DELEGATIONS OF PURCHASING AUTHORITY IN EXIGENT CIRCUMSTANCES**
 - A. **Delegation** - If the City Manager determines that goods and services must be procured before the City Council is able to assemble and approve purchases, the City Manager has the authority, subject to the limitation set forth in subparagraph A(1) and A(2), to approve the immediate rental or purchase of any equipment, supplies, services or other items necessary to respond to an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.
 1. **Limits of Single Purchase Authority** - The City Manager, shall have the authority to make individual purchases up to \$10,000 on his or her signature alone. The City Manager shall have the authority to make purchases in excess of \$10,000 up to a maximum of \$250,000 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.
 2. **Limits of Aggregate Purchase Authority** - The City Manager shall have the authority to make aggregate purchases up to \$10,000 on his or her signature alone. The City Manager shall have the authority to make purchases in excess of \$10,000 up to a maximum of \$250,000 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.
 - B. **Sub-Delegation to the EOC Director** - The EOC Director shall be a designee of the City Manager at any time that the City Manager is not available to approve purchases as allowed in this section.

SECTION 14: Disaster Procurement

Procurement Policy

- C. Sub-Delegation of Purchasing Authority** - If neither the City Manager or the EOC Director is available, the following department heads have authority to rent or purchase from the nearest available source any equipment, supplies, services, or other items necessary for this or her department to respond to an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures, up to a maximum of \$10,000.

Department Heads:

Police Chief	Assistant Police Chief	
Fire Chief	Assistant Fire Chief	Division Fire Chief
Public Works Director	Assistant Public Works Director	

D. Administrative Procedures:***Reporting Requirements.***

1. As soon as possible after purchases are made under this section 3, the City Manager, EOC Director, or department head shall submit to the Purchasing Manager a requisition and a notation that the commodity has been ordered on an emergency basis from the vendor designated.
2. The Purchasing Manager will inform the City Manager and the Elected governing board of any individual purchase under this section with a contract amount greater than \$10,000, and also whenever the aggregate of purchases under this section is greater than \$250,000 dollars.
3. The Purchasing Officer will obtain the City Manager's (or EOC Director as the City Manager's designee) approval prior to any purchase by a department head if the amount is \$10,000 thousand dollars or more.
4. If the City Manager/EOC Director is unavailable, and the delay in getting his/her signature would imperil life, safety or improved property, the department heads as listed in C1 above may approve the emergency purchase of \$10,000 dollars or more.
5. The Purchasing Manager shall have the authority to approve all disaster related purchases under \$250,000 dollars.
6. The Purchasing Manager will expedite the verification of funds available and complete the preparation of the purchase order

4. PROCUREMENT PROCEDURES IN EXIGENT CIRCUMSTANCES

Upon receipt of requisitions under Section 3, the Purchasing Manager shall prepare purchase orders for the emergency equipment, supplies, services or other items in accordance with the requirements of this section.

- A. Exempt Purchases** - Purchases below \$250,000 shall not be required to be formally bid. Purchases greater than \$250,000 may be made following the procedures specified in this section. The signature(s) of the City Manager, Purchasing Manager, and/or Department Head are still required as provided in Section 3.
- B. Justification of Sole Source or No-bid Contracts** - Where exigent circumstances require immediate procurement from the nearest available source,
1. The Purchasing Manager shall use the "Justification Form for Emergency Sole Source or No-Bid Purchase."
 2. Procurement should be limited to that portion of the work that must be performed immediately, allowing subsequent procurement by competitive proposals of the remainder of the work.

SECTION 14: Disaster Procurement

Procurement Policy

3. “Sole source” or “no-bid” acquisitions shall be necessary for one of the following reasons: placement of emergency protective measures, procurement of a scarce commodities, goods, or services or acquisition or rental of emergency equipment, emergency consulting services, emergency road clearance or other emergency requirements.
- C. **Provision for Alternate Bid Solicitation Procedures** - The City's normal requirements for sealed bids shall not apply to acquisitions under Section 3. However, the Procurement Officer shall conduct telephonic or other electronic bid solicitation from potential vendors or suppliers, in lieu of written and/or sealed bids, in an effort to obtain multiple competitive proposals when and if time allows in light of the exigent circumstances.
- D. **Locations of Postings for Request for Proposals or Invitation to Bids** – The Procurement Officer may waive normal requirements for public posting of requests for proposals or solicitation of bids. Notices soliciting bids or requests for proposals shall be posted at the City's designated Emergency Operations Center.
- E. **Length of Time for Posting Requests** - The Procurement Officer may shorten the normal bid period from xx days to expedite the award of contracts for emergency equipment, goods, or services. The Procurement Officer should seek to assure that the shortened bid period allows multiple suppliers to submit bids.
- F. **Number of Bids Required** – Solicited bids that are non-responsive shall count towards the minimum number of bids required when there is a declared emergency or disaster in the Jurisdiction. All such no-bids must be documented as to time, date, and person/company contacted, with a reason for no-bid, if possible.

NOTIFICATION AND RATIFICATION

- A. **Posting of Contracts and Awards** – Under this section, all contracts awarded that exceed \$50,000 shall be presented to City Council for ratification and publicly posted within sixty (60) days.
- B. **Authority to Cancel Emergency Procurements** - the City has the absolute authority to rescind a contract for non-performance within 24 hours when a contractor or vendor, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or non-performance presents an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.
- C. **Notification Requirement for Emergency Purchases** - For any purchase in excess of \$50,000 the Purchasing Manager shall report all such purchases to City Council within thirty (30) days of the onset of the disaster.
- D. **Requirement for Separate Invoicing** - All purchases or rentals made during proclaimed emergency or disaster conditions shall require separate invoicing from routine (non-disaster related) purchases. All invoices shall state the goods, services or equipment provided and shall specify where the goods or services were delivered. All invoices shall specify the locations where the goods or services were used if at all possible.
- E. **Auditing of Invoices for Debris Clearance Prior to Payment** - All invoices for debris clearance and removal shall be audited by the City prior to payment to the vendor. Vendors shall be notified of this requirement prior to the awarding of any contract for debris clearance and/or removal. Audits shall be in accordance with procedures for debris removal monitoring specified in FEMA's Publication 325, Debris Management Guide.
- F. **Limitations of Disaster Purchasing Policy** - For the purposes of this section, an emergency or disaster shall be deemed to exist when a condition exists that presents an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat

SECTION 14: Disaster Procurement**Procurement Policy**

of significant damage to improved public and private property through cost-effective measures and a local emergency or disaster has been proclaimed. Any purchases that do not meet the standard of being necessary for responding to an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures shall follow the City's regular purchasing provisions.

Notwithstanding the terms of this policy, nothing contained herein shall conflict with Federal procurement regulations as currently defined in 2 CFR Part 200.

SECTION 15: Sole Source Procurement

Procurement Policy

SOLE SOURCE PURCHASES

Sole source purchases are goods and services available from only one supplier. There may be one vendor because of patents, copyrights or simply because the vendor is the only one which supplies the good or service.

Examples: Patented products, monopolized items, rare books, captive replacement part, or component for equipment, and software with exclusive distribution rights.

Items that are only available from one manufacturer are not a sole source, if the items can be purchased from distributors. Similarly, books available from multiple sources are not sole source.

Regulated or natural monopolies such as utilities, gravel from the only pit in the area.

Replacement components

Staff is responsible for obtaining and retaining documentation from the vendor that clearly states the reasons the purchase must be made on a "sole source" basis.

WRITTEN JUSTIFICATION

All sole source purchases require written justification in the form of an affidavit which must be completed by the vendor and notarized. This form must be submitted to and approved by the Purchasing Manager prior to the purchase being made.

Be sure that the function the user department is asking for is a "need" and not a "want." For example, only one vendor sells equipment with the special function. Other vendors have a similar function but not exactly the same. Ask the question: do we need the specific function and why would a similar function not work.

NOTICE OF INTENT TO AWARD A SOLE SOURCE PROCUREMENT

All purchases in excess of \$50,000 shall be made in conjunction with the Purchasing Agent and may post a Notice of Intent to purchase a sole source item in the e-pro system for public review.

SECTION 16: Cooperative Purchases**Procurement Policy****COOPERATIVE PURCHASES**

Texas Government Code, Chapter 791, and Texas Local Government Code, Chapter 271, authorize the use of cooperative purchasing programs. These chapters authorize the City to use another entity's bid and likewise allows another entity to use the City's contracts. Additionally, the statutes allow the City to use a cooperative contract issued by an established cooperative agency.

The following must be included and established to utilize a cooperative contract.

3. The bid specifications / contract must have cooperative language.
4. The awarded vendor must have agreed to the language (term).
5. An interlocal agreement must be in place between the City and the issuing/awarded entity.

The City has established memberships and entered into interlocal agreements which promotes participation in cooperative purchasing programs. Current Interlocal Agreements and Contracts are available on the e-procurement website at www.celina-tx.gov/bids.

SECTION 17: Procurement Card

Procurement Policy

PURPOSE

The Procurement Card (PCard) Program is designed for procuring goods and services that do not exceed \$3,000. It provides the City with an efficient and controllable method for monitoring small dollar purchases, reducing paperwork, and paying vendors in a timely manner. Cards are requested by department Directors and issued through JP Morgan Chase by the Program Administrator. Cardholders must agree and adhere to the guidelines listed below and those set forth in the City's Procurement Policy. The card is intended to replace petty-cash, small dollar purchases purchase orders, and emergency purchases. Any usage outside of this policy is a violation and subject to revocation of PCard, purchasing privileges, and discipline up to and including termination.

USAGE

After activating and signing the back of the card, cardholders may use their PCard for City purchases only. When in doubt as to whether a purchase is allowable, the cardholder should contact their Director or the Program Administrator prior to making the purchase. The card may be used for most transactions not exceeding the cardholder's transaction limit, including, but not limited to:

- "Brick and mortar" retail purchases;
- Telephone or online orders;
- Travel (including lodging, conference fees, and training); and
- Services.

While quotes are not required, care should be taken to ensure the taxpayers' dollars are used efficiently and the best value is obtained.

PAYMENTS

Purchases made with a PCard must be paid for when the order is placed. If the exact amount is not known or the vendor does not accept credit cards, a requisition should be entered and a PO issued and submitted to the vendor prior to placing the order.

Invoices received must be processed through the Accounts Payable. Invoices may **not** be paid with a credit card.

RECEIPTS

An original, itemized receipt for every purchase must be obtained from the vendor each time the card is used. Restaurant purchases must include the credit card receipt with the total, including tip, in addition to the itemized receipt. Online and telephone purchases must also be documented by a receipt, which may be emailed, faxed, or mailed to the cardholder.

Vendors should not send invoices for PCard purchases to Accounts Payable, as this may result in duplicate payments.

Receipts must be scanned and uploaded.

CARD SECURITY

Each cardholder is responsible for all charges to their assigned PCard and must maintain the card in a safe and secure manner that prevents unauthorized or improper use. The PCard is not to be loaned or made available to another employee, friend, or family member under any circumstance.

RESTRICTIONS

PCards may not be used for personal purchases of any kind. If a personal purchase is made accidentally, and caught at time of payment, request the vendor reverse/refund the purchase. If the transaction is not caught, a personal check for the full amount of the purchase must be included with the monthly expense report. Other restrictions include, but are not limited to:

SECTION 17: Procurement Card

Procurement Policy

- Alcohol or liquor;
- Spouse or family member expenses incurred while traveling;
- Circumventing the Purchasing Process by splitting transactions to avoid quote or bid requirements;
- Entertainment, such as theatre, movies, etc.;
- Services such as contracts and agreements
- Cash refunds or advances
- Fuel purchases for a personal vehicle;
- Computer hardware, communications hardware, software, and services without prior written approval from the IT Manager. IT Purchase Form must be uploaded to Incode as part of the receipt process.

Each procurement card has an individual transaction limit, a monthly spending limit, and restrictive merchant codes (MCC). Each card may be restricted as to the number of swipes that may be made for a given period of time and by vendors. PCards may also be restricted as to the daily, monthly, or transaction amounts of card purchases. A card transaction will be denied when swiped if the transaction exceeds any of the limits. These limits and restrictions can be adjusted online by the Program Administrator and will take effect immediately.

SALES TAX

As a tax-exempt government agency, the City of Celina does not pay sales tax. PCards display the City's tax-exempt number. Cardholders are responsible for ensuring that the City is not charged sales tax by alerting the merchant in advance that the transaction is tax exempt. If tax is included, the Cardholder is responsible for the reversal or reimbursement of the sales tax charge.

TRAVEL EXPENSE REPORTS

It is the City's policy to pay for, or reimburse, all reasonable and necessary expenses incurred when an employee travels for City-related business. Direct payment of travel expenses with a PCard is encouraged, as permitted. This section supplements the Travel Policy in the City's employee policy manual.

Travel expense reports allow for the itemization of PCard purchases as "prepaid expenses."

As outlined in travel policy, meals are paid for via per diem and meal charges are not permitted. Per Diem is requested on Travel Expense form.

CARDHOLDER DUTIES AND RESPONSIBILITIES

Cardholders, or an assigned Admin, are responsible for reconciling their transactions. The cardholder must ensure each transaction is within the guidelines, sales tax was not applied, and the original "detailed" receipt is included. Once the transactions have been reconciled and approved, print the expense report, attach detailed receipts, and submit to the Program Administrator with Cardholder signature by the designated date each month.

The cardholder is responsible for processing returns, verifying credits are received, tracking card balances, and disputing charges directly with the vendor. The transaction in dispute must be noted in the item's description in STW. Cash refunds for returns are not allowed. The cardholder must verify the credit is received and attach documentation such as a return receipt or email from the vendor to the expense report. If a cardholder finds a discrepancy, they should contact the vendor and attempt to resolve the problem directly. If a cardholder cannot resolve a disputed item directly with a vendor, the cardholder should contact Program Administrator for assistance.

The cardholder is responsible for immediately notifying JP Morgan Chase, their supervisor, and the Program Administrator if the card is lost or stolen. The contact number at **JP Morgan Chase is 800-316-6056**. The cardholder shall also complete the Lost Card Form and submit it to the Program Administrator promptly. If fraud is suspected, the same steps should be followed.

DEPARTMENT DIRECTOR DUTIES AND RESPONSIBILITIES

SECTION 17: Procurement Card

Procurement Policy

The Department Director is responsible for auditing and approving all transactions after cardholder reconciliation.

PCards must be returned to the Program Administrator immediately upon notice of resignation, transfer, or termination of the cardholder. In the event of unauthorized or inappropriate purchases, the City reserves the right to withhold final paychecks until this is resolved.

In the event a cardholder has used the card fraudulently, the Department Director shall immediately retrieve the card and report the misuse to the Program Administrator. Fraudulent activity of any kind is cause for immediate termination administered by the City's Human Resources Department.

PROGRAM ADMINISTRATOR DUTIES AND RESPONSIBILITIES

The PCard program is administered and maintained by a Program Administrator in the Finance Department and is the City's point of contact for the program. Upon approval, monthly expense reports and receipts are submitted to the Program Administrator for review, general ledger updating, and filing for audit purposes. The Program Administrator orders and terminates the PCards, provides training to cardholders, maintains card limits and documentation, reconciles the expense reports, and audits the expense reports and receipts for compliance.

The Program Administrator will report to the Department Director and Chief Financial Officer (CFO) any cardholder infractions. Misuse and/or abuse of card privileges will be dealt with as follows:

- **1st Occurrence:** The Program Administrator, Chief Financial Officer (CFO), and Department Director will determine if the cardholder will continue in the card program. Department Director will take the necessary, documented steps, to prevent further issues. Documentation will be submitted on the Statement of Non-Compliance form.
- **2nd Occurrence:** The Program Administrator and Chief Financial Officer (CFO) will terminate the cardholder's privileges with deferral to the Human Resources Department for disciplinary action.

REVOCATION OF THE PURCHASING CARD

The purchasing card is subject to revocation at any time at the discretion of the Department Director and the Chief Financial Officer (CFO). Each cardholder must acknowledge receipt of the purchase card, understand the rules of usage, and sign the Cardholder Agreement Form. Failure to abide by this policy will result in revocation of their card and disciplinary action up to termination of employment. The cardholder will be required to reimburse any unauthorized transactions and the City reserves the right to withhold final paychecks until all purchases are satisfactorily reconciled.

The Program Administrator will recommend to the Chief Financial Officer (CFO) and Department Director that the card be revoked following any violation of the Procurement Card policy. The Program Administrator is authorized to temporarily suspend use of the card if unauthorized use is discovered and poses a threat to internal financial controls.

APPENDIX A

References

State of Texas Statutes

1. Texas Local Government Code; Chapter 252, 253 271
2. Texas Government Code; Chapter 552, 791, 2251, 2252, 2253, 2254, 2258, 2269
3. Texas Labor Code, Chapter 406
4. Texas Insurance Code, Chapter 1811

DEFINITIONS

Addendum: An addition, change, or supplement to a solicitation document issued prior to the opening date.

Advertise: To make a public announcement of the intention to purchase goods or services.

Agency: The City of Celina or another governmental office/entity.

Amended: A status change to an RFP, IFB, RFO, RFI, RFQ or Contract that indicates a modification to that document.

Amendment: Written addition or change to a contract.

Assignment: Transfer of contractual rights from one party to another party.

Best Value: Factors to be considered in determining lowest overall cost and value in making certain purchases.

Bid: An offer to contract with the City, submitted in response to a bid invitation.

Bid Bond / Deposit: A deposit required of bidders to protect the City in the event a low bidder attempts to withdraw its bid or otherwise fails to enter into a contract with the City. Acceptable forms of bid deposits are limited to: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on the United States Department of the Treasury's listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.

Bid Opening: The public opening of bids, in which the names of the bidders responding to a bid solicitation and prices of the bidders are publicly read and recorded.

Bid Tabulation: The recording of bids and bid data submitted in response to a solicitation. The bid tabulation is used for comparison, analysis, and record keeping.

Bidder: An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agents, employees, and representatives.

Bidders List: A list of potential vendors who have expressed an interest in doing business with the City.

Bond: A document providing evidence of obligation issued in temporary or definitive form

Change Order: A document which is used when it becomes necessary that amends, clarifies, changes, or cancels contract issues and/or provisions.

Centralized Master Bidders List (CMBL): The CMBL is a list maintained by the Texas Comptroller of Public Accounts (CPA) containing the names and addresses of prospective bidders.

Competitive Sealed Bidding: Process of advertising an invitation for bids (ITB), conducting a public bid opening, and awarding of a purchase order/contract to the lowest responsive, responsible bidder in accordance with state law.

Competitive Sealed Proposals: Process of advertising a request for proposal (RFP), the evaluation of submitted proposals and awarding of the contract.

Consultant: A person that provides or proposes to provide a consulting service.

Consulting Services: The practice of studying and advising the City.

Contract: A written agreement where a contractor provides goods or services and the agency pays for such goods and services in accordance with the established price, terms and conditions.

Appendix B

Procurement Policy

Contract Administration: This generally refers to the processes that occur after a contract is signed.

Contract Management: This refers to the entire contracting process from planning through contract administration.

Contract Manager: A person who is: 1) employed by the City, 2) has significant contract management duties.

Contractor: A business entity or individual that has a contract to provide goods or services to the City. Used interchangeably with the term “vendor”.

Deliverable: A unit or increment of work required by the contract, including such items as goods, services, reports, or documents.

Emergency: A purchase made when unforeseen and/or a sudden unexpected occurrence creates a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

Goods: A transportable article of trade or commerce that can be bartered or sold. Goods do not include services or real property.

Historically Underutilized Business: A minority or women-owned business as

Independent Contractor: A person working for an entity under contract and not an employee of the contracting entity. The contracting entity does not pay unemployment, disability, or worker’s compensation insurance or withholding taxes from payments to the person. An independent contractor normally follows the contracting agency’s direction on the results of the work but not on the means of accomplishing the work.

Invitation to Bids (ITB): Procurement process used when the requirements are clearly defined, negotiations are not necessary and price is the major determining factor for selection. The FIB uses the competitive sealed bid method.

Liquidated Damages: A specified contract provision which entitles the City to demand a set monetary amount determined to be a fair and equitable repayment to the City for loss of service due to vendor’s failure to meet contract requirements.

Negotiations: A consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter. In a contractual sense, negotiation means the “dealings conducted between two or more parties for the purpose of reaching an understanding.”

Opening Date: The day and time, after submission of proposals, when sealed bid responses are opened.

Owner: The City of Celina.

Payment Bond: A bond executed in connection with a contract which secures the payment requirements of the contractor.

Performance Bond: A surety bond which provides assurance of a bidder’s performance of a certain contract.

Professional Services: Services directly related to professional practices as defined by the Professional Services Procurement Act These include services within the scope of the practice of: accounting; architecture; optometry; medicine; land surveying; and professional engineering. Services provided by professionals outside the scope of their profession, e.g., management consulting services provided by accounting firms, are not considered professional services.

Appendix B

Procurement Policy

Proposal: An executed offer submitted by a respondent in response to a Request for Proposals (RFP) and intended to be used as a basis to negotiate a contract award.

Proposal Opening: The public opening of proposals, in which the names of the respondents to a solicitation are publicly read and recorded. No prices are divulged at a proposal opening as these types of solicitations are subject to negotiation.

Proprietary Purchase: A purchase request of a product that is proprietary to one vendor and does not permit an equivalent product to be supplied.

Renewal: When an existing contract is renewed for an additional time period in accordance with the terms and conditions of the original contract.

Request for Information (RAFI): A general invitation to contractors requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation.

Request for Proposal (RFP): A solicitation requesting submittal of a proposal in response to the required scope of services and usually includes some form of a cost proposal. The RFP process allows for negotiations between a proposer and the issuing agency.

Request for Qualifications (RFQ): A solicitation document requesting submittal of qualifications or specialized expertise in response to the scope of services required. No pricing is solicited with an RFQ.

Request for Quote (RFQ): An informal solicitation document requesting pricing on small dollar purchases.

Responsive: The respondent has complied with all material aspects of the solicitation document, including submission of all required documents.

Respondent: An entity submitting a proposal in response to a solicitation. (See Bidder)

Responsible: The respondent has the capability to fully perform and deliver in accordance with the contract requirements. The City may include past performance, financial capabilities, and business management as criteria for determining if a bidder or proposer is capable of satisfying the contract requirements.

Service: The furnishing of labor by a contractor which may not include the delivery of a tangible end product.

Solicitation: A document requesting submittal of bids or proposals for goods or services in accordance with the advertised specifications.

Solicitation Conference: A meeting chaired by state agency personnel which is designed to help potential bidders/respondents understand the requirements of a solicitation. Also known as a pre-bid or proposal conference.

Specification: Any description of the physical or functional characteristics or of the nature of supplies or service to be purchased. It may include a description of any requirements for inspecting, testing, or preparing supplies or services for delivery.

Statute: A law enacted by a legislature.

Strategic Sourcing: A concept of purchasing with the objective to purchase goods or services that will minimize costs, increase managerial effectiveness and improve operational efficiency.

Surety: A person or entity providing a bond to a contractor to indemnify the City against all direct and consequential damages suffered by failure of the contractor to perform the contract and to pay all lawful claims of subcontractors, materials suppliers and laborers as applicable.

Appendix B**Procurement Policy**

Term Contract: A Contract that addresses the estimated requirements for a number of agencies for supplies or services that are used repeatedly or in significant quantities over a period of time. Also known as an annual contract.

Vendor: A business entity or individual that has a contract to provide goods or services to the City. Used interchangeably with the term “contractor.”

ACRONYMS

CM:	Contract Management
CO-OP:	Cooperative Purchasing Program
CSB:	Competitive Sealed Bid
CSP:	Competitive Sealed Proposal
GSA:	General Services Administration (Federal)
HUB:	Historically Underutilized Business
ITB:	Invitation to Bid
ITQ:	Invitation to Quote
M/WBE:	Minority/Women Business Enterprise
NIGP:	National Institute of Governmental Purchasing
REQ:	Requisition
RFI:	Request for Information
RFP:	Request for Proposal
RFQ:	Request for Qualifications
SOW:	Statement of Work
SOQ:	Statement of Qualifications

CHOOSING A PROCUREMENT METHOD

Procurement Method	Use When	Advantages	Disadvantages
Invitation to Bid	Lots of competition exists. The product or service is available from more than one source.	Award process is simpler. Award is made to the lowest responsive, responsible bidder providing the best value to the State.	Defined specifications may be difficult to develop. Does not encourage innovative solutions
Request for Proposal	When factors other than price are evaluated. When negotiations are desired. Vendor is expected to provide innovative ideas.	Allows factors other than price to be considered. Allows for customized proposals suggesting different approaches to the same business need. Allows for negotiations in order to obtain the best value for the state.	Lead times for procurement are much greater. Evaluations are more complex and subjective.
Request for Information	There is insufficient information to write specifications for any procurement method	Provides information to prepare a complete bid or proposal document. Allows the business community to have input into the agency's solicitation document based on current industry practices and market factors. Informs agency of any potential problems early in the procurement.	
Request for Qualifications	Selection is made solely on the skills and qualifications of the contractor. Price is not a factor until after a vendor is selected.	Emphasizes the competency of the proposed contractors.	Contractor is selected before price is negotiated.

Table courtesy of the State of Texas Contract Management Guide version 1.10.

SAMPLE LEAD TIME FOR A COMPLEX PROJECT

Task	Suggested Lead Time from Start of Contract Date	Example
Begin Preparation of Specification and contract.	180 days	March 1
Final approval of Specifications	150 days	April 1
Advertise and Issue Solicitation (Bid/RFP/RFQ)	120 days	May 1
Receipt of Responses	90 days	June 1
Evaluation of Responses	5 – 30 days	July 1
Contract Negotiation	30 days	August 1
Council Award	10 days	August 10
Contract Execution - City	3-10 days	August 20
Contract Execution / Bonding	Minimum 10 days	August 30
Contract Begins		September 1



Finance Department
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dawn Berry, Purchasing Manager
CC: Kim Brawner, Director of Engineering
Date: August 13, 2019
Re: Contingency funds for Pump Station Improvement, phase 2 construction.

Action Requested:

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)

Background Information:

Council authorized the award of the pump station improvements bid on February 12, 2019 in the amount of \$3,656,576.99. During the award process, staff did not request contingency funds for use during the construction phase.

Alternatives:

Council may reject the request for contingency and direct staff.

Financial Considerations:

Funding is available in account: 205-777-000-8502, project W14-CONST.

Legal Review:

N/A

Supporting Documents:

N/A

Staff Recommendation:

Staff recommends authorizing the contingency funds in the amount \$365,657.70.



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: August 13, 2019
Re: Neighborhood Vitality Program

Action Requested:

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

Background Information:

Staff is proposing an incentive program to revitalize residential neighborhoods by providing matching grants for neighborhood improvements.

Supporting Documents:

- Proposed Resolution

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

RESOLUTION NO. 2019-__R

A RESOLUTION OF THE CITY OF CELINA AUTHORIZING A NEIGHBORHOOD VITALITY PROGRAM AND SETTING FORTH INCENTIVES AUTHORIZED TO BE USED BY THE CITY.

WHEREAS, The City of Celina, Texas (“Celina”), is authorized under Chapter 378 of the Texas Local Government Code (the “Act”) to create a Neighborhood Vitality Program; and

WHEREAS, The City Council has, by resolution, made the determinations required by Section 378.002 of the Texas Local Government Code to create a Neighborhood Vitality Program; and

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

Section 1. The recitals contained in the preamble of this Resolution are hereby found and declared to be true and correct.

Section 2. The City Council hereby finds that (1) the creation of a Neighborhood Vitality Program will benefit and is for the public purpose of increasing the public health, safety, and welfare of the citizens in the City of Celina; and (2) the creation of a Neighborhood Vitality Program satisfies the requirements of the Texas Tax Code Section 312.202.

Section 4. The City Council hereby adopts the following incentives to be used by the City for development within the Neighborhood Vitality Program:

“Neighborhood Vitality Program

A. City Funding of Eligible Projects.

1. Projects must be approved by the City Manager or his designee prior to the onset of construction.
2. Projects must make significant improvements to the public realm, including playground equipment, public seating, entry features, sign toppers, public art, lighting enhancements, landscaping, safety improvements, and aesthetic improvements in the specific residential neighborhood.
3. City grants up to fifty percent (50%) of the total project cost, up to a maximum grant of \$25,000 may be made, as funds allow.

B. Written Agreement Required.

1. A written agreement must be entered into with the City of Celina for a HOA or agent of the residential community to receive the grant.
2. The project for which the grant is sought must be for the purpose of benefitting the specific neighborhood, as determined by the City Council. Applicants must agree to meet certain Neighborhood Vitality Program Guidelines & Policies to be eligible for the program.

C. Neighborhoods. Any single-family residential neighborhood may apply for the Neighborhood Vitality Program.”

Section 5. The City’s policy which shall specify the provisions and requirements for grants under the Neighborhood Vitality Program is included in Exhibit “A.”

Section 6. Notice of this Resolution creating a Neighborhood Vitality Program shall be given by

publishing such notice once in *The Celina Record*. Effective upon the publication of such notice, such authorization shall take effect and the Neighborhood Vitality Program shall be created.

Section 7. This Resolution shall take effect immediately from and after its passage and publication as required by law.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, on this 13th day of August, 2019.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

City Attorney
City of Celina, Texas

Attachment: Resolution (Neighborhood Vitality Program)

ATTACHMENT “A”

NEIGHBORHOOD VITALITY PROGRAM GUIDELINES & POLICIES

SUMMARY

The Celina City Council has allocated funds for the Neighborhood Vitality Program (NVP) to be used to improve the physical features of Celina residential neighborhoods. To be eligible, projects must demonstrate a public benefit that also promotes the neighborhood. These guidelines present the eligibility requirements, maximum City funding percentage, an overview of the application process, and other regulations governing the grant process.

APPLICATION CHECKLIST

Neighborhood Vitality Program applications are accepted at any time. Application packets are available from the City of Celina website, Development Services page, or may be obtained from the Development Services staff. Applications are received electronically through the MyGov system. Contact the staff liaison for more information.

- ☐ NEIGHBORHOOD VITALITY PROGRAM APPLICATION must be completely filled out and signed by the authorized HOA representative.
- ☐ LETTER OUTLINING PROPOSED WORK

The typical steps involved in each of these approval processes are described in the chart below:

Step 1	Application for Neighborhood Vitality Program consideration submitted to the Development Services Department.
Step 2	Eligibility Determination. The Director of Development Services issues a letter of eligibility to the City Manager providing that the project meets specified criteria based on the attached Guidelines & Policies.
Step 3	City Manager Action. The City Manager will consider the eligibility of the project based on staff’s recommendation and the parameters of the Neighborhood Vitality Program Resolution and these Guidelines & Policies.
Step 4	Construction Begins. Receipts for work are submitted to Staff.
Step 5	Project Completion. Once the project is complete, the City Manager will calculate the total cost of the project and provide a check to the applicant up to fifty percent (50%) of the total project cost, up to a \$25,000 maximum, as funds are available.

FEES

Applications for Neighborhood Vitality Program are free.

INCENTIVES AND GUIDELINES

Projects that meet the eligibility requirements but are not chosen for funding may be resubmitted in the next funding cycle.

Examples of projects that are eligible for grants:

- Playground equipment
- Entry signage
- Public Art (murals, sculpture, etc.)
- Safety Upgrades (lighting, security cameras, sprinklers)
- Exterior Seating, Tables, Gathering Places

- Landscape Upgrades (including irrigation)
- Sidewalk Improvements
- Sign Toppers
- Exterior Lighting Aesthetic Improvements

Examples of projects that are not eligible for grants:

- Repairs or maintenance to an existing structure or facility
- Projects incurring costs before grant is approved
- Projects requiring City of Celina maintenance
- Projects on non-conforming uses and structures
- Projects that benefit individuals rather than the neighborhood at large

PROCESS

City Staff will evaluate each proposal to ensure that the required criteria are met. The Planning & Zoning Commission has the final decision-making authority to determine the scope of the project and the grant amount, up to a maximum of \$25,000.

Staff Liaison

The Development Services Director will serve as staff liaison for the Neighborhood Vitality Program.

Promotion/Advertising

The City reserves the right to use any pictures taken before, during, and after the project to promote not only Neighborhood Vitality Program Policies but also Celina in general.

City Contribution

The Planning & Zoning Commission has sole discretion regarding project approval and the amount of the grant, which may be funded up to fifty percent (50%) of the project total cost (however, the Commission reserves the right to award amounts that are less than 50% of the total project cost). Amount and timing of the allocation of funds will be determined on a case-by-case basis, as funds allow.

Disbursement of Funds

A Funding Agreement between the City and the applicant must be signed prior to the onset of any work or any costs being incurred for the project. Applicants must expend their own funds as indicated in the proposal prior to the expenditure of City funds. The timing of allocation and amount of funds will be determined at the discretion of the City. Payments will be made following the submittal of receipts for work completed. Projects must be started within six (6) months following approval and must be completed by one (1) year of the start date. Extensions for cause may be allowed. Requests for time extensions must be submitted to the City in writing.



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: August 13, 2019
Re: Neighborhood Empowerment Zone Program

Action Requested:

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

Background Information:

The City Council adopted the Downtown Master Plan in January 2019. The following programs are steps in the implementation of the plan's strategic measures to encourage investment. The City is revising the Neighborhood Empowerment Zone No. 1 (NEZ) to add other enhancements and features.

Supporting Documents:

- Proposed Resolution

Staff Recommendation:

Staff recommends approval

CITY OF CELINA, TEXAS

RESOLUTION NO. 2019-__R

**A RESOLUTION OF THE CITY OF CELINA REPEALING AND REPLACING
NEIGHBORHOOD EMPOWERMENT ZONE NO. 1 AND SETTING FORTH
INCENTIVES AUTHORIZED TO BE USED BY THE CITY.**

WHEREAS, The City of Celina, Texas (“Celina”), is authorized under Chapter 378 of the Texas Local Government Code (the “Act”) to create a Neighborhood Empowerment Zone; and

WHEREAS, The City Council has, by Resolution No. 2017-08R, created Neighborhood Empowerment Zone No. 1; and

WHEREAS, The City Council has, by resolution, made the determination to repeal and replace Neighborhood Empowerment Zone No 1.

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

Section 1. The recitals contained in the preamble of this Resolution are hereby found and declared to be true and correct.

Section 2. The City Council hereby finds that (1) the repeal and replacement of the Neighborhood Empowerment Zone No. 1 benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the City of Celina; and (2) the repeal and replacement of the Neighborhood Empowerment Zone No. 1 satisfies the requirements of the Texas Tax Code Section 312.202.

Section 3. The City Council hereby declares the geographic limits of the Neighborhood Empowerment Zone No. 1 to reflect the boundaries depicted on the map attached as Exhibit “A,” and incorporated herein for all purposes.

Section 4. The City Council hereby adopts the following incentives to be used by the City for development within Neighborhood Empowerment Zone No. 1:

“A. Districts

The following districts are depicted graphically in Exhibit “A” and are eligible for the above programs.

1. Historic District. The Historic District is defined as generally the commercial area of the Historic Square and its immediate surroundings, as depicted in blue on the attached map.
2. Downtown District (outside the Historic District). Defined as all areas that are outside of those tracts depicted in blue on the attached map and includes commercial and residential land.

B. Fee Reductions or Rebates

1. The City of Celina may reduce or rebate building permit fees, building inspection fees, construction inspection fees, demolition permit fees, electrical permit fees, plumbing permit fees, mechanical permit fees, certificate of occupancy fees, water, wastewater, and roadway impact fees, and similar fees as determined by the City as follows:
 - (a) Up to one-hundred percent (100%) reduction or rebate of the above listed fees for commercial construction or remodeling in the Historic District (shown in blue on the attached map).

- (b) Up to seventy-five percent (75%) reduction or rebate of the above listed fees for commercial construction or remodeling outside the Historic District but within the overall NEZ No. 1.
 - (c) Up to fifty percent (50%) reduction or rebate of the above listed fees for residential construction or remodeling within the NEZ No. 1. Residential projects must meet the \$10,000 project minimum to be considered and incorporate traditional architectural styling typical of the specific Character District and found in historic Texas downtowns, such as Craftsman, Tudor, American Four Square, and Victorian.
2. Fees for zoning applications and planned developments may also be reimbursed at the discretion of the Council. The City shall have sole discretion in determining whether any particular fee is eligible for reimbursement, rebate, or reduction.
 3. The City's policy, which shall specify the provisions and requirements for fee reductions or rebates under this program, is included in Exhibit "B."

C. Downtown Investment Program

1. City Funding of Eligible Projects. The City may elect to fund eligible projects that will enhance the NEZ No. 1 and promote the welfare of the City.
 - (a) Commercial properties are eligible for the Downtown Investment Program.
 - (b) Projects must be approved by the City Manager or his designee prior to the onset of construction.
 - (c) Projects must make significant improvements to the public realm, including façade improvements, public seating, public art, lighting enhancements, landscaping, safety improvements, and aesthetic improvements in the Historic District.
 - (d) Projects will also be considered for interior improvements that repurpose space for a new business or an expansion of an existing business, on a case-by-case basis.
 - (e) City grants up to fifty percent (50%) of the total project cost, up to a maximum grant of \$25,000 may be made, as funds allow.
2. Policy. The City's policy, which shall specify the provisions and requirements for grants under this program, is included in Exhibit "C."

D. Residential Tax Reinvestment Program

1. City Tax Reimbursement of Eligible Projects. The City of Celina will provide a one-time City property tax rebate to applicants who qualify for the Residential Tax Reinvestment Program. This rebate shall be equal to ten (10) times the increase in City property taxes that are calculated by the county tax assessor following the approved reconstruction or remodel of a single-family residential property within the Neighborhood Empowerment Zone No. 1 geographic boundaries.
 - (a) Single-family residential properties are eligible for the Residential Tax Reinvestment Program.
 - (b) Projects must be approved by the City Manager or his designee prior to the onset of construction.
 - (c) Projects must meet the \$20,000 minimum investment by the property owner.
 - (d) Detailed receipts must be provided to ensure that the minimum investment required by the program has been met.
 - (e) To qualify for the Residential Tax Reinvestment Program, the proposed construction must significantly improve the exterior of the single-family residence and/or accessory building.

- (f) The one-time City Property Tax Rebate shall be made following the proven increase in property taxes as a result of the construction project and is limited to a \$5,000 maximum rebate.
2. The City's policy, which shall specify the provisions and requirements for tax rebate under this program, is included in Exhibit "D."
- E. **Written Agreement Required.** A written agreement must be entered into with the City of Celina for a property owner and/or tenant to receive any of the authorized incentives. The project/property for which incentives are sought must be for the purpose of benefitting the Neighborhood Empowerment Zone No. 1 as determined by the City Council. Applicants must agree to meet NEZ No. 1 Guidelines & Policies to be eligible for reimbursement or reduction in fees, grants, or tax rebates, as applicable."

Section 5. Notice of this Resolution repealing and replacing the Neighborhood Empowerment Zone No. 1 shall be given by publishing such notice once in *The Celina Record*. Effective upon the publication of such notice, such authorization shall take effect and the District shall be repealed and replaced.

Section 6. This Resolution shall take effect immediately from and after its passage and publication as required by law.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, on this 13th day of August, 2019.

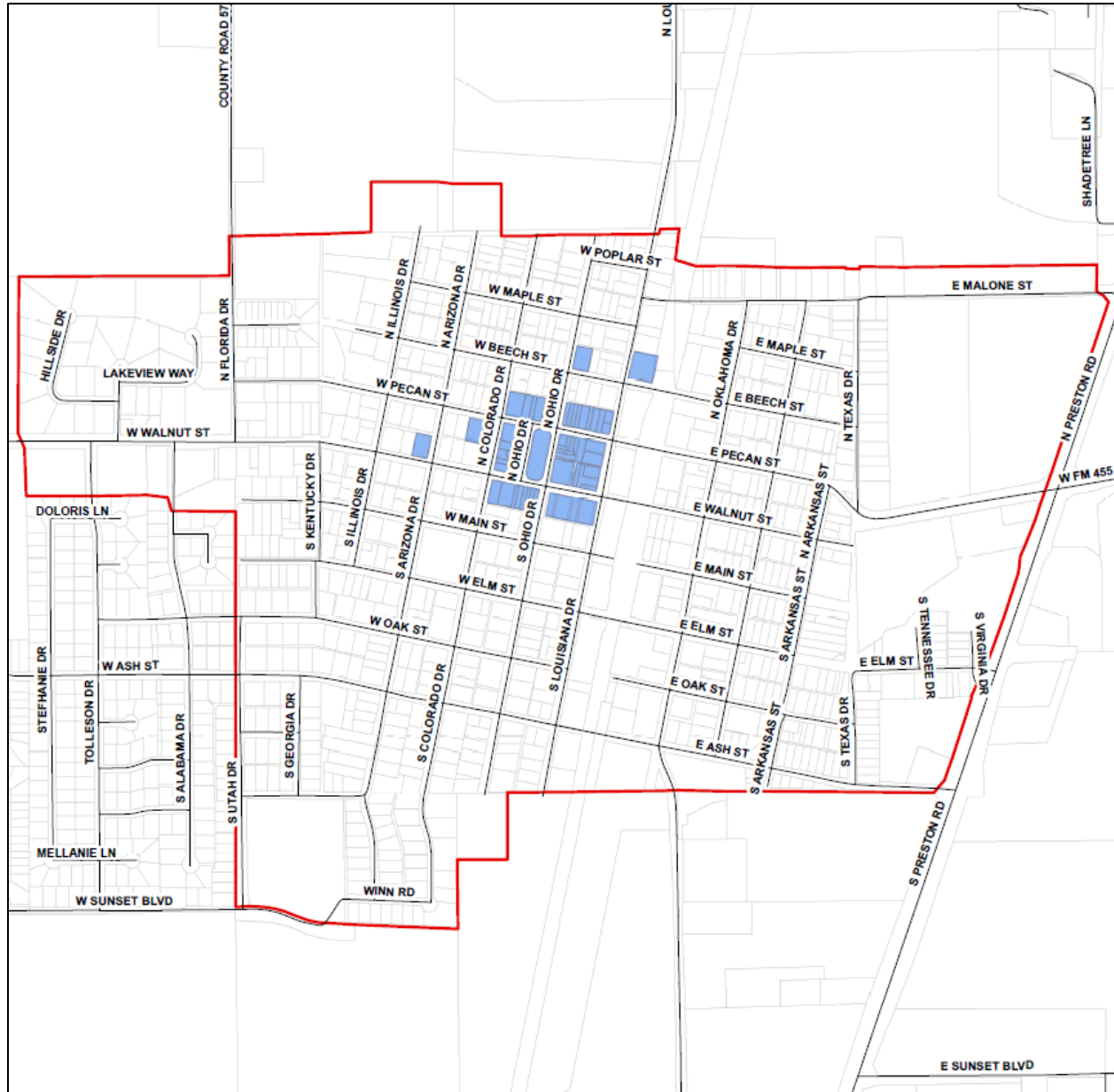
Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

City Attorney
City of Celina, Texas

ATTACHMENT “A”
NEIGHBORHOOD EMPOWERMENT ZONE NO. 1
MAP



Historic District = blue

Downtown District = remainder within red boundary lines

Attachment: Resolution (Neighborhood Empowerment Zone Revision)

ATTACHMENT “B”

NEIGHBORHOOD EMPOWERMENT ZONE No. 1 FEE REDUCTION/REBATE GUIDELINES & POLICIES

SUMMARY

The intent of the Neighborhood Empowerment Zone No. 1 (NEZ) Fee Reduction or Rebate Program is to promote commercial and residential growth within the Old Town geographic area (i.e. the Neighborhood Empowerment Zone No. 1). Incentives within this area shall be focused on retail and commercial uses and residential improvements that improve the quality of life for the citizens within the NEZ and the City as a whole. It will also promote revitalization of downtown residential neighborhoods through construction that is built consistent with historic stylings, as well as improvements and remodeling to existing structures.

APPLICATION CHECKLIST

Applications are received electronically through the MyGov system. Contact the staff liaison for more information.

- ☐ NEZ FEE REDUCTION/REBATE APPLICATION must be completely filled out and signed by the current property owner.
- ☐ LETTER OUTLINING PROPOSED WORK
- ☐ TAX CERTIFICATES indicating that there are no taxes due on the property.
- ☐ BUILDING ELEVATIONS four-sided, color elevations drawn to scale, with material callouts are required.
- ☐ RELEVANT SUPPORTING INFORMATION regarding the history of the structure, photos, etc.

PROCESS

The typical steps involved in the approval process are described in the chart below:

Step 1	Application for NEZ FEE REDUCTION/REBATE PROGRAM consideration submitted to the Development Services Department.
Step 2	Staff Eligibility Determination – The Director of Development Services issues a letter of eligibility to the City Manager provided the project meets specified criteria based on the Guidelines & Policies.
Step 3	City Manager Action – The City Manager will consider the eligibility of the project based on staff’s recommendation and the parameters of the NEZ Resolution and the Guidelines & Policies incorporated herein.
Step 4	Application is made for a Building Permit and related permits – with appropriate fee reductions applied at the time of permitting. If necessary, rebates may be issued for permits that were inadvertently paid by the applicant at the non-discounted price.
Step 5	Project Construction and Completion – Once the project is complete and issued a Certificate of Occupancy, the Building Inspector inspects the development for compliance with the approved plans.

Staff Liaison

The Director of Development Services or his designee will serve as staff liaison for the Neighborhood Empowerment Zone No. 1 Fee Reduction/Rebate Program.

Promotion/Advertising

The City reserves the right to use any pictures taken before, during, and after the project to promote not only the NEZ Fee Reduction/Rebate Program but also Celina in general.

Disbursement of Funds

A Funding Agreement between the City and the applicant must be signed prior to the onset of any work or any costs being incurred for the project. Applicants must expend their own funds as indicated in the proposal prior to the expenditure of City funds. The timing of allocation and amount of funds will be determined at the discretion of the City. Payments will be made following the submittal of receipts for work completed. Projects must be started within six (6) months following approval and must be completed by one (1) year of the start date. Extensions for cause may be allowed. Requests for time extensions must be submitted to the City in writing.

INCENTIVES AND GUIDELINES

Commercial

Reduction of a portion of building permit fees and a waiver of impact fees for new commercial construction and remodels.

- Building permit fee reduction (up to 100%) for new commercial construction and remodels in the designated Historic Square area (see map);
- Building permit fee reduction (up to 75%) for new commercial construction and remodels in the NEZ area outside the Historic Square area;
- Impact fee waiver on new commercial construction in the downtown area.

Residential

Reduction of a portion of building permit fees and a waiver of impact fees for residential remodels that incorporate traditional architectural style found the Character Z ones and in historic Texas downtowns, e.g. Craftsman, Tudor, American Four Square, Victorian, etc.

- Building permit fee reduction (up to 50%) for residential remodels in the downtown area and the NEZ area;
- Projects must be valued at a minimum of \$10,000;
- Owners applying for the NEZ must maintain exemplary upkeep of their home and property;
- Owners must provide a narrative, including photos if they are available, explaining research that was conducted on the residence explaining historical history, any renovations or upkeep maintenance that was done, etc.; and
- Applicants are encouraged to speak with the Celina Heritage Association & Museum to gather any available historic information on their home.

Ineligible Projects:

- Properties with delinquent taxes, liens, or if they have had a code enforcement violation within the last year (unless under new ownership), are ineligible for incentives in the NEZ.
- Properties under a Building & Standards Commission order are ineligible for incentives in the NEZ unless the property is under new ownership.
- Non-conforming uses and structures are not eligible for incentives.
- Other uses not eligible for incentives include multi-family units or duplexes, check cashing or payday lending institutions, industrial or warehousing facilities, pawn shops, churches or places of assembly, rooming houses, sexually-oriented businesses, wholesale or distribution centers, or any structure that does not adhere to the downtown design guidelines.

GUIDELINES FOR CONSTRUCTION IN THE NEZ

New construction and renovations in the Neighborhood Empowerment Zone (NEZ) shall be compatible with the massing, size, scale, and architectural features of the surrounding structures. Residential remodels in the NEZ should not attempt to recreate or replicate a past architectural style in its entirety but should take cues from the architectural and design elements of surrounding historic structures. Architectural style for residential shall be consistent with the Character Zones and include Craftsman, Tudor, American Four Square, or Victorian, among others, in the NEZ geographical area.

The following aspects of construction in the NEZ should be visually compatible with the buildings and environment with which the construction is related. These include but are not limited to: height, proportion between width and height of façade, proportion and relationship between doors and windows, rhythm of solids and voids created by openings in the façade, materials, textures, colors, patterns, trims, and design of the roof. Construction in the NEZ should also preserve the existing rhythm created by existing masses in the neighborhood and commercial downtown.

Construction in the Neighborhood Empowerment Zone (NEZ) shall be developed similar to existing historic structures and be built in a way that preserves and enhances the image, character, and unique qualities of the neighborhood. Celina's cultural identity produced significant historic, architectural, and archaeological resources. The NEZ district shall:

- Protect and enhance the landmarks, which represent distinctive elements of Celina's historic, architectural and cultural heritage;
- Foster civic pride in accomplishments of the past;
- Protect and enhance Celina's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- Ensure the orderly, efficient and appropriate growth and development of Celina;
- Promote economic stability and prosperity of the community by encouraging the most appropriate use of such significant property in Celina; and
- Stabilize and improve property values.

RESIDENTIAL DESIGN STANDARDS

Craftsman

The Arts & Crafts Movement began in the mid-1800s and is the mark in architectural history where more natural features evolved. Bungalows and prairie homes were associated with this movement. Bungalows were built with cobblestones as the foundation with broad chimneys, and the rest of the home was constructed of wood or shingles in natural shades. They also were associated with long pitched roofs, exposed rafters along its wide eaves, and a large front porch. Prairie Style homes are two story homes with a very horizontal appearance, seemingly flat roofs, wide overhanging eaves, and large plain chimneys.

Craftsman Style features:

- Rustic or prominent square style
- Exaggerated foundation & porch pillars
- Wide, deep front porches
- Bracketing and face boards
- Masonry base and piers
- Symmetrical roof
- Layout emphasizes horizontally
- Sheltering overhangs
- Heavy and dark wood
- Rustic details of brick or stone



Examples of Craftsman:



Four Square

The foursquare is one of the most popular homes built in the post-Victorian period. This style of home features a box-like appearance, flat walls, two full stories capped by a third story, a prominent porch that spans the entire front of the house, and simple windows and doors.

Four Square Style features:

- Two stories
- Horizontal appearance
- Wide eaves
- Wood piers and balustrades on porch
- Pitched roof
- Symmetrical massing
- Chimney on rear side of building



Examples of Four Square:



Tudor

In the late 1800s and early to mid-1900s, some American homes were built based on a medley of late Medieval and early Renaissance styles. These homes are typically asymmetrical, feature steep-pitched roofs, masonry chimneys, embellished doorways, groupings of windows, and decorative half-timbering.

Tudor features:

- Casement windows grouped in rows of three or more
- Windows framed in wood or metal
- Steep gabled roof
- Asymmetrical assemblage of architectural elements
- Thick masonry wall
- Bay windows
- Arch openings
- Board and batten doors



Examples of Tudor:



ATTACHMENT “C”

NEIGHBORHOOD EMPOWERMENT ZONE No. 1 DOWNTOWN INVESTMENT PROGRAM GUIDELINES & POLICIES

SUMMARY

The intent of the Neighborhood Empowerment Zone No. 1 is to allocate funds for the Downtown Investment Program (DIP) to be used to improve the physical features not only of the Historic District but also the larger Neighborhood Empowerment Zone (NEZ). To be eligible, projects must demonstrate a public benefit that promotes the welfare of citizens, preserves the historic and cultural attributes of the area, and provides economic benefit to Celina. These guidelines present the eligibility requirements, maximum City funding percentage, an overview of the application process, and other regulations governing the grant process.

APPLICATION CHECKLIST

Downtown Investment Program applications are accepted at any time. Application packets are available from the City of Celina website, Development Services page, or may be obtained from the Development Services staff. Applications are received electronically through the MyGov system. Contact the staff liaison for more information.

- ☐ DOWNTOWN INVESTMENT PROGRAM APPLICATION must be completely filled out and signed by the current property owner.
- ☐ LETTER OUTLINING PROPOSED WORK
- ☐ TAX CERTIFICATES indicating that there are no taxes due on the property.
- ☐ BUILDING ELEVATIONS four-sided, color elevations drawn to scale, with exterior material callouts are required.
- ☐ RELEVANT SUPPORTING INFORMATION regarding the history of the structure, photos, etc. (residential only)

The typical steps involved in each of these approval processes are described in the chart below:

Step 1	Application for Downtown Investment Program consideration submitted to the Main Street Board liaison.
Step 2	Eligibility Determination. The Main Street Board liaison issues a letter of eligibility to the City Manager providing that the project meets specified criteria based on the attached Guidelines & Policies.
Step 3	City Manager Action. The City Manager will consider the eligibility of the project based on staff's recommendation and the parameters of the Downtown Investment Program Resolution and the Guidelines & Policies for Construction in the Downtown Area.
Step 4	Construction Begins. Receipts for work are submitted to Staff.
Step 5	Project Completion. Once the project is complete, the City Manager will calculate the total cost of the project and provide a check to the applicant up to fifty percent (50%) of the total project cost, up to a \$25,000 maximum, as funds are available.

FEES

Applications for Downtown Investment Program are free. In addition, should the project require Historic Preservation Commission review, there will be no charge for that application. However, any associated building permits will be charged at the current City rate, unless a separate application for the Fee Reduction Program is received by Staff (see Attachment B of this document).

INCENTIVES AND GUIDELINES

Commercial (non-residential) property owners within the Historic District and the greater NEZ area are eligible to apply (depicted on Attachment “A”). Tenants or leaseholders must include the owner’s written permission with the application.

Physical improvements or additions to the exterior of buildings, public seating, awnings, improved signage, lighting, landscaping, or other projects that will substantially enhance the aesthetics of Celina and the public enjoyment are eligible for consideration. Internal improvements to upgrade a building for re-purposing or to expand a business may also be eligible for grants. Projects with broad community support are more likely to be successful than those that benefit only a few.

Projects will not be accepted for routine maintenance or for those projects that would require future maintenance by the City. In addition, any project that does not comply with existing City of Celina codes and policies, and applicable Federal and State laws, are not eligible for consideration. Projects may not create a public safety hazard or conflict with existing or approved municipal projects. Depending on the project, one or more building permits may be required. Properties with delinquent taxes, liens, or if they have had a code enforcement violation within the last year (unless under new ownership), are ineligible for DIP Grants.

Projects that meet the eligibility requirements, but are not chosen for funding during a fiscal year, may be resubmitted in the next funding cycle.

Examples of projects that are eligible for grants:

- Minor CIP Projects
- Façade Improvements
- Public Art (murals, sculpture, etc.)
- Safety Upgrades (lighting, security cameras)
- Interior Improvements that allow a new business to obtain a CO or allow an existing business to expand
- Exterior Seating, Tables, Gathering Places
- Patios
- Landscape Upgrades (including irrigation)
- Sidewalk Improvements
- Sign Toppers
- Exterior Lighting Aesthetic Improvements

Examples of projects that are not eligible for grants:

- Repairs or maintenance of existing structure or facility
- Projects requiring City of Celina maintenance
- Projects on non-conforming uses and structures

PROCESS

City Staff will evaluate each proposal to ensure that the required criteria are met. The Historic Preservation Committee may be required to consider the project and make a recommendation to the Planning & Zoning Commission, as applicable. The Commission has the final decision-making authority to determine the scope of the project and the grant amount, up to \$25,000.

Staff Liaison

The Main Street Manager will serve as staff liaison for the Downtown Investment Program.

Promotion/Advertising

The City reserves the right to use any pictures taken before, during, and after the project to promote not only the DIP program but also Celina in general.

CRITERIA FOR APPROVAL

Downtown Investment Program applications are evaluated using the following criteria:

<i>Criteria</i>	<i>Explanation of Criteria</i>
Public Benefit	The project helps improve the quality of life in the downtown area and/or aesthetics of the area, while also providing public benefit.
Project Feasibility	The project is cost-effective, achievable, realistic, sufficiently funded, and no ongoing maintenance is required from the City of Celina.
Project Impact	What is the impact this project will have both short term and long term? Does it align with neighborhood goals? How will implementation or completion of the project impact the environment or surrounding area?
Existing Conditions	The condition and age of the building demonstrate a need for improvement.
Applicant/Project Manager	The applicant has the capacity to execute the project and conduct necessary maintenance.
Requested City Contribution	Requested City Contribution is realistic and appropriate to the project. Provide letters of intent for in-kind donations or cash.
Aligned with National and State Regulations	All projects must follow the State Historic guidelines and the Secretary of the Interior standards

City Contribution

The Planning & Zoning Commission has sole discretion regarding project approval and the amount of the grant, which may be funded up to fifty percent (50%) of the project total cost (however, the Commission reserves the right to award amounts that are less than 50% of the total project cost). Amount and timing of the allocation of funds will be determined on a case-by-case basis.

Disbursement of Funds

A Funding Agreement between the City and the applicant must be signed prior to the onset of any work or any costs being incurred for the project. Applicants must expend their own funds as indicated in the proposal prior to the expenditure of City funds. The timing of allocation and amount of funds will be determined at the discretion of the City. Payments will be made following the submittal of receipts for work completed. Projects must be started within six (6) months following approval and must be completed by one (1) year of the start date. Extensions for cause may be allowed. Requests for time extensions must be submitted to the City in writing.

ATTACHMENT “D”

NEIGHBORHOOD EMPOWERMENT ZONE No. 1 RESIDENTIAL TAX REINVESTMENT PROGRAM GUIDELINES AND POLICY

SUMMARY

The intent of the Neighborhood Empowerment Zone No. 1 is to allocate funds for the Residential Tax Reinvestment Rebate Program to be used to improve the physical exterior features of housing in the Neighborhood Empowerment Zone (NEZ). Projects must have a minimum \$20,000 expenditure to qualify and follow the Old Town Residential architectural standards. These guidelines present the eligibility requirements, tax rebate process, and other regulations governing the Residential Tax Reinvestment Program process.

APPLICATION CHECKLIST

Residential Tax Reinvestment Rebate applications are accepted at any time. Application packets are available from the City of Celina website, Development Services page, or may be obtained from the Development Services staff. Applications are received electronically through the MyGov system. Contact the staff liaison for more information.

- ☐ RESIDENTIAL TAX REINVESTMENT PROGRAM APPLICATION must be completely filled out and signed by the current property owner.
- ☐ LETTER OUTLINING PROPOSED WORK
- ☐ TAX CERTIFICATES indicating that there are no taxes due on the property.
- ☐ BUILDING ELEVATIONS four-sided, color elevations drawn to scale, with material callouts are required.
- ☐ RELEVANT SUPPORTING INFORMATION regarding the history of the structure, photos, etc. (residential only)

The typical steps involved in each of these approval processes are described in the chart below:

Step 1	Application for Residential Tax Reinvestment Program consideration submitted to the Development Services Department.
Step 2	Eligibility Determination. The Director of Development Services issues a letter of eligibility to the City Manager providing that the project meets specified criteria based on the attached Guidelines & Policies.
Step 3	City Manager Action. The City Manager will consider the eligibility of the project based on staff’s recommendation and the parameters of the Residential Tax Reinvestment Program Resolution and the Guidelines & Policies for Construction.
Step 4	Construction Begins. Receipts for work are submitted to Staff, ensuring that a minimum of \$20,000 per project has been met.
Step 5	Project Completion. Once the project is complete, the tax assessor will calculate the increase in property taxes due to the improvements. Once this figure is determined, the City will issue a check to the applicant for ten (10) times the City Property Tax increase, up to a \$5,000 maximum.

FEES

Applications for Residential Tax Reinvestment Rebates are free. In addition, should the project require Historic Preservation Commission review, there will be no charge for that application. However, any associated building permits will be charged at the current City rate.

INCENTIVES AND GUIDELINES

Homeowners within the Neighborhood Empowerment Zone depicted on Attachment “A” are eligible to apply. Tenants or leaseholders must include the owner’s written permission with the application. Significant improvements and/or expansion to the exterior of single-family homes within the NEZ are

eligible for Residential Tax Reinvestment Rebates. Improvements to the interior of the home or backyard do not qualify. Projects that improve the structure of the residence but are not necessarily openly visible will be considered on a case-by-case basis.

The Neighborhood Empowerment Zone No. 1 will be subdivided into Character Areas. In order to be eligible for the rebate, improvements to the facades within each Character Area must display the overall architectural style and exterior materials of the area and the governing regulations applicable to each.

PROCESS

City Staff will evaluate each proposal to ensure that the required criteria are met. Those projects given staff approval will be brought to the appropriate City boards for their review and decision. Applications may require Historic Preservation Commission approval. Staff will assist applicants in presenting their project to the Planning & Zoning Commission for final approval. Once approved, an Agreement between the applicant and the City must be signed by both parties stating the particulars of the proposed project and the anticipated outcome.

Promotion & Advertising

The City reserves the right to use any pictures taken before, during, and after the project to promote not only the Residential Tax Reinvestment Program but also Celina in general.

CRITERIA FOR APPROVAL

Residential Tax Reinvestment Program applications are evaluated using the following criteria:

<i>Criteria</i>	<i>Explanation of Criteria</i>
Existing Conditions	The condition and age of the building demonstrate a need for intervention.
Character District	Consider the application of the architectural style that is predominant in each district.
Applicant/Project Manager	The applicant has the capacity to execute the project and conduct necessary maintenance.
Project Impact	What is the impact this project will have both short term and long term? Does it align with neighborhood goals? How will implementation or completion of the project impact the environment or surrounding area?
Aligned with Old Town Residential Standards	The project incorporates the architectural standards preferred by the City in the Old Town area.
Aligned with National & State Regulations	All projects must follow the State Historic guidelines and the U.S. Secretary of the Interior standards.

Staff Oversight

Once the homeowner is given approval to proceed, the Development Services staff will continue to monitor the progress and receive copies of receipts reflecting the project costs. At the conclusion of the project, staff will determine if the \$20,000 minimum has been achieved and make a note of the property tax amount on or about the date of completion. Once the property has been re-assessed, and the property tax recalculated, staff will determine the change in the pre-project tax assessment and the post-project tax assessment. The change in the City property taxes in the first year following reassessment will be then multiplied by ten to determine the amount of the one-time tax rebate, up to a maximum reimbursement of \$5,000.

Disbursement of Funds

The tax rebate will be issued at the discretion of the City of Celina, as funds allow.



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: August 13, 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 2000 feet south of FM 428 and east of future Legacy Drive. (The Monschke Tract Development Agreement) (McAfee)

Background Information:

This tract and the Old Celina Tract are both subject to the two concurrent Development Agreements dedicating right-of-way for the new alignment of the future Legacy Drive. Both Development Agreements include architectural standards (in addition to the overall development standards).

Legal Review:

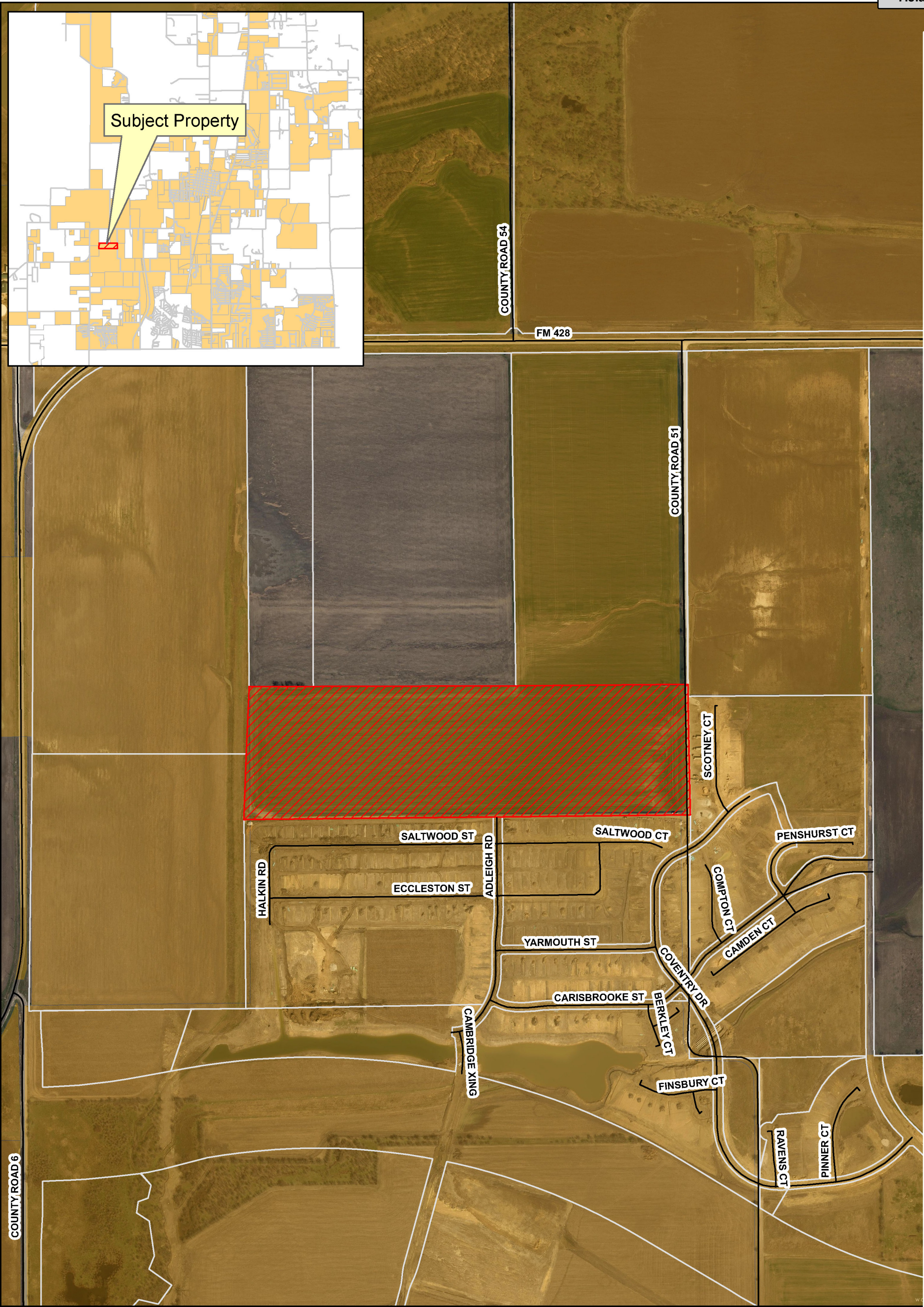
This document has been reviewed by the City Attorney.

Supporting Documents:

- Location Map
- Draft Development Agreement

Staff Recommendation:

Staff Recommends Approval.



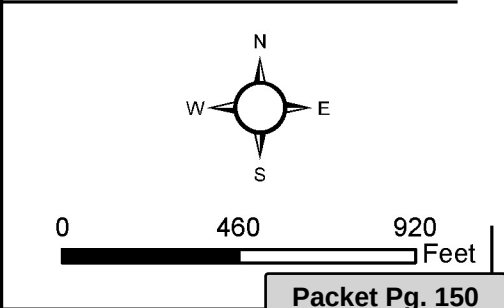
Attachment: Location Map (The Monschke Tract Development Agreement)



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 “Developer”) and the **City of Celina** (the “City”), to be effective on the date upon which the last of all of the Parties has approved and duly executed this Agreement (“Effective Date”).

ARTICLE I RECITALS

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

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

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

WHEREAS, the Estate of Mattie Ruth Preston Monschke owns an approximately 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 Developer intends to develop the Property as a master planned mixed use development, which consists of multi-family and commercial uses; and

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

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

WHEREAS, the Developer and the City acknowledge that this Agreement is binding upon the City and the Developer 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 Developer’s 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.

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

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

Developer 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, except to the extent that the Concept Plan, attached as **Exhibit C** and the Development Standards, attached as **Exhibit D**, may vary from those terms, then the Concept Plan and the Development Standards shall control.

(b) Building permits and certificates of occupancy shall be required for improvements on the Property using the procedures and standards contained in the City Regulations. Permits will not be used for permit applications that do not comply with the terms of this agreement. The City will not be held liable for withholding permits under this section.

(c) 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.

(d) 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.

3.2 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.

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

4.3 ROW Dedication. The Developer shall, either by plat or by deed as requested by the City, dedicate the right-of-way area for roads, 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 DEVELOPER AND ITS SUCCESSORS AND ASSIGNS SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN "INDEMNIFIED PARTY"), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE DEVELOPER; (II) THE NEGLIGENT DESIGN, ENGINEERING AND/OR CONSTRUCTION BY THE DEVELOPER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE DEVELOPER OF ANY OF THE PUBLIC IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER'S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUB-CONTRACTORS AND SUPPLIERS IN THE PROVISION AND/OR CONSTRUCTION**

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

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

THIS SECTION 5.7 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

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

4.5 DEVELOPER'S ACKNOWLEDGEMENT OF THE CITY'S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND

FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/DEVELOPERS' WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

(A) THE DEVELOPER ACKNOWLEDGES AND AGREES THAT:

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

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

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

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

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

ARTICLE V
TERM

The term of this Agreement shall be for a period of fifteen (15) years after the Effective Date. The Parties may extend the term of this Agreement if they execute an agreement in writing.

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 affiliate or related entity of the Developer, or any lien holder on the Property, without the prior written consent of the City. The obligations, requirements or covenants to the development of the Property shall not be assigned by Developer to a non-affiliate or non-related entity of the Developer without the prior written consent of the City Manager, which consent shall not be unreasonably withheld if the assignee demonstrates financial ability to perform. An assignee shall be considered a "Party" for the purposes of this Agreement. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned, and shall contain a representation by the assignee acknowledged by a notary public that the assignee has the financial ability to timely perform the assigned obligations. A copy of each fully executed assignment to an assignee shall be provided to all Parties within 15 days after execution. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City

approves the release in writing. Developer shall maintain written records of all assignments made by Developer to assignees, including a copy of each executed assignment and, upon written request from any Party or assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party's sale, assignment, transfer, or other conveyance of any interest in this Agreement or the Property.

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 Developer'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 10.1 below) of a lot within the Property, any person or entity upon becoming an owner of land or upon obtaining an ownership interest in any part of the Property shall be deemed to be a "Developer" and have all of the obligations of the Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

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 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 VIII

RECORDATION AND ESTOPPEL CERTIFICATES

8.1 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.

8.2 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 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@hbwvlaw.com

To the Developer: The Estate of Mattie Ruth Preston Monschke

With a copy to:

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 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.

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 | Concept Plan |
| Exhibit D | Development Standards |

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 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.

9.15 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.

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 Developer on the respective dates stated below.

Date: _____

CITY OF CELINA

By: _____
Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

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: Development Agreement (The Monschke Tract Development Agreement)

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

a _____

By: _____

Name: _____

Title: Trustee

STATE OF TEXAS §

§

COUNTY OF _____ §

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

(SEAL)

Notary Public, State of Texas_____
Name printed or typed

Commission Expires: _____

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."

EXHIBIT B

Survey of Property

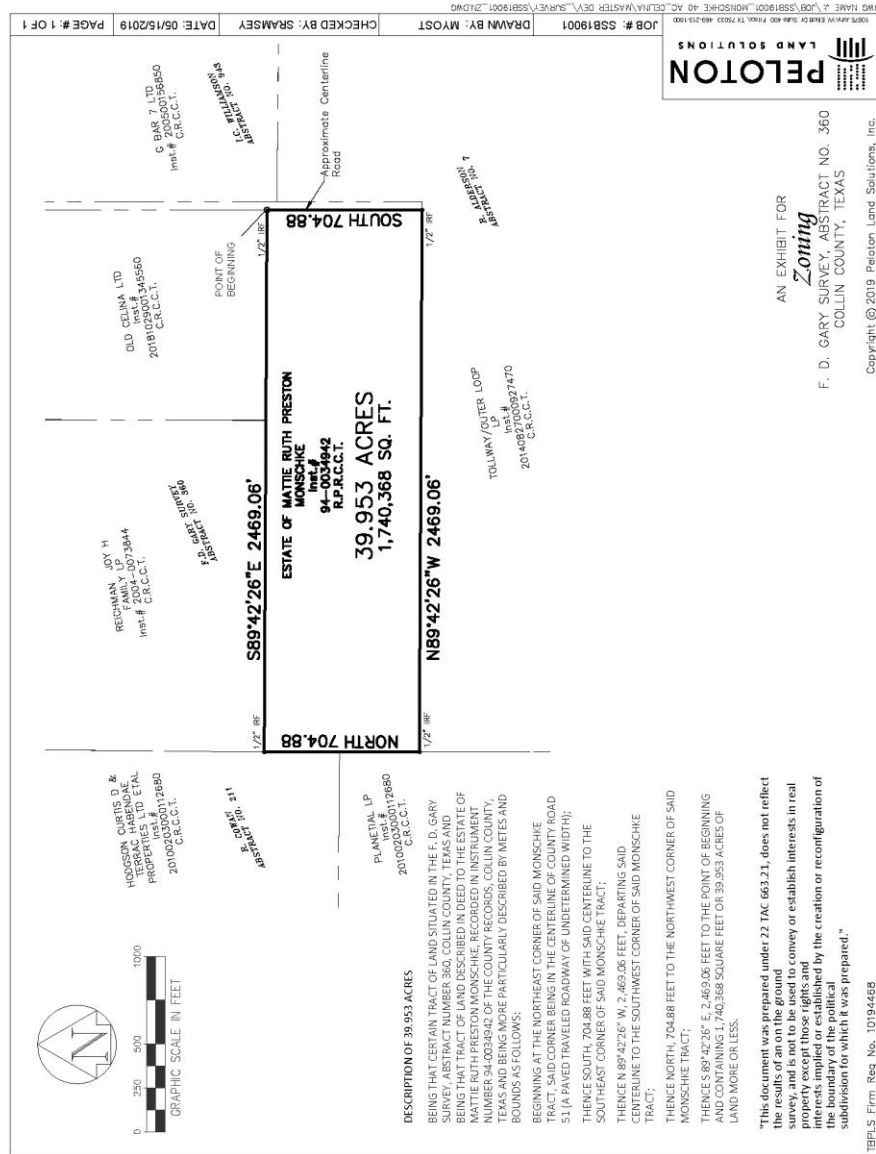


EXHIBIT C

Concept Plan

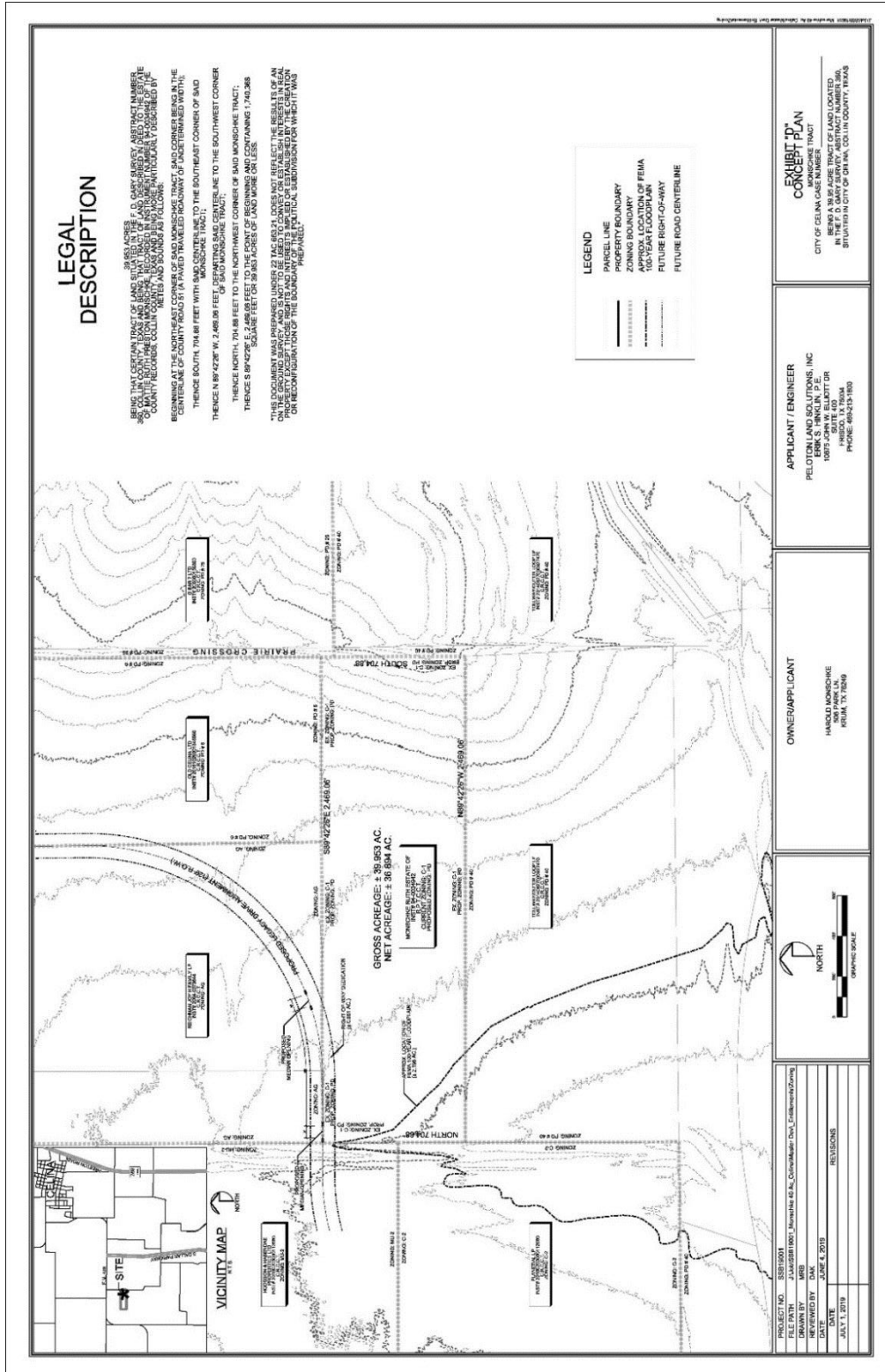


EXHIBIT D Development Standards

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 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 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.

C. Minimum Floor Area:

SECTION 1 welling Unit Type	D	SECTION 2 inimum Floor Area	M	SECTION 3 estrictions	R
SECTION 4 fficiency Unit	E	SECTION 5 50 sq. ft.	5	SECTION 6	-
SECTION 7 ne-bedroom/Studio	O	SECTION 8 50 sq. ft.	6	SECTION 9	-
SECTION 10 wo-Bedroom	T	SECTION 11 50 sq. ft.	7	SECTION 12	-
SECTION 13 hree-Bedroom	T	SECTION 14 00 sq. ft.	9	SECTION 15 o more than 10% of total units	N
SECTION 16 our-Bedroom Above	F and	SECTION 17 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:

SECTION 18 Unit Type	Dwelling	SECTION 19 Requirements (Per Unit)	Parking
SECTION 20 Unit	Efficiency	SECTION 21	1.5
SECTION 22 bedroom/Studio	One-	SECTION 23	1.5
SECTION 24 Bedroom	Two-	SECTION 25	2
SECTION 26 Bedroom	Three-	SECTION 27	2.5
SECTION 28 required spaces	Total	SECTION 29	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, 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.

EXHIBIT E**Legal Description and Depiction of the ROW Dedication**

[See attached]



Attachment: Development Agreement (The Monschke Tract Development Agreement)



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: August 13, 2019
Re: Old Celina Development Agreement

Action Requested:

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)

Background Information:

This tract and the Monschke Tract are both subject to the two concurrent Development Agreements dedicating right-of-way for the new alignment of the future Legacy Drive. Both Development Agreements include architectural standards (in addition to the overall development standards).

Legal Review:

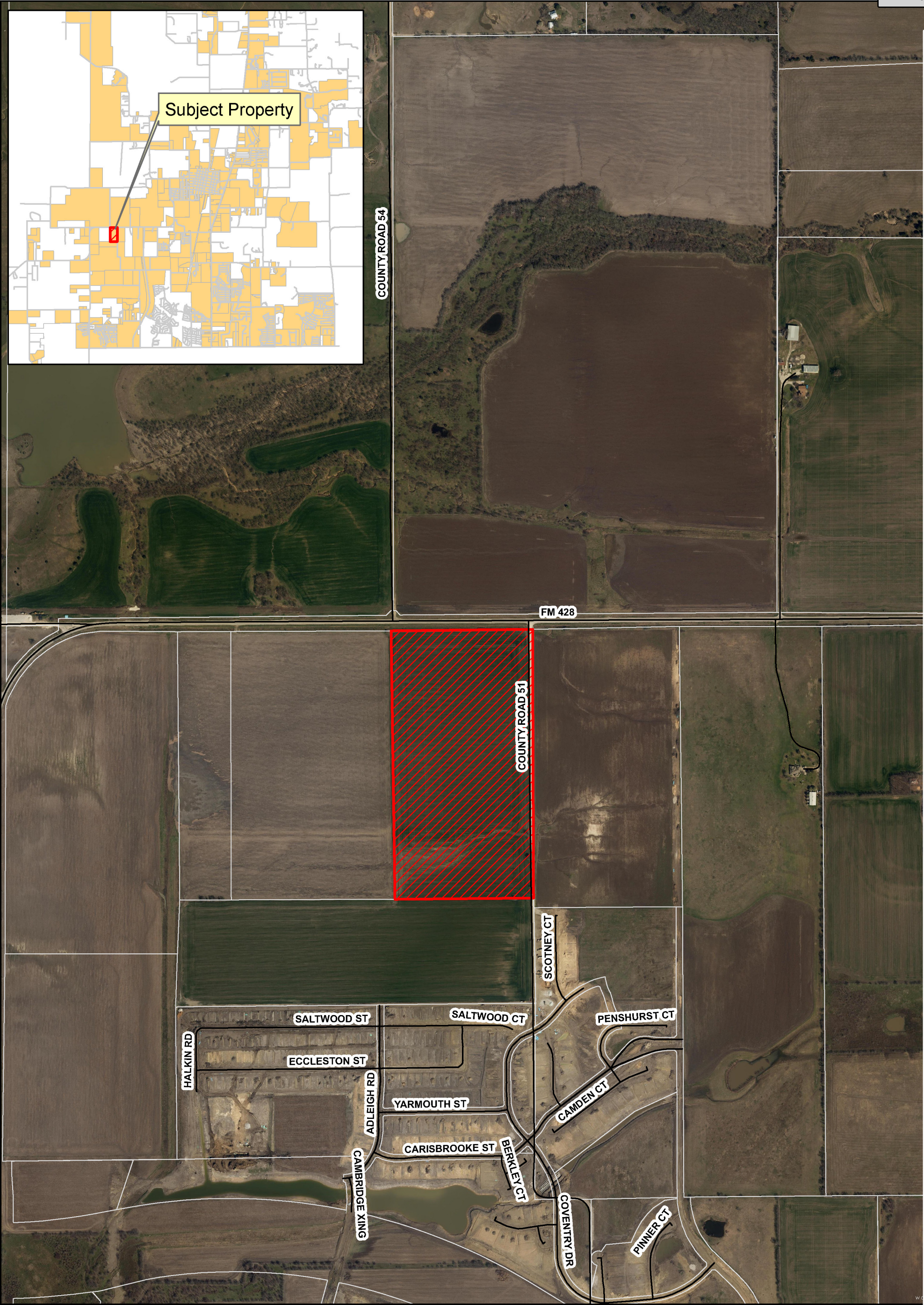
This document has been reviewed by the City Attorney.

Supporting Documents:

- Location Map
- Draft Development Agreement

Staff Recommendation:

Staff recommends approval as presented.



Attachment: Location Map (Monschke (Old Celina) Development Agreement)



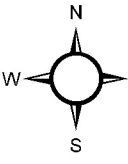
Old Celina LTD Location Map

Date: 8/8/2019

Legend

- Roads
-  OldCelinaLTD
-  Collin County Parcels

0 600 1,200 Feet



Packet Pg. 173

MONSCHKE DEVELOPMENT AGREEMENT

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

ARTICLE I RECITALS

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

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

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

WHEREAS, Old Celina, Ltd. owns an approximately 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 Developer intends to develop the Property as a [REDACTED] development, which consists of [REDACTED]; 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”), and the development standards set forth in certain proposed development zoning standards (the “Development Standards”); and

WHEREAS, the Developer and the City acknowledge that this Agreement is binding upon the City and the Developer 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 Developer’s 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.

Developer means Old Celina, Ltd., a limited liability company.

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, except to the extent that the Concept Plan and the Development Standards, may vary from those terms, then the Concept Plan 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. Permits will not be used for permit applications that do not comply with the terms of this agreement. The City will not be held liable for withholding permits under this section.

(c) 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.

(d) 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.

3.2 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.

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

4.3 ROW Dedication. The Developer shall, either by plat or by deed as requested by the City, dedicate the right-of-way area for roads, 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 DEVELOPER AND ITS SUCCESSORS AND ASSIGNS SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN “INDEMNIFIED PARTY”), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE DEVELOPER; (II) THE NEGLIGENT DESIGN, ENGINEERING AND/OR CONSTRUCTION BY THE DEVELOPER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE DEVELOPER OF ANY OF THE PUBLIC IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER’S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUB-CONTRACTORS AND SUPPLIERS IN THE PROVISION AND/OR CONSTRUCTION OF THE PUBLIC IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED BY THE DEVELOPER OR ITS AGENTS TO CONSTRUCT THE PUBLIC INFRASTRUCTURE; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER’S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES, AND/OR TRUSTEES, REGARDING OR RELATED TO THE PUBLIC IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE PUBLIC INFRASTRUCTURE, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE**

OUT OF THE PARTIAL NEGLIGENCE OF AN INDEMNIFIED PARTY (THE "CLAIMS"). NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY. DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, AND CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE.

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

THIS SECTION 5.7 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

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

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

(A) THE DEVELOPER ACKNOWLEDGES AND AGREES THAT:

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

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

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

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

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

ARTICLE V

TERM

The term of this Agreement shall be for a period of fifteen (15) years after the Effective Date. The Parties may extend the term of this Agreement if they execute an agreement in writing.

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 affiliate or related entity of the Developer, or any lien holder on the Property, without the prior written consent of the City. The obligations, requirements or covenants to the development of the Property shall not be assigned by Developer to a non-affiliate or non-related entity of the Developer without the prior written consent of the City Manager, which consent shall not be unreasonably withheld if the assignee demonstrates financial ability to perform. An assignee shall be considered a “Party” for the purposes of this Agreement. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned, and shall contain a representation by the assignee acknowledged by a notary public that the assignee has the financial ability to timely perform the assigned obligations. A copy of each fully executed assignment to an assignee shall be provided to all Parties within 15 days after execution. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City approves the release in writing. Developer shall maintain written records of all assignments made by Developer to assignees, including a copy of each executed assignment and, upon written request from any Party or assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party’s sale, assignment, transfer, or other conveyance of any interest in this Agreement or the Property.

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 Developer’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 10.1 below) of a lot within the Property, any person or entity upon becoming an owner of land or upon obtaining an ownership interest in any part of the Property shall be deemed to be a “Developer” and have all of the obligations of the Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

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 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 VIII **RECORDATION AND ESTOPPEL CERTIFICATES**

8.1 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.

8.2 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 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@hbwvlaw.com
To the Developer:	Old Celina, Ltd. 12400 Preston Road, Suite 100 Frisco, Texas 75034 _____ _____ _____ _____
With a copy to:	_____ _____ _____ _____

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 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.

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 | Legal Description and Depiction 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 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.

9.15 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.

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 Developer on the respective dates stated below.

Date: _____

CITY OF CELINA

By: _____
Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

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: Development Agreement (Monschke (Old Celina) Development Agreement)

DEVELOPER:**Old Celina, Ltd.**

a _____

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2019 by _____,
 a Trustee of **Old Celina, Ltd.**, a _____ on behalf of said _____
 _____.

(SEAL)

Notary Public, State of Texas_____
Name printed or typed

Commission Expires: _____

EXHIBIT A
Legal Description

Attachment: Development Agreement (Monschke (Old Celina) Development Agreement)

EXHIBIT B
Survey of Property

Attachment: Development Agreement (Monschke (Old Celina) Development Agreement)

EXHIBIT C**Legal Description and Depiction of the ROW Dedication**

[See attached]



Attachment: Development Agreement (Monschke (Old Celina) Development Agreement)



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: August 13, 2019
Re: Boards, Commissions, and Committees Amendment

Action Requested:

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)

Background Information:

The ordinance amends the structure of Building and Standards Commission section of the current ordinance to increase the composition of the commission to seven members.

Legal Review:

This document has been reviewed by the City Attorney.

Supporting Documents:

- Draft 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 1.04 BOARDS, COMMISSIONS, AND COMMITTEES; DIVISION 3 BUILDING AND STANDARDS COMMISSION; SECTION 1.04.072 CREATION; MEMBERSHIP; MEETINGS, SUBSECTION (b) COMPOSITION, APPOINTMENT, AND TERMS OF MEMBERS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR AMENDMENT TO THE CODE OF ORDINANCES; PROVIDING FOR A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; 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 it is in the public interest to revise certain rules related to the City's Building and Standards Commission.

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 1.04 Boards, Commissions, and Committees; Division 3; Building and Standards Commission; Section 1.04.072 Creation; membership; meetings, subsection (b) Composition, appointment, and terms of members shall be amended to read as follows:

"(b) Composition, appointment and terms of members

- (1) Members of the commission shall be appointed by the city council.
- (2) The commission shall be composed of five members.
- (3) Appointments shall be for terms of two years, except any first appointment may be for a one-year term in order to continue the staggered two-year terms of the commission."

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
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 building and standards commission, 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

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 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 August, 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: Ordinance (Boards, Commissions, and Committees Amendment)



Engineering
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Catherine Oduro, Engineer
CC: Kim Brawner, Director of Engineering
Date: August 13, 2019
Re: Engineering Design Contract - Legacy Drive Doe Branch Bridge Crossing

Action Requested:

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)

Background Information:

The project will include the design of the following tasks:

Detailed design of Legacy Drive, starting from the end of the existing concrete pavement just north of the intersection of Legacy and Honey Creek Way and extending north to the intersection with Carey road, approximately 2100 feet. The design also includes a TXDOT style bridge over Doe Branch and improvements to the Carey Rd intersection.

A Master Service Agreement (MSA) between the City and Peloton Land Solutions was authorized on January 22, 2019.

Financial Considerations:

Engineering design for Legacy Drive Doe Branch Bridge Crossing has been budgeted as part of the FY19 Bond Sale. A reimbursement resolution was authorized on February 12, 2019 by Resolution 2019-09R.

Legal Review:

Legal will review the form and content

Supporting Documents:

Contract

Staff Recommendation:

Staff recommends authorizing the design agreement (Work Order 02) with Peloton Land Solutions, Inc. in an amount not to exceed \$456,711.00.

Attachment “A”

Engineering Services – Design of Legacy Drive from Honey Creek Way to Carey Road

Task Order #2

(City Project #R25)

Scope of Work

The scope defines the engineering and surveying services to be performed by Peloton Land Solutions, Inc. (Peloton) for the City of Celina (City) on Task Order #2 of the Legacy Drive Bridge & Roadway Design project (City Project #R25). This project consists of the detailed design of Legacy Drive, beginning at the end of existing concrete pavement just north of the intersection of Legacy and Honey Creek Way and extending north to the intersection with Carey Road, approximately 2100 feet. The design will also include a TxDOT-style bridge over Doe Branch and improvements to the intersection with Carey Road. The existing roadway within the project area is a two-lane gravel road, and the existing Doe Branch stream crossing consists of 1-27” and 2-60” corrugated metal pipes (CMPs). These existing pipes are severely undersized, causing the roadway to overtop frequently, with a level of service less than the 1-year storm. The proposed bridge crossing and roadway improvements will provide a significant increase to mobility and public safety to this rapidly growing part of Celina.

This scope of services, consists of project management; field survey, right-of-way (ROW) research, and preparation of ROW/easement documents; geotechnical investigation; waters of the United States (WoUS) permitting; H&H analysis and design; roadway and bridge design; preparation of construction plans & documents; and assistance with bidding and construction. This scope will produce construction plans for the two eastern (northbound) lanes, which will be marked to provide for two-way traffic until the western (southbound) lanes can be constructed at some time in the future. However, to ensure that the future phases of the roadway can be constructed as intended, Peloton will design the full future section of the roadway (three lanes in each direction) for the full 2100-foot limits of the project, excluding detailed design of the full future intersection with Carey Road.

Proposed Services – Task Order #2

1.0 Design Management

1.1 Project Meetings

Peloton will orchestrate and attend project meetings as directed by the City to ensure the design team, City, Collin and Denton County, and citizens of Celina remain informed and have direct input on the project. These meetings will include:

- Project kick-off meeting with the City;
- Design review meetings (3) with the City, at or after milestone submittals;
- Periodic conference calls with City staff to discuss status and design issues (biweekly);
- Meetings (4 total) with Collin County and/or Denton County.

1.2 Project Team Management

Peloton will lead, manage, and direct design team members and activities to ensure quality, timeliness, and performance. This management will include:

- Orchestrating and hosting internal team meetings;
- Communication and reporting;
- Meeting agendas and minutes;
- Monthly invoicing & progress reports to the City;
- Programmed QA/QC review;
- Sub-consultant coordination and oversight;
- Project schedule preparation and updates.

Work on this task order is expected to commence in July 2019, with an estimated duration of 10 months to produce 100% level construction plans & documents. Project management effort after this point will be considered (and billed as) bid or construction phase services.

2.0 Data Collection & Conceptual (30%) Design

Peloton collected limited survey and right-of-way information as part of Task Order #1. The data collection described below consists of data beyond the scope of TO#1 as well as new data not previously required or available.

2.1 Data Collection

Peloton will perform research and collect data for the project analysis and design, with services to include:

- Obtain and review record drawings, utility design plans, and previous studies
- Perform an initial site visit with investigative photo documentation
- Obtain and review City standard drawings, specifications, and design guides
- Research and obtain any missing adjacent property owner information (plats, deeds, assessor data, etc.)

2.2 Topographic Survey

Peloton will perform detailed topographic field surveys along and adjacent to the project corridor as needed to carry out the design of this project. The survey will consist topography and surface features along the project corridor, extending the full width of the expected 120' ROW. In the vicinity of the bridge, other drainage structures, and the Carey Road intersection, this distance may extend up to an additional 100 feet outside of the proposed ROW. Significant surface features such as culvert flowlines, surface location of manholes, and pipeline markers will also be collected. Peloton will prepare right-of-access letters to affected landowners, but we have assumed the City will assist in gaining access to adjacent properties if necessary.

2.3 Subsurface Utility Investigation

Based on available information, Peloton will investigate the known existing subsurface utilities along the project corridor, within and adjacent to the 120' proposed ROW, listed below. This investigation will include:

- Survey of manholes and flowlines (where possible) of the existing 27" sanitary sewer within project corridor;

Further subsurface investigations (potholing, ground penetrating radar, geophysical search methods, etc.), as may be needed, are excluded from this scope and will be provided by others. The City will contract directly with a third-party SUE provider.

2.4 ROW/Easement Research and Boundary Survey

Peloton will research record documents and field locate available on-ground property monumentation along the project corridor. This information will be used to develop a right-of-way/easement control drawing and boundary survey. This research and surveying will include:

- Determination of locations and ownerships of existing public rights-of-way and easements (research current public record to determine ownership of impacted lands and those easements discovered during the research). Once any takings have been determined, a title search will be performed by the City's right-of-way agent, and the information provided to Peloton for use. The work of the right-of-way agent is not included in this scope of work.
- Confirmation of locations and existing monumentation and property line/corner identifiers (iron rods, caps, corner witnesses, stakes, fencing, etc.) with field measurements
- Determine preliminary right-of-way takings to satisfy the proposed 120-foot right-of-way, or whatever limits are determined by the design.
- Correlation of rights-of-way, easements, and property lines with project control and base topographic drawings.
- Rights of Entry Documents – Does the City want to do this, or do we need to do it?
- Peloton will prepare and submit temporary right of entry documents for City review. These documents will include letters, and accompanying legal descriptions and exhibits, addressed to landowners affected by the project construction activities (not permanent easements). This scope anticipates this effort will require no more than twelve right of entry documents. The notices will be mailed by either the City or Peloton, at the City's request.

2.5 Conceptual (30%) Design Engineering Plans

Peloton will prepare an Engineering Design Plans package based on work and City feedback from Task Order #1, objectives identified in a site constructability review, and further refinements of the project design. This submittal package will represent a level of completeness, as related to the 100% Construction Documents, of roughly 30%. The plans will reflect the roadway geometry, plan, and profile; storm drain lines and inlet locations; proposed grading outside of the pavement section; the bridge, with a preliminary estimated length of 550 feet; existing utility information and proposed adjustments; benchmarks and control information; proposed right-of-way and easements; and a list of anticipated standard and/or special construction details.

2.6 Conditional Letter of Map Revision (CLOMR)

Based on the 30% design, Peloton will prepare and submit to FEMA a request for a Conditional Letter of Map Revision (CLOMR). The CLOMR submittal will include a narrative description, tables, figures, exhibits, and required FEMA forms. For CLOMR submittals, FEMA typically requires the payment of a review fee prior to initiation of review. The review fee for a CLOMR of this nature is currently \$6,500 (not included in Peloton's fee). These fees are updated

periodically, so the actual amount may be different at the time of submittal. A check for the required amount, made payable to the “National Flood Insurance Program,” shall be the responsibility of the client but will be transmitted to FEMA by Peloton. The intent is to make this submittal through FEMA’s online portal.

3.0 Engineering Plans (60% Design)

Peloton will prepare an Engineering Design Plans package addressing review comments from the Conceptual Plans, objectives identified in a site constructability review, and as further refined in the project design process. This submittal package will represent a level of completeness, as related to the 100% Construction Documents, of roughly 60%. Peloton intends to retain, as a sub-consultant, the local engineering firm of Burns & McDonnell for bridge structural design, streetlight designs and collaboration on the proposed and future Legacy Drive and Carey Road conceptual intersection layout plans. The project schedule will be updated with this submittal package along with other documentation listed in the following sub-tasks.

3.1 Site Visit/Constructability Review

Peloton will orchestrate and participate with the City in an on-site project corridor walk-through to evaluate elements of Conceptual Design Plans and conduct a constructability review for concerning elements of the project. It is anticipated that this review will occur prior to or on concert with the preparation of the Engineering Plans.

3.2 Preliminary Flood Study and Stormwater Report

Peloton will prepare and submit a Preliminary Stormwater Report in accordance with the City’s Engineering Standards. This report will be an update of the report developed for the CLOMR submittal, refined to reflect and support the 60% design and supplemented with additional drainage information concerning other proposed drainage elements such as ditches, headwalls, and culverts.

3.3 Geotechnical Investigation & Pavement Design

Peloton intends to retain Terracon Consultants, Inc., a local geotechnical engineering firm, as a sub-consultant to perform a geotechnical investigation and provide pavement design as well as recommendations for fill placement, utility trenching, drilled shaft and bridge foundations for the project. Terracon’s services will be provided in accordance with the City’s Geotechnical Performance Specifications and will be detailed in a separate scope of work, included in this scope of work as an attachment, but will generally include:

- 10-ft deep soil borings and in-situ samplings at no more than 500-ft intervals along the project corridor, for areas outside of the bridge footprint;
- Four (4) borings at least 10’ into bedrock (estimated +/-50’ deep) for the bridge (one bore at each abutment, plus two additional bores spaced in between);
- Laboratory testing and engineering analysis to determine existing soil conditions;
- A detailed Geotechnical engineering study with pavement design, fill placement, bridge foundation recommendations, and utility trenching recommendations in conformance with City standards;
- A global stability analysis for the large fill areas required on both sides of the bridge.

3.4 Engineering Plans (60%)

Peloton will prepare and submit Engineering Plans to the City for review and comment. This plan set will be prepared in accordance with the City's Engineering Standards and include:

- Cover sheet with sheet index
- General notes sheet
- ROW/easement layout sheet with horizontal and vertical control
- Demolition plans
- Surface utility adjustment plans
- Plan and profile pavement plans
- Signage, striping, street markings, and streetlight plans
- Proposed and future Legacy Drive and Carey Road intersection conceptual layout plan
- Project phasing and traffic control plans
- Drainage area maps and calculations
- Storm drain and culvert improvement plans
- Roadway design cross-sections (as needed to support plan and profile drawings)
- Typical street sections, special details, and standard construction details
- Erosion control plans

3.5 Bridge Structural Design

Peloton intends to retain Burns & McDonnell to prepare the bridge structural plans for this project, utilizing City of Celina and TxDOT criteria as appropriate. The detailed scope for bridge design effort is included as an attachment to this scope of work.

3.6 Streetlight Design

Peloton intends to retain Burns & McDonnell to prepare the streetlight design plans for this project, according to City of Celina criteria and standards. The detailed scope for streetlight design effort is included as an attachment to this scope of work.

3.7 Waters of the U.S Permitting

Peloton will prepare a Preliminary Jurisdictional Determination (PJD) report based on the information gathered during the field delineation. PJD report will be prepared in accordance with Section 404 of the Clean Water Act and current USACE guidance. It is assumed, based on a preliminary review of the project plans that the construction of the proposed road crossing could be permitted under Nationwide Permit 14 (Linear Transportation Projects) with notification to the USACE. This is based on the assumption that the impacts would not exceed 0.50 acres. Peloton will prepare appropriate documents for submittal to the USACE. The Fort Worth District has a simplified permit application form that would be used for this submittal.

Peloton would utilize a sub-consultant to conduct a desktop cultural resources review to be included with the submittal. Mitigation will be required by the agencies to offset impacts to waters of the U.S. The current standard practice is to purchase mitigation bank credits to offset impacts. Peloton will coordinate with mitigation bank(s) that service the project area so that estimates can be obtained once the impacts for the project are known and can be quantified. If the impacts for the proposed road crossing exceed 0.50 acres, then an Individual Permit would be necessary.

3.8 Preliminary Project Specifications

Peloton will provide Preliminary Project Specification to support the Engineering Plans. The specifications book will be based on the latest edition of City's Technical Specifications and/or the North Central Texas Standard Specifications for Public Works Construction.

3.9 Quantities and Opinion of Probable Cost (updated)

Peloton will prepare and submit to the City an updated quantity takeoff and opinion of probable construction cost estimate reflecting changes and additions in the Engineering Plans. City provided unit costs (if available) will be used for this estimate.

3.10 Preliminary ROW/Easement Plats

Peloton will prepare and submit Preliminary right-of-way and/or easement plats based on the boundary survey and improvements proposed on the Engineering Plans. These will be preliminary documents needed to obtain right-of-way dedications and/or easements needed for improvements, construction, and temporary access along the project corridor. This scope anticipates this effort will require one plat showing ROW dedications of up to six parcels and no more than six separate easement documents.

4.0 Final Plans and Construction Documents

Peloton will prepare and submit Final Plans (90%) and Construction Documents (100%) for the project. The final submittal will include:

- Final Improvement Plans (90%)
- Flood Study and Stormwater Report (Final)
- ROW/Easement Plat (Final)
- Construction Plans (100%)
- Project Specifications (Final)
- Quantities and Opinion of Probable Cost (Final)

5.0 TPDES Permit (SWPPP) Document Preparation

Peloton will prepare erosion control plans, a Storm Water Pollution Prevention Plan (SWPPP), and the Construction Site Notice to be submitted to the City of Celina for approval.

6.0 Bidding Support Services

Peloton will provide Bidding Support to the City for the award of the project to a selected contractor. These services, as normally required for a project of this type and size, will include the performance, preparation, and/or coordination of the following:

- Unit price bid documents
- Contract documents and instructions to bidders
- Prebid conference
- Advertise for bidders and track bidder list
- Contract addenda distribution
- Substitutions and alternate materials review
- Bid opening, tabulation, qualification review, and award recommendation
- Final contract documents (addenda and substitutions incorporated)

7.0 Construction Support Services

Peloton will provide Construction Support to the City to facilitate the construction of the project. These services, as normally required for a project of this type and size, will include the performance, preparation, and/or coordination of the following services and tasks. For this proposal, it is assumed that construction will take no more than 10 months and Peloton will perform an average of two site visits per month for observation, issue resolution, and field reporting.

- Preconstruction conference
- Site visits/observations and progress reports during construction
- Review Geotech field reports, samples, and material submittals
- Review and address RFI/RFC requests, change orders, and shop drawings
- Punch-list walkthrough and final project/acceptance walkthrough
- Record Drawings (Mylar sheets) and final electronic CAD drawing files (markups including field measurements to be provided by contractor)

8.0 Letter of Map Revision (LOMR)

Upon completion of bridge construction, Peloton will prepare and submit a Letter of Map Revision (LOMR) to FEMA to revise the effective flood insurance rate map (FIRM) to reflect construction of the bridge. Peloton will collect as-built survey of the bridge structure, abutments/embankments, riprap, and associated grading and roadway improvements as required by FEMA standards. The LOMR submittal will include a narrative description, tables, figures, exhibits, and required FEMA forms. For LOMR submittals, FEMA typically requires the payment of a review fee prior to initiation of review. The review fee for a LOMR of this nature is currently \$8,000 (not included in fee). These fees are updated periodically, so the actual amount may be different at the time of submittal. A check for the required amount, made payable to the "National Flood Insurance Program," shall be the responsibility of the client but will be transmitted to FEMA by Peloton. The intent is to make this submittal through FEMA's online portal.

Exclusions

The following Exclusions apply to this Scope of Work:

- Potholing or other subsurface investigation activities;
- Construction Staking and As-Built Surveying, except as noted for the LOMR task;
- Material Testing during construction;
- Natural Gas pipeline lowering or relocations;
- Environmental Permitting or JWOTUS delineations /mitigations, except as included herein;
- Traffic Impact Analysis, Studies, or Traffic Signal designs;
- Landscape designs or improvements, other than revegetation of disturbed areas;
- TxDLR/TAS Accessibility review;
- MTP amendments or updates;
- Retaining walls or Structural designs, except as described herein for the bridge;

Attachment 'B'

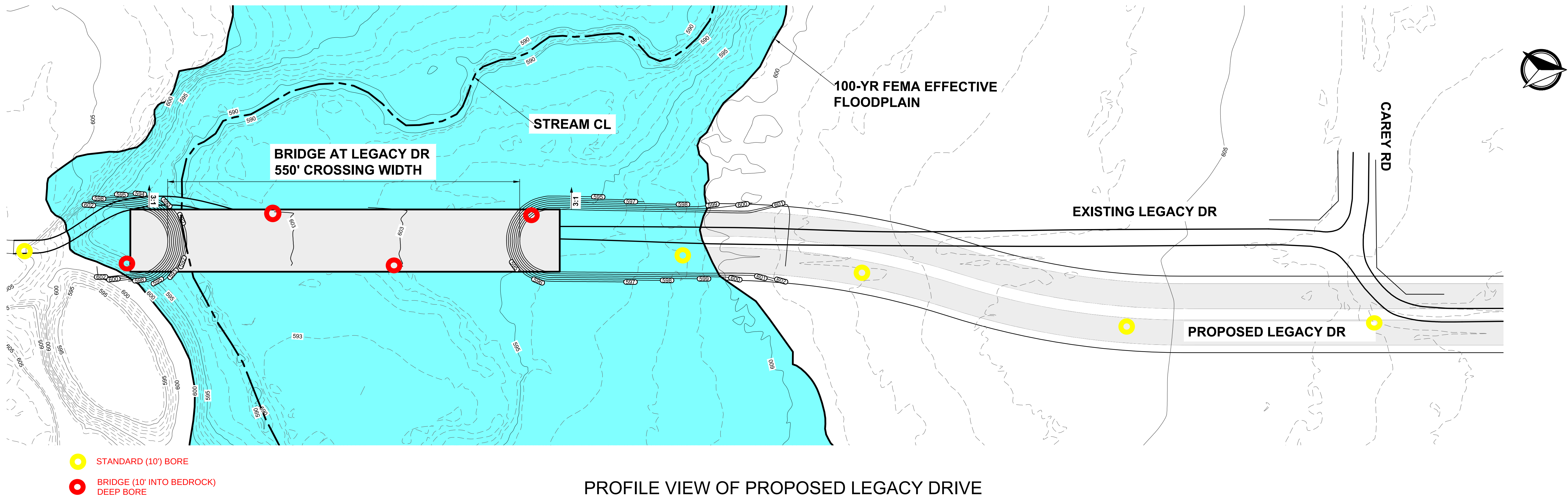
Compensation and Fees

Compensation

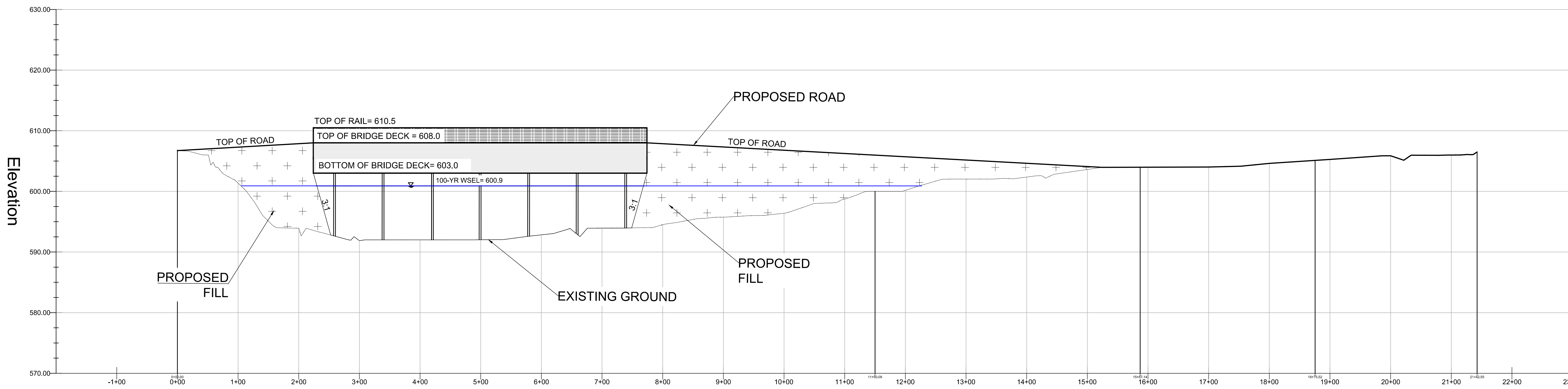
For all services included in Exhibit A: Scope of Work, Peloton shall be compensated a Lump Sum amount of \$ xx,000.00 as summarized in the following table. This Lump Sum maximum fee shall be considered full compensation for all labor, materials, supplies, travel expenses, equipment, and sub-consultant fees necessary to deliver the services described in herein. The Lump Sum fee shall not be exceeded without prior authorization from the City. If additional services are required beyond the Scope of Work, compensation shall be per corresponding contract addenda.

Lump Sum Fee Summary

<u>Task</u>	<u>Fee</u>
1.0 Design Management	\$xx,000.00
2.0 Data Collection & Conceptual (30%) Design)	\$xx,000.00
3.0 Engineering Design (60%)	\$xx,000.00
4.0 Final Plans & Construction Documents	\$xx,000.00
5.0 Permitting Support Services	\$xx,000.00
6.0 Bidding Support Services	\$xx,000.00
7.0 Construction Support Services	\$xx,000.00
8.0 Letter of Map Revision (LOMR)	\$xx,000.00
Reimbursable Expenses (estimated)	\$x,000.00
Total Lump Sum	<u>\$xx,xxx.00</u>



PROFILE VIEW OF PROPOSED LEGACY DRIVE





Project
Client
Date

Legacy Drive - Phase 1
City of Celina
7/4/2019

Engineering Services – Design of Legacy Drive from Honey Creek Way to Carey Road Task Order #2 (City Project #R25)																											
	Rate (\$)	Project Principal	Sr. Project Manager	Project Manger	Sr. Civil Engineer	Civil Engineer	Civil Designer	EIT I	EIT II	EIT III	Sr. Planner	Planner	CADD Tech I	CADD Tech II	Sr. Survey RPLS	Sr. Survey Tech	Survey Tech	Survey Crew (2-Man)	Sr. Env. Scientist	Env. Scientist I	Env. Scientist III	Admin II	Total Hours	Sub Cost	Cost	Proposal	
1.0 Design Management																											
1.1 Project Meetings		2		12		12															8		34		\$5,150.00	\$5,150.00	
1.2 Project Team Management		2		24		24															8		58		\$8,990.00	\$8,990.00	
2.0 Data Collection & Conceptual (30%) Design																							0		\$0.00	\$0.00	
2.1 Data Collection			1	2		4				12													19		\$2,575.00	\$2,575.00	
2.2 Topographic Survey						2									4	10		50					66		\$9,960.00	\$9,960.00	
2.3 Subsurface Utility Investigation		1	1	2		4				8													16		\$2,350.00	\$2,350.00	
2.4 ROW / Easement Research and Boundary Survey			2	2		2									6	30	16	50				24	132		\$17,390.00	\$17,390.00	
2.5 Conceptual (30%) Design Engineering Plans			1	2		4	12			24	2	6		20							4		75		\$8,905.00	\$8,905.00	
2.6 Conditional Letter of Map Revision (CLOMR)				4		40		30	100														174		\$20,170.00	\$20,170.00	
3.0 Engineering Plans (60% Design)																							0		\$0.00	\$0.00	
3.1 Site Visit / Constructability Review		1	1	1		1																	4		\$790.00	\$790.00	
3.2 Preliminary Flood Study & Stormwater Report				2		8		20	20														50		\$5,580.00	\$5,580.00	
3.3 Geotechnical Investigation & Pavement Design																							0	\$17,600.00	\$1,000.00	\$18,600.00	
3.4 Engineering Plans (60%)			2	6		16	80			80	4	40		80								12	320		\$37,530.00	\$37,530.00	
3.5 Bridge Structural Design																							0	\$187,805.00	\$5,000.00	\$192,805.00	
3.6 Streetlight Design																							0	\$12,556.00	\$1,000.00	\$13,556.00	
3.7 Waters of the U.S Permitting																		8	12	40			60		\$7,680.00	\$7,680.00	
3.8 Preliminary Project Specifications						4				16													20		\$2,480.00	\$2,480.00	
3.9 Quantities and Opinion of Probable Cost (updated)						4				16													20		\$2,480.00	\$2,480.00	
3.10 Preliminary ROW/Easement Plats															8	20							28		\$4,360.00	\$4,360.00	
4.0 Final Plans and Construction Documents																							0		\$0.00	\$0.00	
4.1 Final Improvement Plans (90%)			4	4		10	40			20			40	60									178		\$19,680.00	\$19,680.00	
4.2 Flood Study and Stormwater Report – Final				2		4		12															18		\$2,060.00	\$2,060.00	
4.3 ROW/Easement Plats – Final		2				2									32	80	16	20					152		\$22,430.00	\$22,430.00	
4.4 Construction Plans (100%)			2	2		8	20			20			20	30								12	114		\$12,660.00	\$12,660.00	
4.5 Project Specifications – Final						2				8													10		\$1,240.00	\$1,240.00	
4.6 Quantities and Opinion of Probable Cost – Final										8			6										14		\$1,410.00	\$1,410.00	
5.0 TPDES Permit (SWPPP) Document Preparation										10			16	16					2		16		60		\$6,540.00	\$6,540.00	
6.0 Bidding Support Services						8				16													24		\$3,040.00	\$3,040.00	
7.0 Construction Support Services						8				24													32		\$4,000.00	\$4,000.00	
8.0 Letter of Map Revision (LOMR)				2	8	40			100						2		4	20					176		\$22,300.00	\$22,300.00	
Subtotal																									\$217,961.00	\$238,750.00	\$ 456,711.00
Additional Services																											
																							0		\$0.00		
																							0		\$0.00		
Subtotal																									\$0.00	\$ -	
Total Hours		8	14	67	8	207	152	62	220	262	6	46	82	206	52	140	36	140	10	12	56	68	1854				
Percentage of Years Hours		0.4%	0.7%	3.2%	0.4%	10.0%	7.3%	3.0%	10.6%	12.6%	0.3%	2.2%	3.9%	9.9%	2.5%	6.7%	1.7%	6.7%	0.5%	0.6%	2.7%	3.3%	89.1%	\$217,961.00	\$238,750.00	\$456,711.00	

Attachment: Manhour Estimate - Legacy Drive-070419 (Engineering Design Legacy Drive (Doe Branch Bridge Crossing))- Peloton)



Finance Department
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dawn Berry, Purchasing Manager
CC: Kim Brawner, Director of Engineering
Date: August 13, 2019
Re: <Insert Subject/RE Here>

Action Requested:

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)

Background Information:

At the direction of City Council, staff is formally requesting authorization to terminate the design agreement between the City and BRW Architects. The agreement was approved by City Council on August 8, 2018 for the design of Fire Station 2 and 3. The termination is strictly for the services related to Station 3.

The termination has been discussed with the vendor.

Alternatives:

N/A

Financial Considerations:

There are no financial considerations.

Legal Review:

N/A

Supporting Documents:

None

Staff Recommendation:

Staff recommends terminating the design agreement with BRW Architects for design services of Fire Station 3.



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: August 13, 2019
 Re: Collin College Annexation 2nd Public Hearing

Action Requested:

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)

Applicant:

Beck Architecture LLC
 1807 Ross Avenue Suite 500
 Dallas, TX 75201

Owner:

Collin County Community College
 3452 Spur 399, Suite 500
 McKinney, TX 75069

Background Information:

Below is the anticipated annexation schedule for the property:

~~June 11, 2019 – City Council acts on a resolution to set the public hearing dates.~~

~~July 9, 2019 – First Public Hearing to be held.~~

August 13, 2019 - Second Public Hearing to be held.

August 13, 2019 - City Council acts on an ordinance annexing the property.

Board Review/Citizen Input:

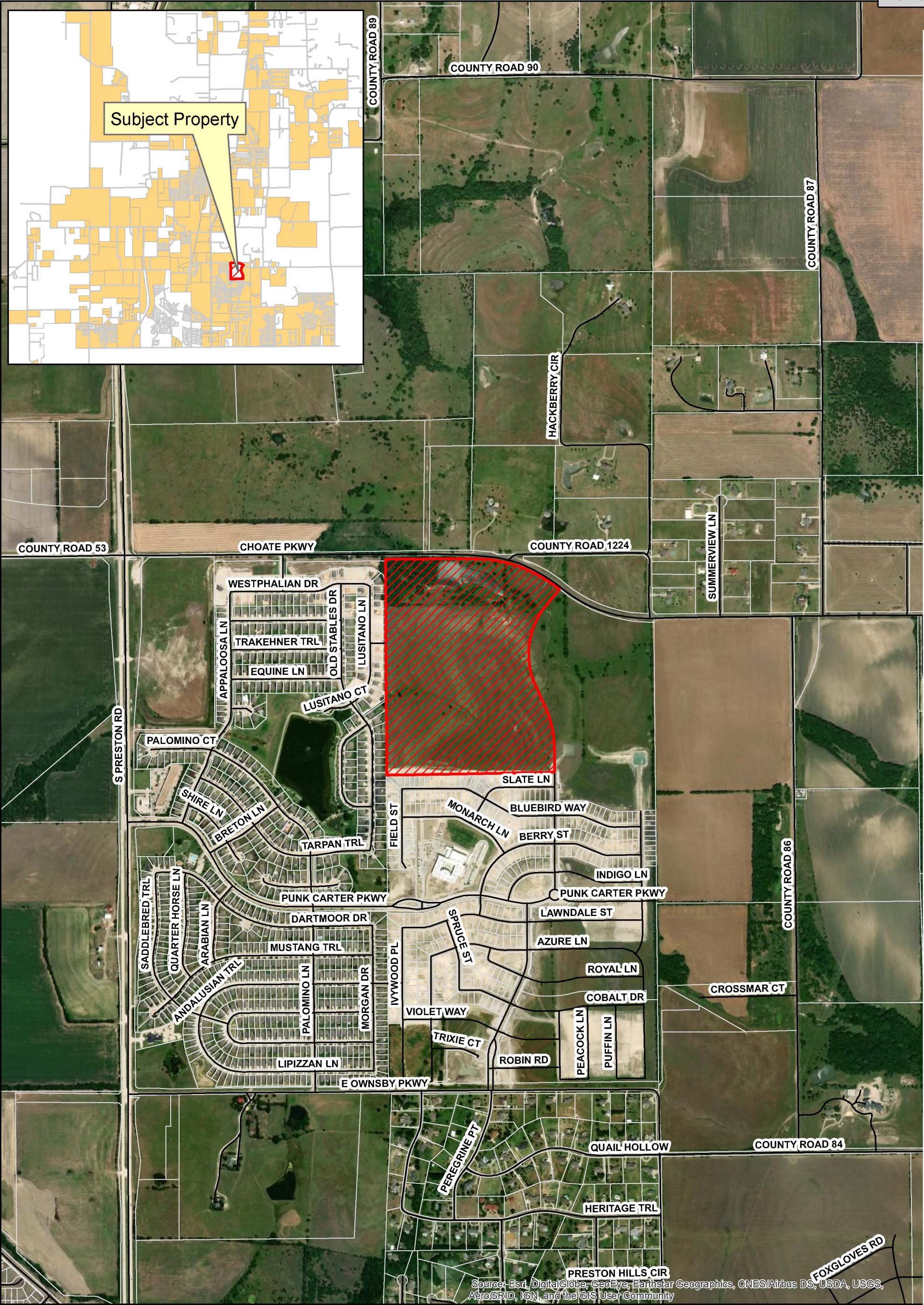
A notice of the public hearing was published in *The Celina Record* on August 2, 2019. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Supporting Documents:

- Location Map
- Staff Presentation
- Draft Ordinance

Staff Recommendation:

Staff recommends approval.



Attachment: Location Map (Collin College Annexation 2nd Public Hearing)



Collin College Location Map

Date: 4/30/2019

Legend

- Roads
- Collin College
- Parcels

0 800 1,600 Feet

Packet Pg. 207

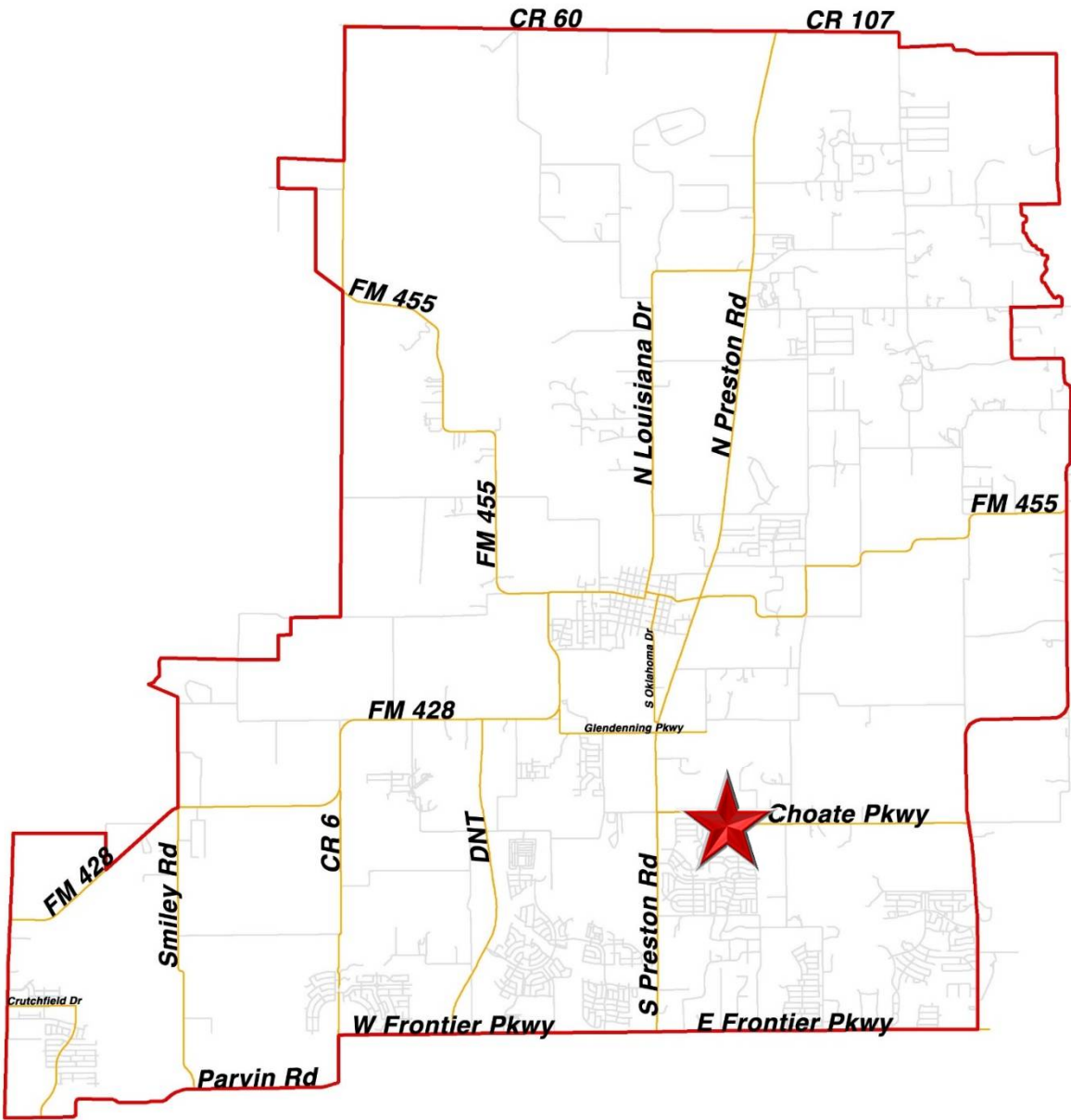
Collin College

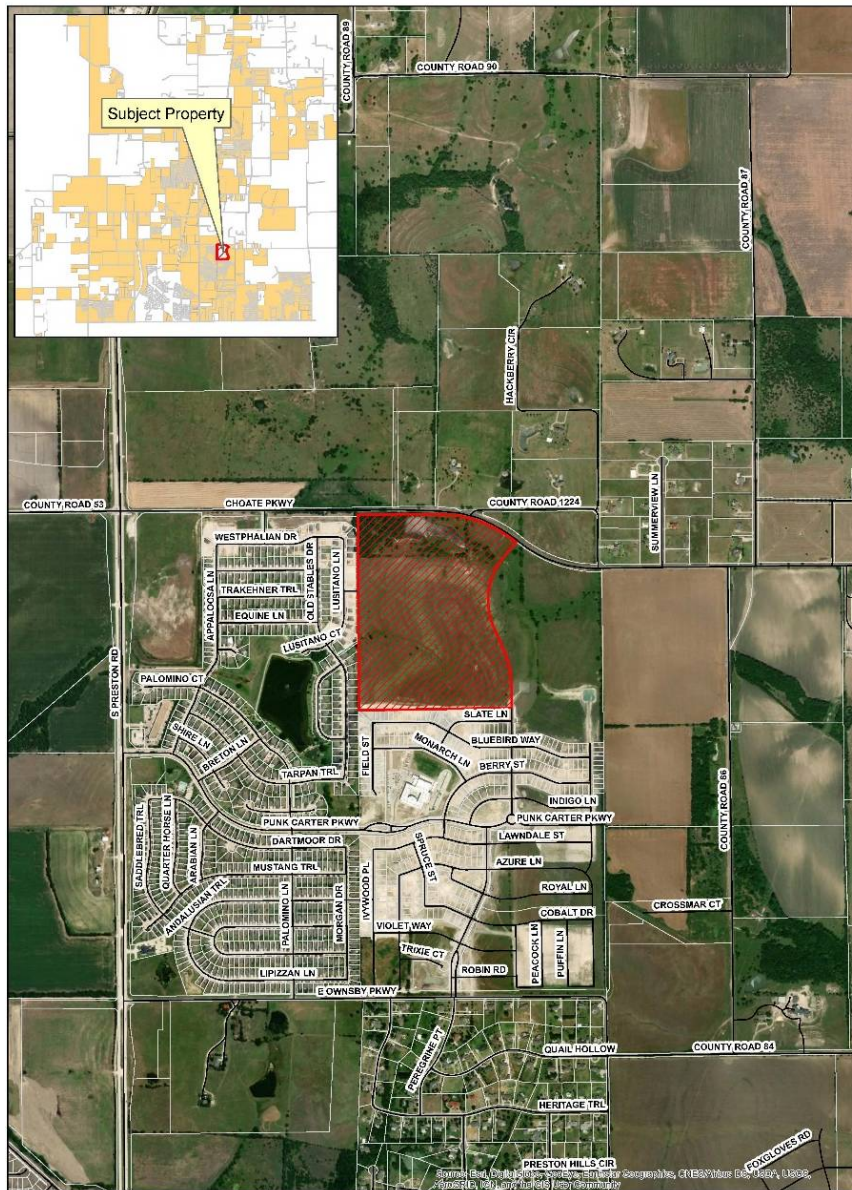
Annexation

City Council

August 13, 2019







Location Map

The subject property is generally located south of Choate Parkway and approximately 2,500 feet east of Preston Road.

Background

- The property is approximately 75 acres
- The voluntary annexation would fill in a gap of the existing City Limits and was outlined in a Development Agreement in 2009
- A Planned Development, with a base zoning of Community Facilities (CF) will follow, and will be concurrently considered on tonight's agenda as the annexation ordinance is considered for adoption



Annexation Schedule

- ~~June 11, 2019 – City Council acted upon the resolution and set the public hearing dates~~
- ~~July 9, 2019 – 1st Public Hearing~~
- August 13, 2019 – 2nd Public Hearing and adoption of the annexation ordinance



Recommendation

- Notices were published in compliance with State and local law
- Staff recommends approval as presented



**CITY OF CELINA, TEXAS
ORDINANCE NO. 2019-_____
COLLIN COLLEGE ANNEXATION**

AN ORDINANCE OF THE CITY OF CELINA, TEXAS, ADOPTING THE ANNEXATION OF CERTAIN TERRITORY CONTIGUOUS TO AND ADJOINING THE CITY OF CELINA, TEXAS, 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; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR AMENDING OF THE OFFICIAL CITY MAP; PROVIDING FOR A SERVICE PLAN; REQUIRING THE FILING OF THIS ORDINANCE WITH THE COUNTY CLERK; PRESCRIBING FOR EFFECT ON TERRITORY, GRANTING AS APPROPRIATE TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF THE CITY OF CELINA, TEXAS; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SEVERABILITY; 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 and operating pursuant to the enabling legislation of the State of Texas and the Celina City Charter; and

WHEREAS, two separate public hearings were conducted in accordance with Section 43.052 of the Texas Local Government Code, the first hearing being held on the 9th day of July, 2019, and the second hearing being held on the 13th day of August, 2019, both in the Celina ISD Administration Building Board Room located at 205 S. Colorado in the City of Celina, to consider the annexation of the property more particularly described by metes and bounds in Exhibit “A” and graphically depicted in Exhibit “B”, attached hereto and incorporated herein; and

WHEREAS, any and all required written notices and offers were timely sent to all property owners and others entitled to same; and

WHEREAS, the public hearings were conducted and held no more than forty (40) days nor less than twenty (20) days prior to the institution of annexation proceedings; and

WHEREAS, the notices of the public hearings were published in *The Celina Record*, a newspaper of general circulation within the City of Celina, Texas, on the 28th day of June, 2019 and on the 2nd day of August, 2019, such dates being not more than twenty (20) days nor less than ten (10) days prior to each public hearing; and

WHEREAS, all required statutory notices pursuant to Chapter 43 of the Texas Local Government Code have been accomplished; and

WHEREAS, the City Council of the City of Celina, Texas has determined that such territory is contiguous to and adjoins the City of Celina, Texas; and

WHEREAS, the City Council of the City of Celina, Texas has investigated into, has determined and officially finds that no part of such territory is within the extraterritorial jurisdiction of any other incorporated city or town; and

WHEREAS, to the extent that this Ordinance would cause an unincorporated area to be entirely surrounded by the City of Celina’s limits, the City Council has found - and incorporates herein its finding

Attachment: Draft Ordinance (Collin College Annexation 2nd Public Hearing)

- that surrounding the area is in the public interest; and

WHEREAS, the metes and bounds of the property to be annexed is attached hereto as Exhibit “A” and a graphic description of the property is attached hereto as Exhibit “B” and incorporated herein for all purposes; and

WHEREAS, the service plan for such territory is attached hereto as Exhibit “C” and incorporated herein for all purposes.

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 **OFFICIAL CITY MAP AMENDED**

1. The official map and boundaries of the City are hereby amended so as to include the property being more particularly described by metes and bounds in Exhibit “A” and graphically depicted in Exhibit “B”, which is incorporated herein, and that such territory shall be and is hereby annexed into the corporate limits of the City.
2. The Mayor is hereby directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the City to add the territory hereby annexed as required by law.

SECTION 3 **SERVICE PLAN**

The Municipal Service Plan for the herein annexed territory, attached hereto as Exhibit “C”, was submitted in accordance with Chapter 43 of the Texas Local Government Code and is hereby approved as part of this ordinance, and is made a part hereof.

SECTION 4 **FILING OF ORDINANCE REQUIRED**

The Mayor shall file or cause to be filed a certified copy of this Ordinance in the office of the County Clerk of Collin County, Texas, and any other necessary agencies, including the United States Department of Justice.

SECTION 5 **EFFECT ON TERRITORY**

From and after the passage of this Ordinance, the territory described by metes and bounds in Exhibit “A” and graphically depicted in Exhibit “B”, attached hereto and incorporated herein for all purposes, shall be a part of the City of Celina, Texas, and subject to the municipal service plan referenced in Section 3 of this Ordinance. The inhabitants thereof shall be entitled to all of the rights, privileges and immunities as all other citizens of the City of Celina, Texas, and shall be bound by all of the Ordinances and regulations enacted pursuant to and in conformity with the general laws of the State of Texas.

SECTION 6 **CUMULATIVE REPEALER**

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.

SECTION 7
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 8
ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Celina is hereby directed to engross and enroll this Ordinance by copying the Caption 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 IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, on this 13th day of August, 2019.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

APPROVED AS TO FORM:

Vicki Faulkner, City Secretary
City of Celina, Texas

City Attorney
City of Celina, Texas

Attachment: Draft Ordinance (Collin College Annexation 2nd Public Hearing)

Exhibit "A"

Legal Description

BEING a tract of land situated in the Shelby Glass Survey, Abstract No. 346, Collin County, Texas and being all of a called 75.000 acre tract conveyed to Collin County Community College District as recorded in County Clerks No. 20090818001039820, Land Records of Collin County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner at the northwest corner of said 75.000 acre tract, said capped iron rod being in the east line of The Carter Ranch Phase IIC - Section 2 Addition, an Addition to the City of Celina, Collin County, Texas, according to the plat thereof recorded in Volume 2014, Page 346, Plat records of Collin County, Texas, said capped iron rod also being at the southwest corner of a ROW dedication for County Road No. 88 conveyed to Collin County as recorded in County Clerks No. 20061122001662300, Land Records of Collin County, Texas;

THENCE N 89°38'04" E following the south ROW line of said County Road No. 88 a distance of 854.43' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner at the beginning of a curve to the right;

THENCE along said curve to the right following the south ROW line of said County Road No. 88 through a central angle of 39°54'51", a radius of 1356.38', an arc length of 944.90', with a chord bearing of S 70°24'30" E, and a chord length of 925.91' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner;

THENCE S 39°32'55" W a distance of 200.00' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner at the beginning of a curve to the left;

THENCE along said curve to the left through a central angle of 63°57'09", a radius of 750.00', an arc length of 837.13', with a chord bearing of S 07°34'21" W, and a chord length of 794.35' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner;

THENCE S 24°24'15" E a distance of 239.76' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner at the beginning of a curve to the right;

THENCE along said curve to the right through a central angle of 23°51'14", a radius of 999.94', an arc length of 416.30', with a chord bearing of S 12°28'38" E, and a chord length of 413.30' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner;

THENCE S 00°33'04" E a distance of 242.54' to a point for corner in the north line of Bluewood Phase I Addition, an Addition to the City of Celina, Collin County, Texas, according to the plat thereof recorded in Volume 2017, Page 745, Plat records of Collin County, Texas;

THENCE S 89°26'56" W following the north line of said Bluewood Phase I a distance of 1665.00' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner in the east line of The Carter Ranch Phase IIA Addition, an Addition to the City of Celina, Collin County, Texas, according to the plat thereof recorded in Volume 2007, Page 293, Plat records of Collin County, Texas,;

THENCE N 00°33'04" W following the east line of The Carter Ranch Phase IIA Addition and the east line of The Carter Ranch Phase IIC - Section 2 Addition a distance of 2127.18' to the POINT OF BEGINNING and containing 3,266,992 Square Feet or 75.000 Acres of land.

he Carter Ranch Phase IIA Addition, an Addition to the City of Celina, Collin County, Texas, according to the plat thereof recorded in Volume 2007, Page 293, Plat records of Collin County, Texas,;

THENCE N 00°33'04" W following the east line of The Carter Ranch Phase IIA Addition and the east line of The Carter Ranch Phase IIC - Section 2 Addition a distance of 2127.18' to the POINT OF BEGINNING and containing 3,266,992 Square Feet or 75.000 acres of land.

Exhibit "B"
Boundary Exhibit

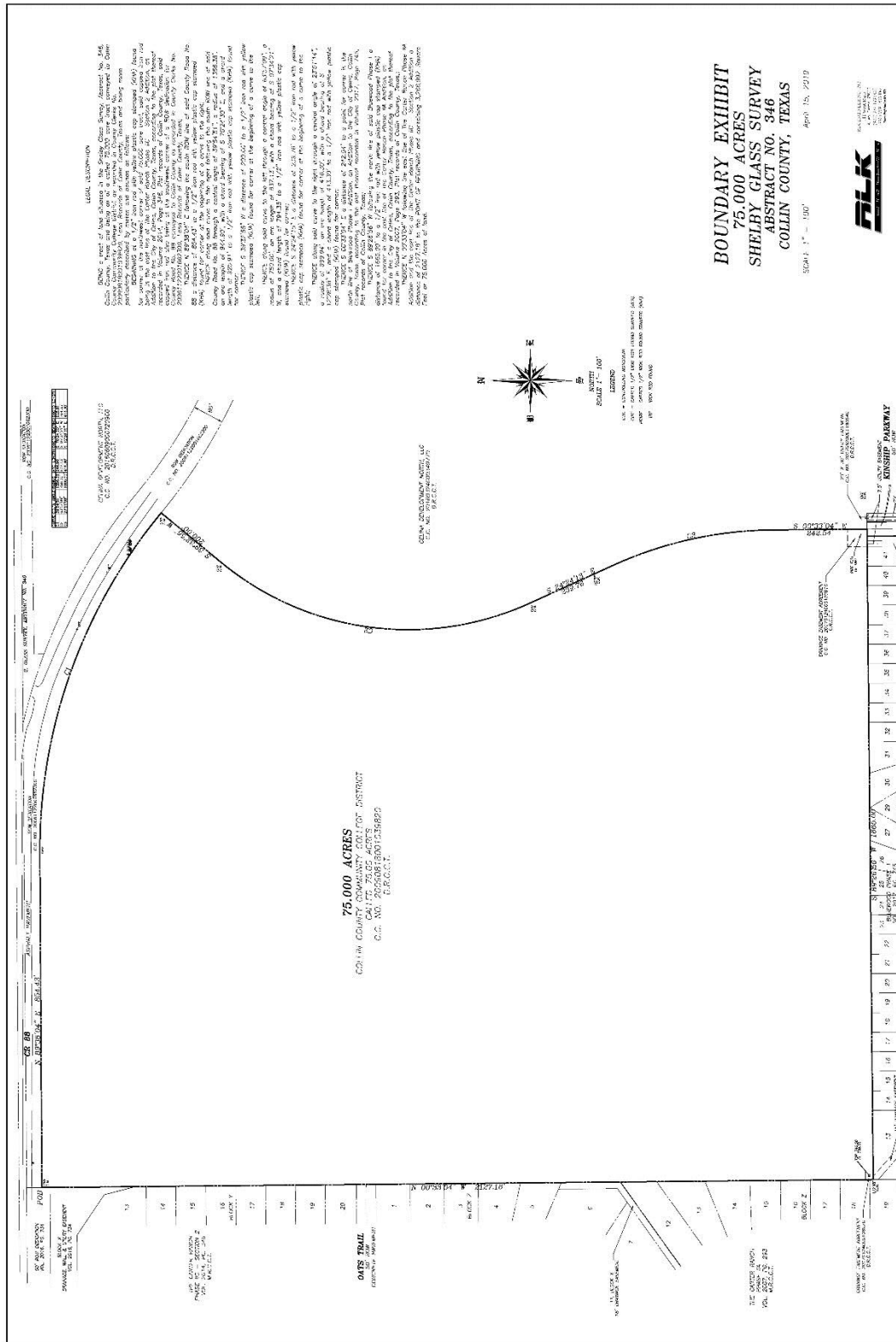


Exhibit “C” Service Plan

A) SERVICE PLAN GENERALLY

- 1) This service plan has been prepared in accordance with the Texas Local Government Code (“LGC”), Sections 43.021; 43.065 and 43.056(b)-(o). Municipal facilities and services to the annexed area will be provided or made available on behalf of the City of Celina in accordance with the following plan. The City of Celina shall provide the annexed tract the levels of service, infrastructure, and infrastructure maintenance that are comparable to the levels of service, infrastructure, and infrastructure maintenance available in other parts of the City of Celina with similar topography, land use, and population density. The provisions of the service plan were made available for public inspection and explained at the two public hearings held by the City Council in accordance with LGC Section 43.056(j).
- 2) For purposes of this service plan, to “provide” services includes having services provided by any method or means by which the City provides municipal services to any other areas of the City, and may include causing or allowing private utilities, governmental entities and other public service organizations to provide such services by contract or right, in whole or in part, and may include duties on part of the private landowner with regard to such services.

B) EMERGENCY SERVICES

- 1) Police Protection
 - a) Police protection from the City of Celina Police Department shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas on the effective date of the annexation ordinance. Some of these services include:
 - i) Normal patrol and responses;
 - ii) Handling of complaints and incident reports;
 - iii) Special units, such as traffic enforcement and investigations; and
 - iv) Coordination with other public safety support agencies.
 - b) As development commences in these areas, sufficient police protection, including personnel and equipment will be provided to furnish these areas with the level of police services consistent with the characteristics of topography, land utilization and population density of the areas.
 - c) Upon ultimate development, police protection will be provided at a level consistent with other similarly situated areas within the city limits.
- 2) Fire Protection
 - a) The Celina Fire Department will provide emergency and fire prevention services to the annexed area. These services include:
 - i) Fire suppression and rescue;
 - ii) Pre-hospital medical services including triage, treatment and transport by Advanced Life Support (ALS) fire engines, trucks and ambulances;
 - iii) Hazardous materials response and mitigation;
 - iv) Emergency prevention and public education efforts;
 - v) Technical rescue response; and
 - vi) Construction Plan Review and required inspections.
 - b) Fire protection from the City of Celina shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas of the City of Celina on the effective date of the annexation ordinance.

- c) As development commences in these areas, sufficient fire protection, including personnel and equipment will be provided to furnish these areas with the level of services consistent with the characteristics of topography, land utilization and population density of the areas. It is anticipated that fire stations planned to service areas currently with the City of Celina will be sufficient to serve the annexed area.
 - d) Upon ultimate development, fire protection will be provided at a level consistent with similarly situated areas within the city limits.
- 3) Emergency Medical Services
- a) The Celina Fire Department will provide emergency and safety services to the annexed area. These services include:
 - i) Emergency medical dispatch and pre-arrival First Aid instructions;
 - ii) Pre-hospital emergency Advanced Life Support (ALS) response and transport; and
 - iii) Medical rescue services.
 - b) Emergency Medical Services (EMS) from the City of Celina shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas of the City of Celina on the effective date of the annexation ordinance.
 - c) As development commences in these areas, sufficient EMS, including personnel and equipment, will be provided to furnish these areas with the level of services consistent with the characteristics of topography, land utilization, and population density of the areas.
 - d) Upon ultimate development, EMS will be provided at a level consistent with similarly situated areas within the city limits.

C) SOLID WASTE

- 1) Solid Waste and Recycling Collection Services will be provided to the annexed area immediately upon the effective date of the annexation at a level consistent with current methods and procedures presently provided to similar areas within the City. Private solid waste collection service providers operating in the affected area immediately prior to annexation and currently providing customers with service may continue to provide their existing service for up to two (2) years in accordance with Texas Local Government Code Section 43.056(n).

D) WASTEWATER FACILITIES

- 1) As development commences in these areas, sanitary sewer mains as defined by the Certificate of Convenience and Necessity (CCN) Number 20764, as issued by the Texas Commission on Environmental Quality (TCEQ) will be extended in accordance with the provisions of the City's codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with applicable City codes, ordinances, regulations and policies. Capacity and extensions shall be provided consistent with the characteristics of topography, land utilization, and population density of the areas. If the annexed area is in the CCN of another provider, wastewater service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new wastewater provider, in time.
- 2) Sanitary sewer mains and lift stations installed or improved to City standards, and accepted by the City, within the annexed area which are located within dedicated easement, rights-of-way, or any other acceptable location approved by the City Manager or his designee, shall be maintained by the City on the effective date of this ordinance.
- 3) Operation and maintenance of wastewater facilities in the annexed area that are within the certificated service area of another wastewater utility will be the responsibility of that utility. Operation and maintenance of private wastewater facilities in the annexed area will be the responsibility of the owner.

E) WATER FACILITIES

- 1) Connections to existing City of Celina water distribution mains for water service as defined by Certificate of Convenience and Necessity (CCN) Number 12667, as issued by the Texas Commission on Environmental Quality (TCEQ) will be provided in accordance with existing City codes, ordinances, regulations and policies. Upon connection to existing distribution mains, water service will be provided at rates established by City ordinance. If the annexed area is in the CCN of another provider, water service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new water provider, in time.
- 2) As development commences in these areas, water distribution mains will be extended in accordance with City of Celina codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with the City of Celina's codes, ordinances, regulations and policies. Water service extensions and capacity shall be provided consistent with the characteristics of topography, land utilization, and population density of the area.
- 3) Operation and maintenance of existing water facilities in the annexed area that are within the service area of another water utility will be the responsibility of that utility. Operation and maintenance of private water facilities in the annexed area will be the responsibility of the owner.

F) ROAD AND STREETS

- 1) Emergency street maintenance shall be provided within the annexed area on the effective date of the applicable ordinance of acceptance. Routine maintenance will be provided within the annexed area and will be scheduled as part of the City's annual program and in accordance with the City's current codes, ordinances, regulations, policies and procedures defined therein and/or as established by the City Council.
- 2) Any construction or reconstruction will be considered within the annexed area on a City-wide basis and within the context of the City's Capital Improvement Plan and/or yearly fiscal budgetary allotments by the City Council. As development, improvement or construction of streets to City standards commences within this property, the policies of the City of Celina with regard to participation in the costs thereof, acceptance upon completion and maintenance after completion shall apply.
- 3) Roadway signage and associated posts will be replaced in priority of importance starting with regulatory signs, then warning signs, then informational signs and in conformance with fiscal allotments by the City Council. If a sign remains, it will be reviewed and placed on the City's inventory listed for routine re-placement. All existing signs will be reviewed for applicability and based upon an engineering study. New signs will be installed when necessary and based upon an engineering study.
- 4) Routine maintenance of road/street markings will be placed on a priority listing and scheduled within the yearly budgetary allotments by the City Council.
- 5) The City will coordinate any request for improved road and street lighting with the local electric provider. Any and all road and street lighting will be pursuant to the rules, regulations and fees of such electric utility and shall be maintained by the applicable utility company.

G) ENVIRONMENTAL HEALTH, INSPECTIONS AND CODE ENFORCEMENT SERVICES

- 1) Enforcement of the City's environmental health ordinances and regulations, including but not limited to, weed and brush ordinances, junked and abandoned vehicle ordinances and animal control ordinances, shall be provided within this area sixty (60) days of the effective date of the annexation ordinance. These ordinances and regulations will be enforced through the use of existing personnel.
- 2) Inspection services including the review of building plans, the issuance of permits and the

inspection of all buildings, plumbing, mechanical and electrical work to ensure compliance with City codes and ordinances will be continue to be provided after the effective date of the annexation ordinance. Existing personnel will be used to provide these services.

- 3) The City's zoning, subdivision, sign and other ordinances shall be enforced in this area beginning upon the effective date of the annexation.
- 4) All inspection services furnished by the City of Celina, but not mentioned above, will be provided to this area beginning within sixty (60) days of the effective date of the annexed ordinance.
- 5) As development and construction commence in this area, sufficient personnel will be provided to furnish this area the same level of environmental health, inspection and code enforcement services as are furnished throughout the City.

H) PLANNING AND ZONING SERVICES

- 1) The Planning and zoning jurisdiction of the City will extend to this area upon the effective date of the annexation ordinance. City planning will thereafter encompass this property, and it shall be entitled to consideration for zoning in accordance with the City's Zoning Ordinance and Comprehensive Plan.

I) PARKS, PLAYGROUNDS, LIBRARIES, SWIMMING POOLS

- 1) Residents within the annexed area may utilize all existing park and recreation facilities, on the effective date of this ordinance. Fees for such usage shall be in accordance with current fees established by ordinance.
- 2) As development commences in the area, additional park and recreation facilities shall be constructed based on park policies defined in the Park Master Plan and as specified in the Park Dedication Ordinance. The general planned locations and classifications of parks will ultimately serve residents from the current City limits and residents from areas being considered for annexation.

J) PUBLICLY OWNED FACILITIES

- 1) Any publicly owned facility, building, or service located within the annexed area, and not otherwise owned or maintained by another governmental entity, shall be maintained by the City of Celina on the effective date of the annexation ordinance.

K) OTHER SERVICES

- 1) Other services that may be provided by the City of Celina, such as municipal and general administration will be made available on the effective date of the annexation. The City of Celina shall provide levels of service, infrastructure, and infrastructure maintenance that are comparable to the levels of services, infrastructure, and infrastructure maintenance available in other parts of the City of Celina with similar topography, land use, and population density similar to those reasonably contemplated or projected in the area.

L) UNIFORM LEVEL OF SERVICES IS NOT REQUIRED

- 1) Nothing in this Service Plan shall require the City of Celina to provide a uniform level of full municipal services to each area of the City, including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for provided different levels of service. The City Council finds and determines that this Service Plan will not provide any fewer services, and it will not provide a lower level of services, than were in existence in the annexed area at the time immediately preceding the annexation process.
- 2) The City of Celina's codes, ordinances, regulations and policies that apply throughout the City may be reviewed at City Hall and at <http://www.franklinlegal.net/codes.html>.

M) TERM

- 1) This Service Plan shall be valid for a term of ten (10) years. Renewal of the Service Plan shall be at the discretion of the City Council and must be approved by ordinance.

N) AMENDMENTS

- 1) This Service Plan may be amended if the City Council determines at a public hearing that changed conditions or subsequent occurrences make this Service Plan unworkable or obsolete. The City Council may amend the Service Plan to conform to the changed conditions, subsequent occurrences or any other legally sufficient circumstances exist pursuant to the LGC or other Texas or Federal laws that make this service plan unworkable, obsolete or unlawful.



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: August 13, 2019
 Re: Collin College 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 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)

Applicant:

Beck Architecture LLC
 1807 Ross Avenue Suite 500
 Dallas, TX 75201

Owner:

Collin County Community College
 3452 Spur 399, Suite 500
 McKinney, TX 75069

Background Information:

The applicant, Collin College, has requested a concurrent annexation and zoning request for the property located south of Choate Parkway and approximately 2,500 feet east of Preston Road. Both the annexation and zoning were contemplated in a Development Agreement approved in 2009, and both items will be considered at the August City Council meeting.

The zoning request is for the creation of a Planned Development (PD) with the base zoning of Community Facilities district (CF), which is an appropriate zoning district to accommodate the land use (college campus). The College will be developed in phases and will include a collector road that will be constructed to connect Choate Parkway to Carter Ranch to the south. The building will primarily be masonry and appropriate landscaping and screening will also be provided.

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.

A notice of the public hearing was published in *The Celina Record* on July 26, 2019.

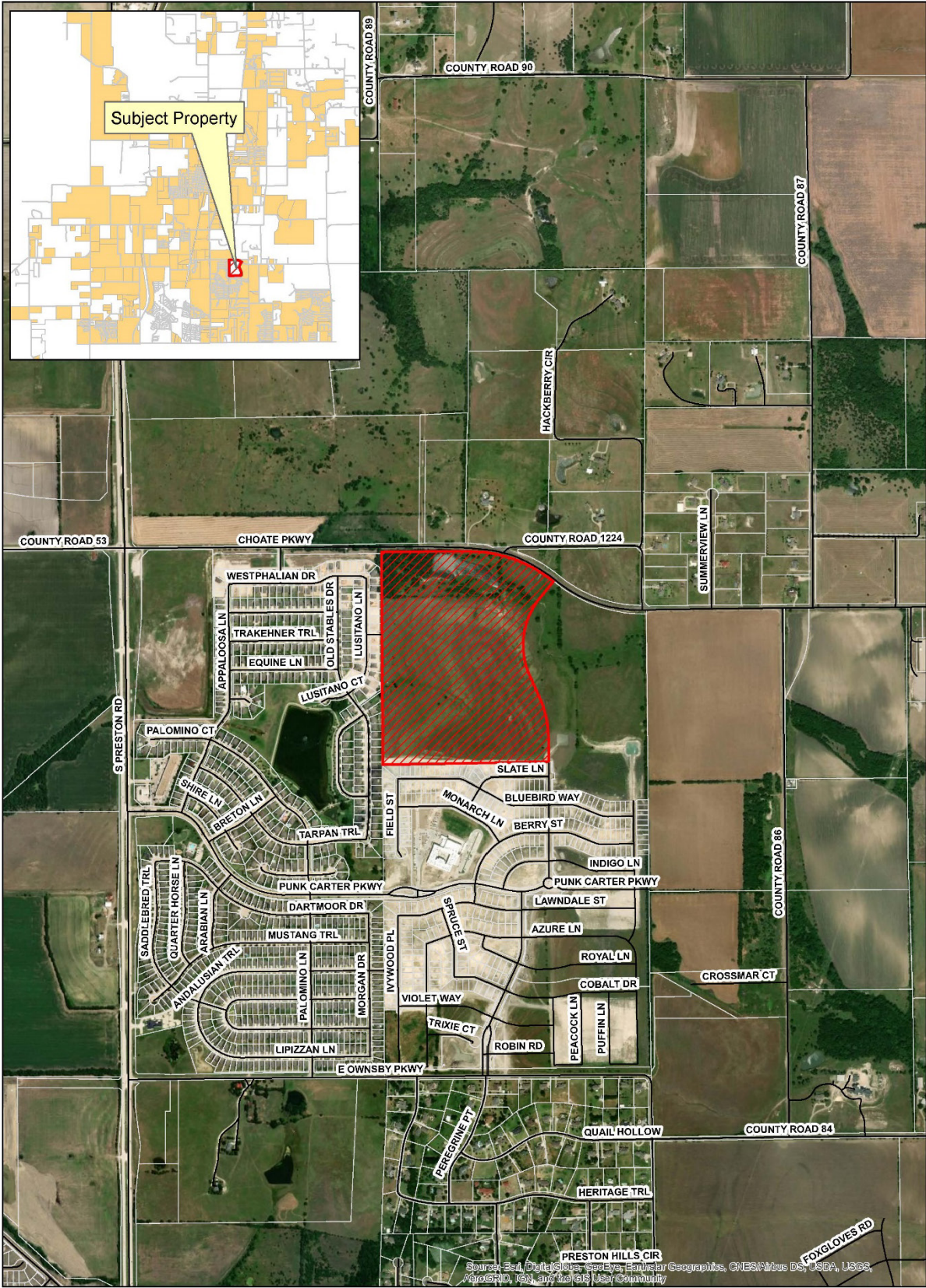
Notices of the public hearing have been sent to all owners of property residing within the City limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Supporting Documents:

- Location Map
- Staff Presentation
- Draft Ordinance

Staff Recommendation:

Staff recommends approval.



Attachment: Location Map (Collin College Zoning)

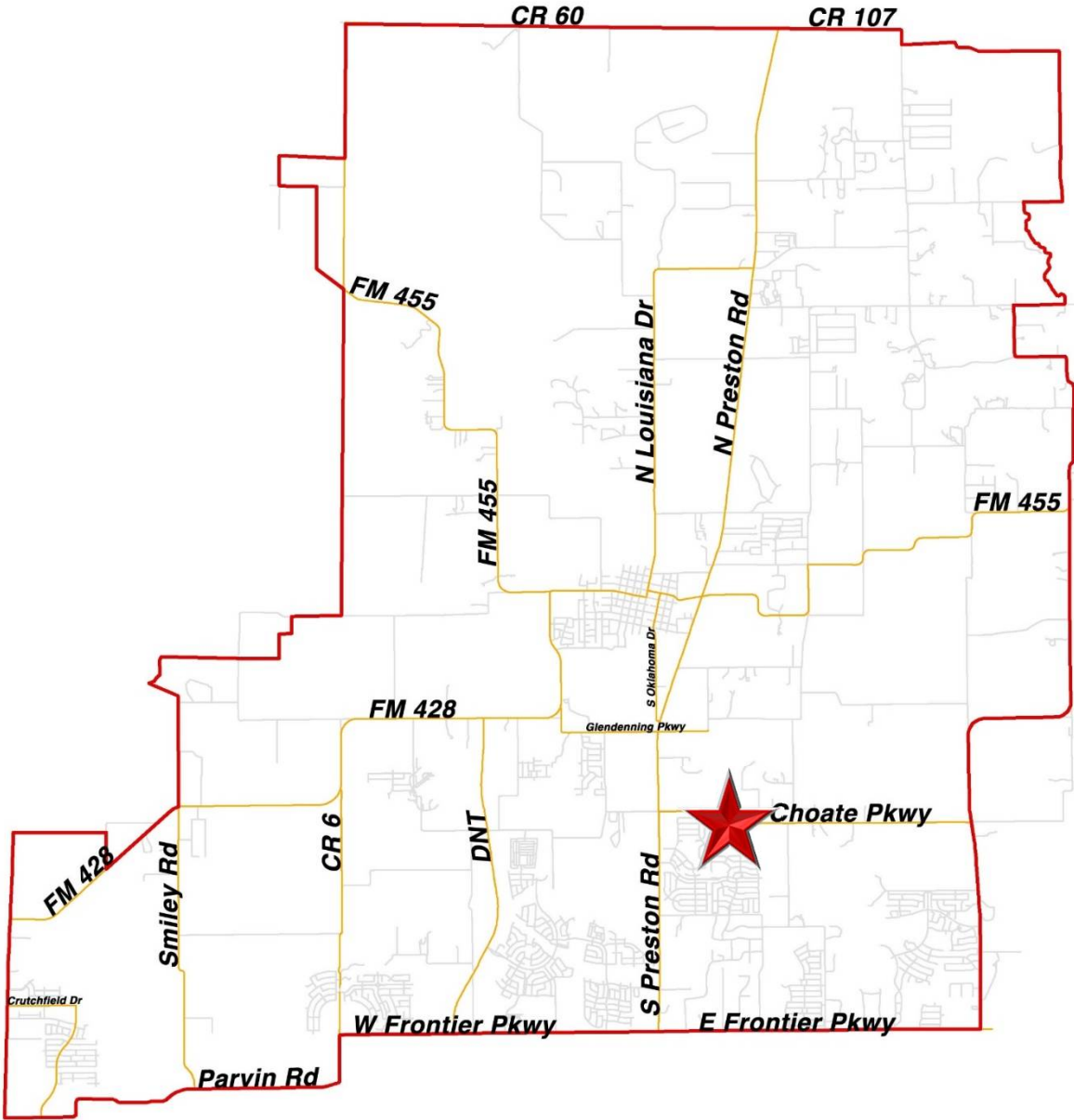
Collin College

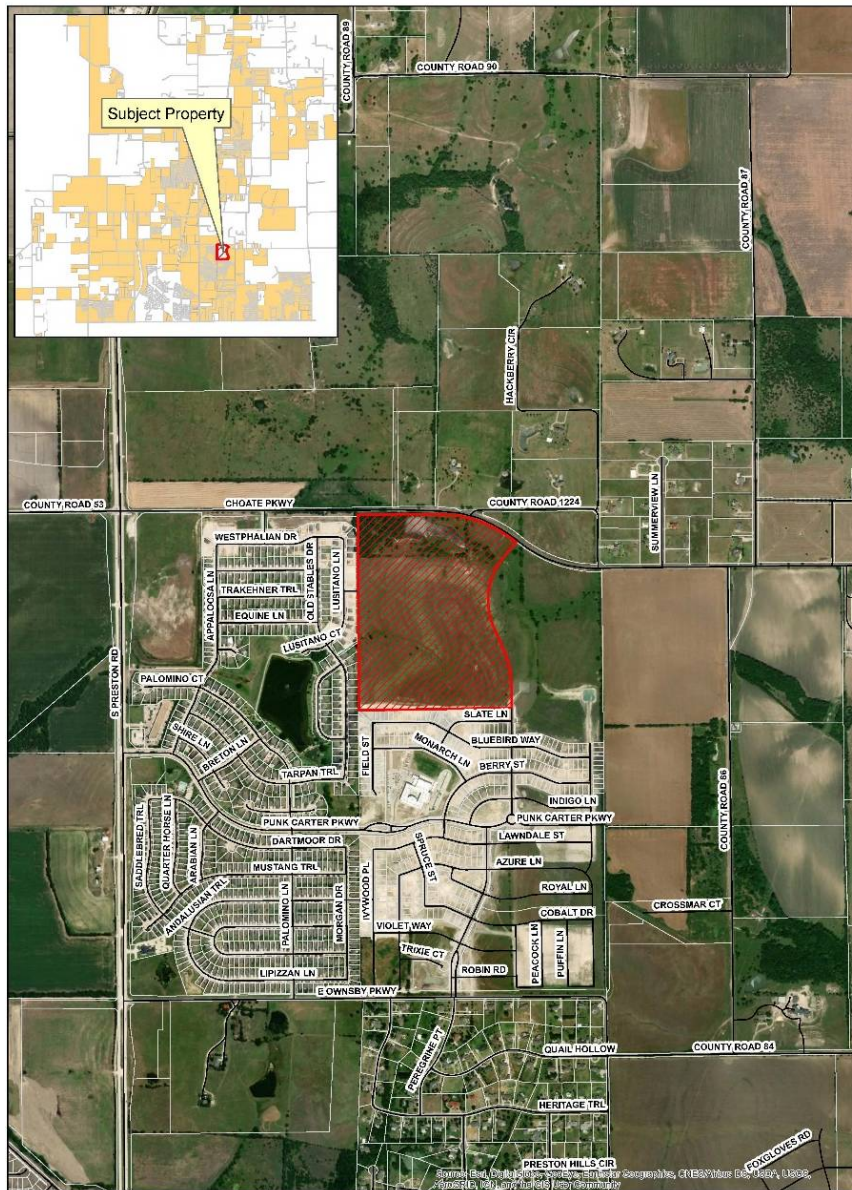
Planned Development (Zoning)

City Council

August 13, 2019







Location Map

The subject property is generally located south of Choate Parkway and approximately 2,500 feet east of Preston Road.

Background

- The City approved a Development Agreement in 2009 that outlined the future annexation and zoning of the campus
- The subject property is approximately 75 acres
- The property is currently in the Extraterritorial Jurisdiction (ETJ) and has an associated voluntary annexation item that will be concurrently considered
- The request is for a Planned Development with a base zoning of Community Facilities (CF) district



Phase 1 Concept Plan



Attachment: Staff Presentation (Collin College Zoning)



Project Overview

- Collin College intends for the Celina campus to be developed in phases
- The first phase includes one primary building and associated parking
- A collector road (Kinship) will be constructed that connects Choate Parkway to Carter Ranch to the south
- The Celina campus is expected to open for classes in Fall of 2021



Design Standards

- The building is primarily masonry with burnished stone and other accents
- The pond and much of the existing tree canopy will be preserved
- Tree preservation regulations apply when the phases impacting the trees develop
- The Oats Trail stub-out in Carter Ranch will NOT be connected into the new campus
- Night-time outdoor activities restricted in the PD

Perimeter Screening & Buffering

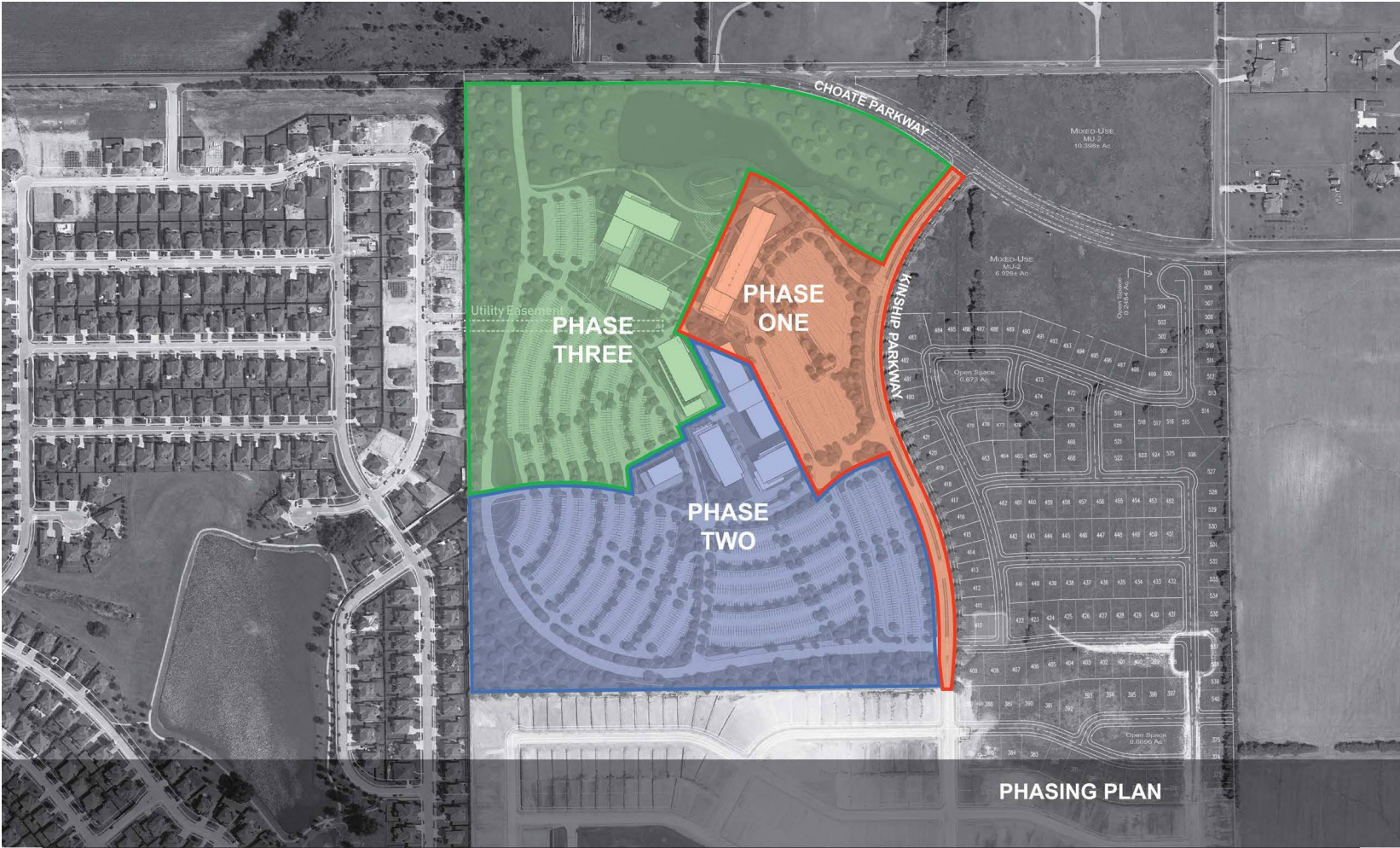
- A 40' wide landscape buffer is planned along Choate Parkway, and a 30' wide landscape buffer is planned along the future collector street
- A 70' wide landscape buffer is planned along residential adjacency, all with heavy landscaping
- An 8' high cedar, board-on-board with decorative cap is planned in lieu of a masonry wall along residential adjacency

Overall Concept Plan



Attachment: Staff Presentation (Collin College Zoning)

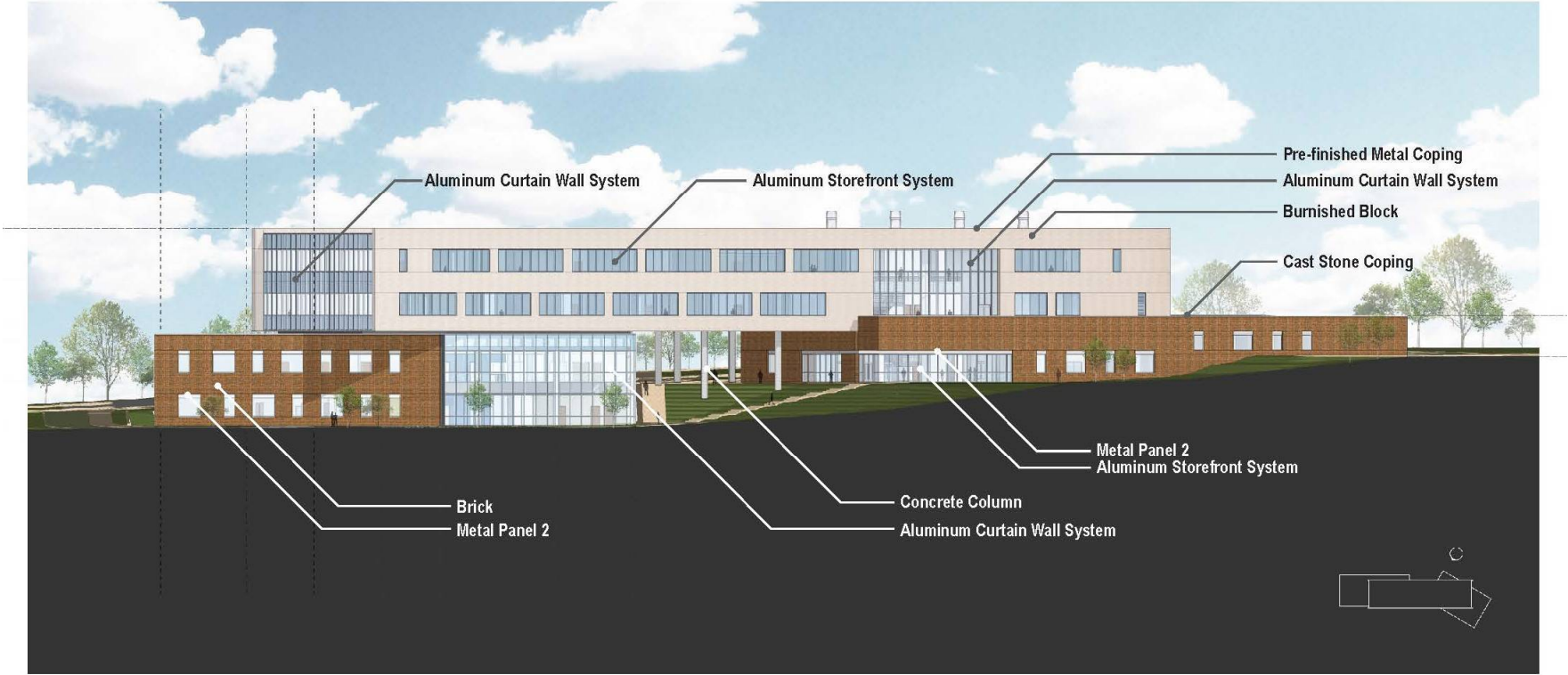
Phasing Plan



Attachment: Staff Presentation (Collin College Zoning)



Elevations - Northwest



Attachment: Staff Presentation (Collin College Zoning)

Policy Considerations

- The Community Facilities district is appropriate for the proposed land use (college campus)
- The PD conforms to the 2009 Development Agreement
- Both Staff and Collin College believe that a 70' wide landscape buffer with heavy landscaping and enhanced privacy fencing is more appropriate adjacent to residential than the base standard (10' buffer with masonry wall)

P&Z Public Hearing

- Multiple residents spoke at the July 16th public hearing
- None necessarily spoke in opposition, but most shared questions and concerns about the project
- Design regulations (lighting, drainage, road construction timing, tree preservation, parking, etc.) apply at time of permitting (not zoning)



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
- Staff recommends approval of the PD as presented

**CITY OF CELINA, TEXAS
ORDINANCE 2019-____
COLLIN COLLEGE PD-97**

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 75 ACRE TRACT OF LAND LOCATED IN THE SHELBY GLASS SURVEY, ABSTRACT NO. 346, CITY OF CELINA, COLLIN COUNTY, TEXAS, AND GENERALLY LOCATED SOUTH OF CHOATE PARKWAY AND APPROXIMATELY 2,500 FEET EAST OF PRESTON ROAD; AS DESCRIBED IN EXHIBIT “A” AND DEPICTED IN EXHIBIT “B” ATTACHED HERETO AND INCORPORATED HEREIN TO BE ZONED “PD” PLANNED DEVELOPMENT DISTRICT NO. 97; 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 Plans, Phasing Plan, Building Elevations, and Development Regulations set forth in Exhibit “C”, Exhibit “D”, Exhibit “E”, and Exhibit “F”, 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 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. 97 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 depicted in Exhibit “A” attached hereto and incorporated herein as PD No. 97, and incorporates the Concept Plans, Phasing Plan, Building Elevations, and Development Regulations attached hereto as Exhibit “C”, Exhibit “D”, Exhibit “E”, and Exhibit “F”, 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 - Collin College (Collin College Zoning)

Exhibit "A"

Legal Description

BEING a tract of land situated in the Shelby Glass Survey, Abstract No. 346, Collin County, Texas and being all of a called 75.000 acre tract conveyed to Collin County Community College District as recorded in County Clerks No. 20090818001039820, Land Records of Collin County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner at the northwest corner of said 75.000 acre tract, said capped iron rod being in the east line of The Carter Ranch Phase IIC - Section 2 Addition, an Addition to the City of Celina, Collin County, Texas, according to the plat thereof recorded in Volume 2014, Page 346, Plat records of Collin County, Texas, said capped iron rod also being at the southwest corner of a ROW dedication for County Road No. 88 conveyed to Collin County as recorded in County Clerks No. 20061122001662300, Land Records of Collin County, Texas;

THENCE N 89°38'04" E following the south ROW line of said County Road No. 88 a distance of 854.43' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner at the beginning of a curve to the right;

THENCE along said curve to the right following the south ROW line of said County Road No. 88 through a central angle of 39°54'51", a radius of 1356.38', an arc length of 944.90', with a chord bearing of S 70°24'30" E, and a chord length of 925.91' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner;

THENCE S 39°32'55" W a distance of 200.00' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner at the beginning of a curve to the left;

THENCE along said curve to the left through a central angle of 63°57'09", a radius of 750.00', an arc length of 837.13', with a chord bearing of S 07°34'21" W, and a chord length of 794.35' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner;

THENCE S 24°24'15" E a distance of 239.76' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner at the beginning of a curve to the right;

THENCE along said curve to the right through a central angle of 23°51'14", a radius of 999.94', an arc length of 416.30', with a chord bearing of S 12°28'38" E, and a chord length of 413.30' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner;

THENCE S 00°33'04" E a distance of 242.54' to a point for corner in the north line of Bluewood Phase I Addition, an Addition to the City of Celina, Collin County, Texas, according to the plat thereof recorded in Volume 2017, Page 745, Plat records of Collin County, Texas;

THENCE S 89°26'56" W following the north line of said Bluewood Phase I a distance of 1665.00' to a 1/2" iron rod with yellow plastic cap stamped (KHA) found for corner in the east line of The Carter Ranch Phase IIA Addition, an Addition to the City of Celina, Collin County, Texas, according to the plat thereof recorded in Volume 2007, Page 293, Plat records of Collin County, Texas,;

THENCE N 00°33'04" W following the east line of The Carter Ranch Phase IIA Addition and the east line of The Carter Ranch Phase IIC - Section 2 Addition a distance of 2127.18' to the POINT OF BEGINNING and containing 3,266,992 Square Feet or 75.000 Acres of land. The Carter Ranch Phase IIA Addition, an Addition to the City of Celina, Collin County, Texas, according to the plat thereof recorded in Volume 2007, Page 293, Plat records of Collin County, Texas,;

THENCE N 00°33'04" W following the east line of The Carter Ranch Phase IIA Addition and the east line of The Carter Ranch Phase IIC - Section 2 Addition a distance of 2127.18' to the POINT OF BEGINNING and containing 3,266,992 Square Feet or 75.000 acres of land.

BOUNDARY EXHIBIT
75.000 ACRES
SHELBY GLASS SURVEY
ABSTRACT NO. 346
COLLIN COUNTY, TEXAS

FILK

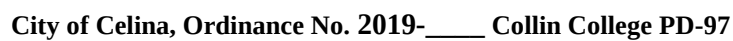


Exhibit "C"
Concept Plans



Attachment: Draft Ordinance - Collin College (Collin College Zoning)

Exhibit “C”
Concept Plans



Collin College - Celina Campus
Not to Scale | 2019.07.16

PHASE 1 CONCEPT PLAN



EXHIBIT “D”
Phasing Plan

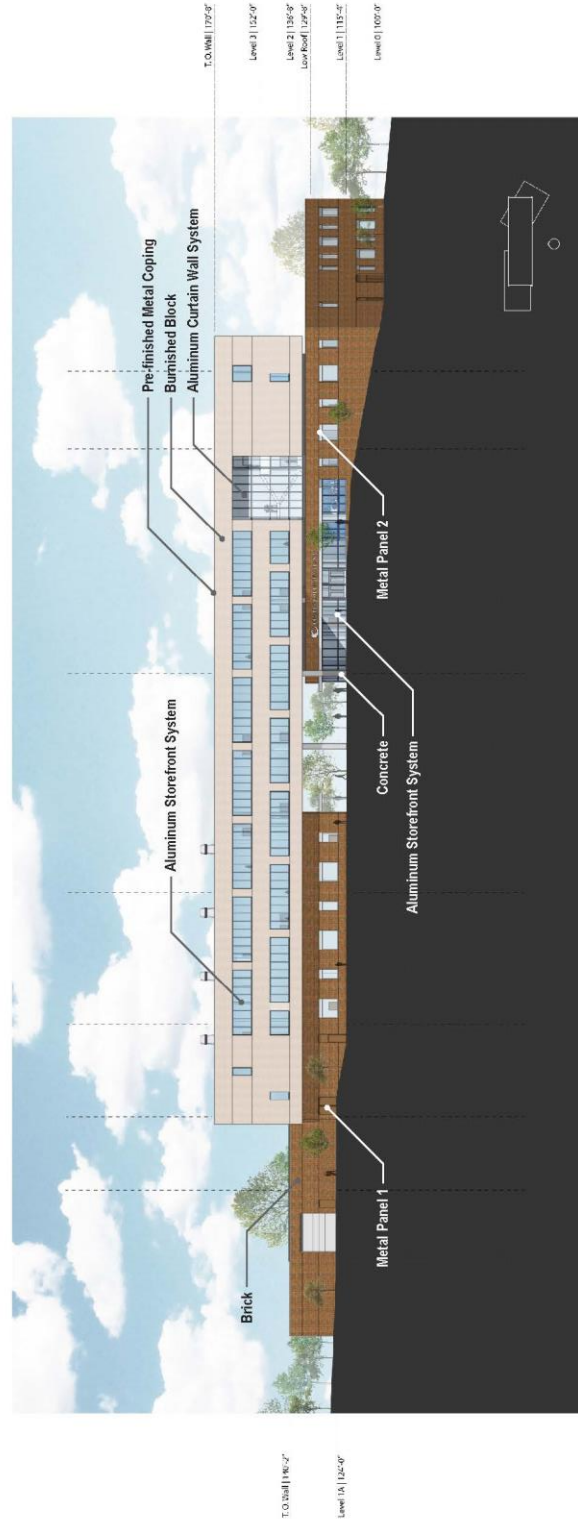


EXHIBIT “E”
Building Elevations



 **EXTERIOR MATERIAL PALETTE**  Collin College - Celina Campus
Not to Scale | 2019.07.16

**EXHIBIT “E”
Building Elevations**



Collin College - Celina Campus
Not to Scale | 2019.07.16
BEEC

COLOR ELEVATION - PHASE 1 BUILDING - EAST ELEVATION



EXHIBIT “E”
Building Elevations



EXHIBIT “E”
Building Elevations



EXHIBIT “F”

Development Regulations

PROJECT OVERVIEW

A 2009 era Development Agreement between Collin College and the City of Celina outlined its annexation, zoning, infrastructure understandings, and future general development. The intent of this Planned Development (PD) is to continue that vision and to allow for the development of a college campus, phased over time, without the necessity of revising the PD as each phase evolves and develops.

LAND USES

1. The base zoning for the subject property shall be Community Facilities (CF) district, which is appropriate for government, institutional, and public education facilities. Any deviations to the CF zoning district and/or Zoning Ordinance regulations are discussed below.
2. College land uses customary to campus activities and facilities are allowed, in addition to any incidental and secondary land uses normally associated with and necessary for the functionality of college campus land use, including academic buildings, parking lots, and support institutions.
3. Dormitories and other multi-unit residential land uses are not contemplated by this PD, although security lodges and comparable small-scale habitation quarters are allowed.
4. Any associated recreation or athletic fields are permitted, provided these are small in scale and not intended for organized team play, nor larger scale athletic field installations, such as stadium lighting. Operational hours of such outdoor fields or courts shall be restricted between 9 PM and 7 AM.

CONCEPT PLAN

1. The subject property shall generally develop per the attached Concept Plan for the campus. It displays the general location and configurations of buildings, parking lots, and other site layout features, all of which can be adjusted for pragmatic purposes at time of permitting, and such modifications shall not be unreasonably withheld.
2. It is possible, however, that major modifications may require future revisions to the PD, depending upon the scope and nature of the major modification.
3. The subject property is not required to connect into the residential subdivision to the west. The College will be responsible for removing the street stub of the adjacent subdivision to the west as part of Phase 3.
4. Any associated generating or power facility necessary for the operations of the campus shall be strategically located to minimize view from public rights-of-way and separated as far as practical from adjacent residential land use.

ARCHITECTURE

The subject property shall generally develop per the attached building elevations. Future buildings may attempt to continue the existing elevation themes, or may deviate to other architectural styles desired by Collin College, so long as the future building elevations are primarily masonry in nature, within industry standard for college campuses, and provide visual appeal to the community.

LANDSCAPING & SCREENING

1. A 40' wide landscape buffer applies along the northern property line, generally along Choate Parkway. A 30' wide landscape buffer applies along the eastern property line, generally along Kinship Parkway. Within these landscape buffers, large canopy trees shall be provided every 40 linear feet along with a small ornamental tree planted every 5 large canopy trees.
2. A 70' wide landscape buffer applies along the western and southern property lines, generally along single family land uses, so long as a minimum 40' wide landscape buffer is maintained at the two known "choke points". Within these landscape buffers, a row of evergreen large canopy trees shall be planted near the perimeter every 50 linear feet. A second row of large canopy trees shall then also be planted, staggered between the row of evergreens, every 50 linear feet, resulting in a double row of trees with a tree every 25 feet. This landscape buffer along with the required trees shall be installed with Phase 2.
3. A masonry wall is not required along the perimeter adjacent to single family residential. However, an 8' tall cedar, board-on-board fence with decorative cap and metal posts (with the smooth side facing the campus) shall be installed along the adjacent residential property lines, to be maintained by Collin College, as each associated phase develops. Occasional berms for landscaping shall also be provided.
4. Interior landscaping and additional perimeter landscaping is required per the Zoning Ordinance. However, minor modifications are allowed at time of permitting to accommodate designs that meet the spirit and intent of the Zoning Ordinance, including clustering or alternative interior parking lot designs that are comparable. Internal parking lot islands with trees are not required due to the landscape promenades being provided, as generally shown on the Concept Plan.
5. The existing pond shall have a large canopy tree planted every 50 linear feet around its perimeter in the absence of existing tree cover.
6. No detention facilities are allowed within the landscape buffer.

PEDESTRIAN AVENUES

1. 10' wide sidewalks are required along Choate Parkway and Kinship Parkway, with appropriate lighting to illuminate the sidewalks for safety purposes.
2. A 10' wide concrete trail is required along the perimeter of the campus, generally running along the southern, northern, and western property lines, connecting to the perimeter rights-of-way. This trail is required as each adjacent phase is developed.
3. Interior pedestrian connections, paths, and malls are also required to sufficiently accommodate heavy pedestrian use associated with a college campus environment. Designs shall incorporate decorative paving, streetscape features, and landscaping appropriate for the location, scale, and purpose of such paths.
4. A concrete trail shall also be provided along the perimeter edge of the existing pond.

LIGHTING

1. All exterior light sources, including wall packs and light poles, shall be properly recessed and/or shielded so that the source of light is not visible horizontally nor upward.
2. Light poles are limited to 30' in height.
3. Perimeter property lines shall have zero foot candles where adjacent to single family residential use in terms of illumination measurement.

OTHER DESIGN STANDARDS

1. The existing pond, generally located along the northern portion of the subject property, shall be amenitized by installing an aeration fountain, a pedestrian path around its perimeter edge, landscaping, and streetscape elements such as benches, at time of the associated adjacent phase is developed or at the time a FEMA permit is required.
2. No overhead utilities are allowed on-site.
3. An area, or easement, on the subject property, agreeable to both parties, shall be reserved for an outdoor warning siren to be installed and maintained by the City.
4. Perimeter landscaping, trails, pond installations, and other amenities and requirements within this PD are required at the time each phase develops, generally per the attached Phasing Map.



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: August 13, 2019
Re: Subdivision Ordinance Amendments

Action Requested:

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)

Background Information:

The current Subdivision Ordinance was amended in September 2018. The Subdivision Ordinance is being amended again to 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 in the *Engineering Design Standards*. This will eliminate the need to update the Subdivision Ordinance each time the *Engineering Design Standards* are revised. The proposed amendments outlining the changes are attached.

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.

Supporting Document:

- Proposed Revisions

Staff Recommendation:

Staff recommends that the public hearing be opened and continued to the September 10, 2019, City Council meeting, and no action be taken at this time.

ATTACHMENT A
Proposed Subdivision Ordinance Revisions

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 10.03.033, *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 Replats~~ Requiring a Variance or Exception. ~~All~~ 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. ~~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 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 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 fifty (50) 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 10.03.072, *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 10.03.076, *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:
- 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."

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:

"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 section (g), as follows:

“(g) **Retaining Walls - Single-Family Developments.** On any single-family development, the slopes located at the perimeter of the subdivision shall be graded so that there shall be no retaining walls necessary between the single-family development and future adjacent developments, unless approved by the Director of Engineering.”

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 may 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:
 - 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 ~~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."~~



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: August 13, 2019
 Re: ETS Celina Development Agreement

Action Requested:

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)

Owner:

Celina Titus, LLC & Celina Ownsby Coit, LLC
 106 Decker Court, Suite 310
 8750 N. Central Expressway, Suite 1735
 Irving, TX 750621

Applicant:

Terry W. Mitchell
 106 Decker Court, Suite 310
 8750 N. Central Expressway, Suite 1735
 Irving, TX 750621

Background Information:

The proposed development agreement is for approximately 5.5 acres of property, generally 2,400 feet east of future Coit Road and north of Choate Parkway, for the construction of a two-phased office/warehouse development. The DA outlines the future annexation, multiple off-site infrastructure improvements, and development standards, including design standards and landscaping.

Board Review/Citizen Input:

At the July 16, 2019, Planning & Zoning Commission regular meeting, the Commission unanimously voted to recommend approval of the Development Agreement.

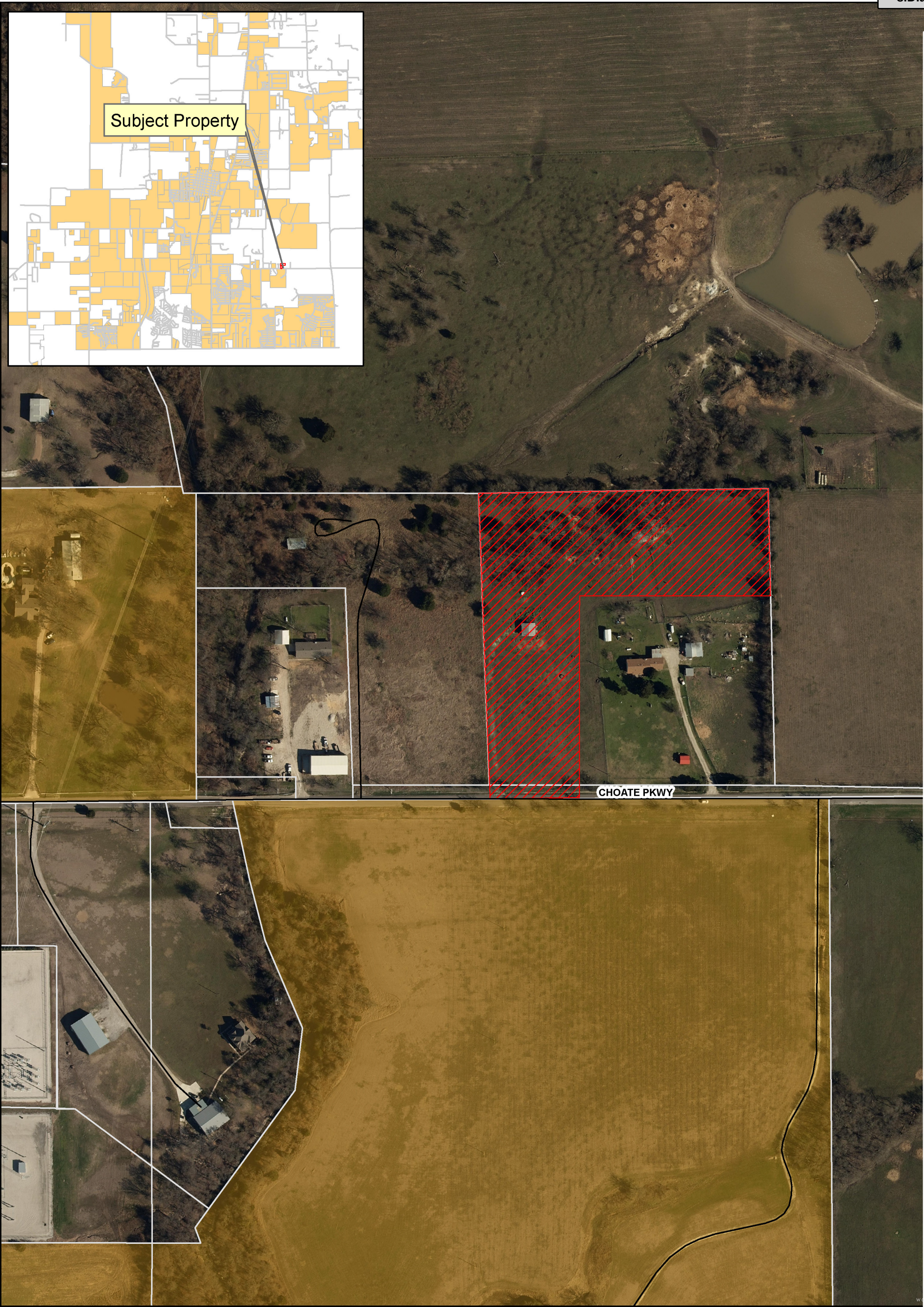
A notice of the public hearing was published in *The Celina Record* on July 26, 2019. Notices of the public hearing have been sent to all owners of property residing within the City limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Supporting Documents:

- Location Map
- Staff Presentation
- Draft Development Agreement

Staff Recommendation:

Staff Recommends Approval.



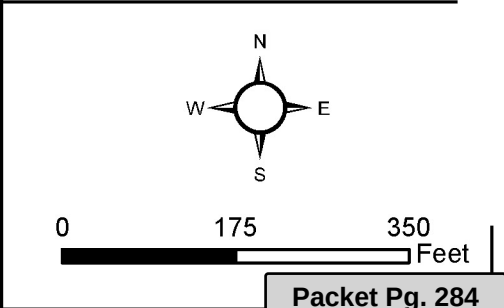
Attachment: Location Map (ETS Celina Development Agreement)



ETS Celina Location Map

Date: 6/20/2019

- Legend**
- Roads
 - ETS Celina
 - Parcels
 - City Limits



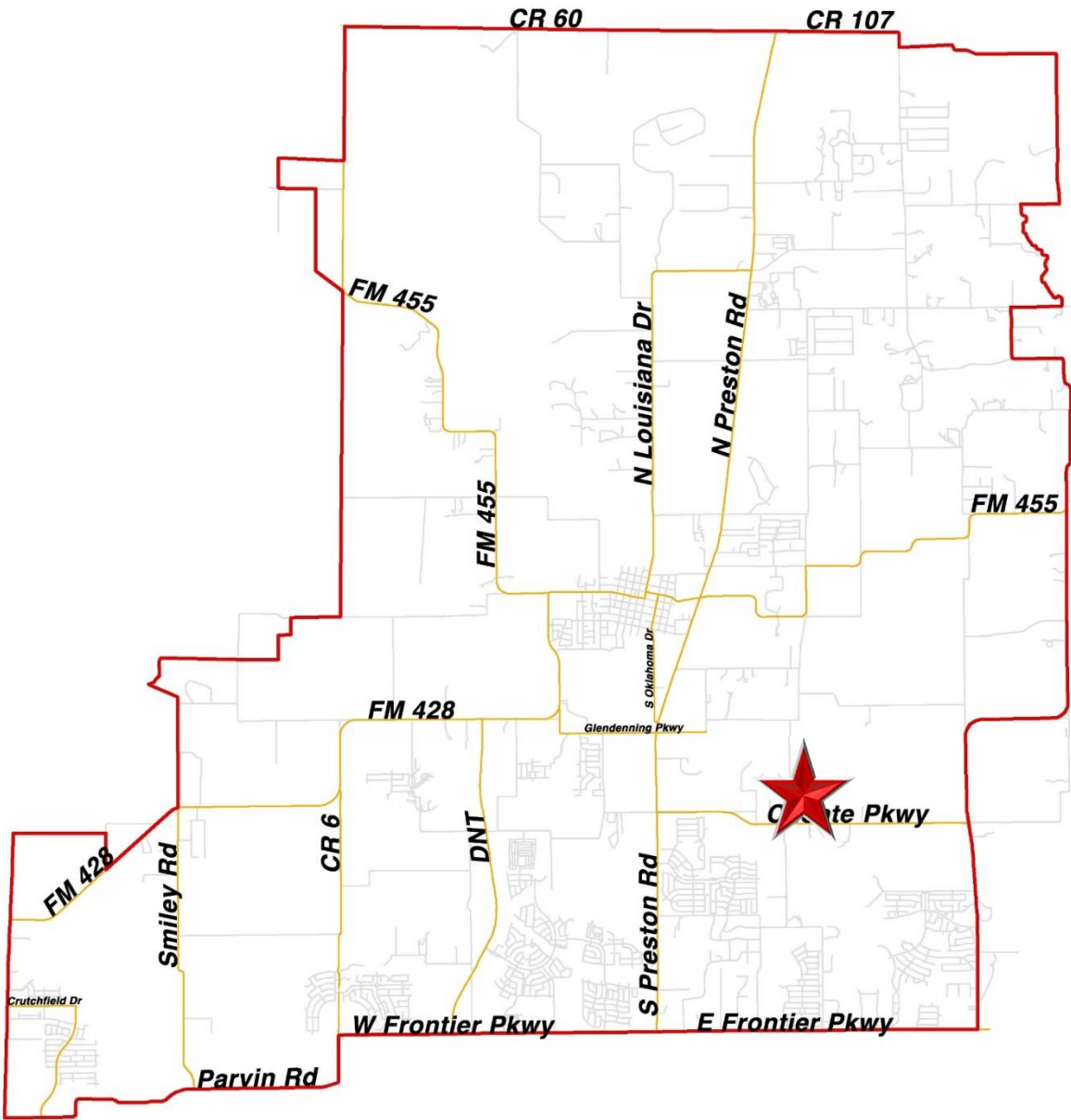
ETS Celina

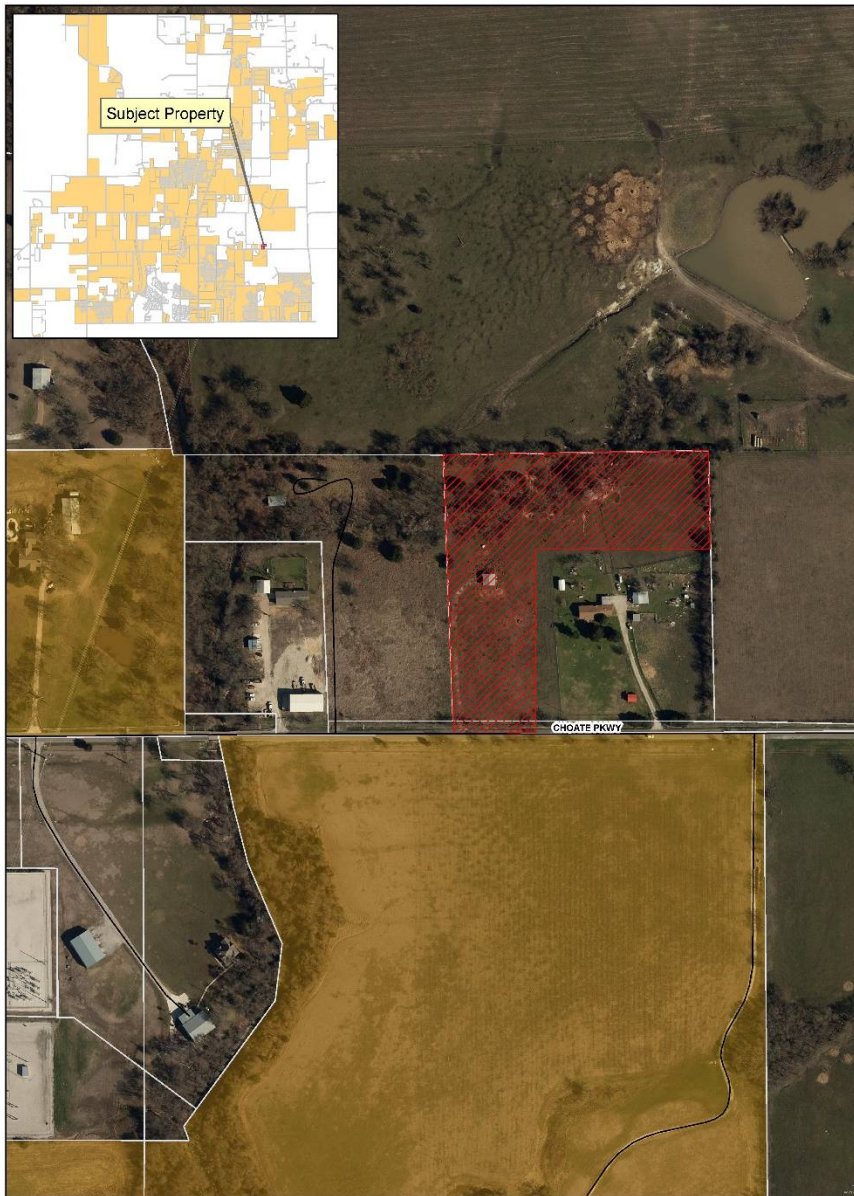
Development Agreement

City Council

August 13, 2019







Location Map

The subject property is located north of Choate Parkway and approximately 2,400 feet east side of CR 86 (future Coit Road)

Background

- The property is approximately 5.5 acres and is currently in Celina's Extraterritorial Jurisdiction (ETJ)
- The applicant desires to develop a two-phased office/warehouse development
- The development agreement outlines the future annexation and development standards that apply to the property
- County standards apply absent of the DA



Project Overview

- The project involves two phases with 12 buildings that are approximately 5,000 sf each
- The applicant agreed to design standards (and future annexation) that are greater than what the County requires
- The proposed buildings will be primarily metal with a masonry wainscot



Design Standards

The applicant agreed to the following:

- Multiple off-site infrastructure improvements
- ROW dedication and a 30' wide landscape buffer
- Minor masonry accents to visible facades
- Landscaping
- Fire lanes and fire hydrants
- Future annexation



Policy Considerations

- Absent the proposed Development Agreement, the subject property could develop in the County to inferior standards with little public safety requirements
- The proposed project provides a facility that has demonstrated market demand
- Permitting authority in addition to minimum design standards are desired by the City
- Once annexed, the subject property will contribute to the tax base



P&Z Public Hearing

- One person spoke during the public hearing and shared concerns over the aesthetics of metal buildings, about how the County does not have meaningful regulations to manage new growth, and shared support for the City being aggressive in applying regulations to more territory and in exercising its limited annexation powers.



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
- Staff recommends approval of the PD as presented



ETS DEVELOPMENT AGREEMENT

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

ARTICLE I RECITALS

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

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

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

WHEREAS, ETS Celina, LLC owns an approximately 5.489 acre tract of land (the “Property”); and

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

WHEREAS, the Developer intends to develop the Property as an office-warehouse; and

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

WHEREAS, the Parties intend that the Property will be developed in accordance with the agreed concept plan (the “Concept Plan”), attached hereto as **Exhibit C**, and the development standards set forth in certain proposed development standards, infrastructure contributions, permitting and fees (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; and

WHEREAS, this Agreement is entered into pursuant to Sections 43.016 and 212.172 of the Texas Local Government Code, in order to address the desires of the Developer and the procedures of the City; and

WHEREAS, the parties intend for this to be, pursuant to Section 43.0672 of the Texas Local Government Code, an agreement for municipal services with the specific services described in **Exhibit D** attached hereto; and

WHEREAS, Developer intends to acquire an additional 4.06 acre tract in the ETJ on Choate Parkway surrounded on two sides by the Property as described in **Exhibit E** and depicted in the survey in **Exhibit F** hereto (the “**ROFR Tract**”) and intend for this Agreement to apply to the ROFR Tract unless indicated otherwise herein; and

WHEREAS, the Developer requests and the parties desire for the Property and ROFR Tract to be annexed at a future date; and

WHEREAS, the Developer and the City acknowledge that this Agreement is binding upon the City and the Developer 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 and ROFR Tract are located; and

WHEREAS, in consideration of the Developer’s agreements contained herein to develop the Property as envisioned by the Parties, including dedication of easements, generally located as depicted in **Exhibit C** and as contemplated by **Exhibit D**, the City will waive the requirement for payment of any Impact Fees necessitated by the improvements reflected in **Exhibit C**; and

WHEREAS, the Parties agree that payment for Park Fees is not required for the development of the Property as reflected in **Exhibit C**; and

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

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

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

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

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

ARTICLE II

GENERAL TERMS AND DEFINITIONS

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

Agreement has the meaning assigned in the Recitals above.

City has the meaning assigned in the Recitals above.

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 as such presently exist or may subsequently be amended, except as specifically amended by this Agreement.

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

Developer means **ETS Celina, LLC**, a Texas Limited Liability Company.

Development Standards has the meaning assigned in the Recitals above.

Effective Date has the meaning assigned in the Recitals above.

ETJ has the meaning assigned in the Recitals above.

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.

Party/Parties has the meaning assigned in the Recitals above.

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, fire lanes and other public infrastructure necessary to serve the full development of the Property.

ROFR Tract has the meaning assigned in the Recitals above.

Term has the meaning assigned in Article VI below.

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, as amended. Construction and/or installation of Public Infrastructure shall not begin until complete and accurate plans and specifications have been approved by the City.

The Public Infrastructure will be installed within the public right-of-way or in easements granted to the City. The Public Infrastructure requirements to be fulfilled by Developer are set forth in **Exhibit D**.

3.2 Inspections, Acceptance of Public Infrastructure.

(a) 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 **Exhibit D** and approved engineering plans, construction plans, and other approved plans related to development of the Property and the ROFR Tract.

(b) 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 and ROFR Tract shall meet the requirements of the City Regulations, as amended, except as expressly amended herein.

ARTICLE IV **DEVELOPMENT REGULATIONS**

4.1 Compliance with City Standards.

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

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

(c) The Parties agree the Concept Plan was created by the Developer for illustrating the boundary, nature, and general layout of the project. Any amendment to the Concept Plan, other than minor amendments incurred during the City's engineering review, must be approved by the City Council and then shall be considered an amendment to this Agreement and shall replace the attached Concept Plan and become a part of this Agreement.

4.2 No Districts. The Developer covenants and agrees that Developer will not file any type of subdivision plat, permit for development or related development document for the Property or ROFR Tract, which includes but is not limited to seeking to create any special district (including but not limited to a Municipal Utility District, Fresh Water Supply District, Water Control and

Improvement District, Municipal Management District, Public Improvement District, or any similar special district) within any part of the Property within the City's ETJ including by seeking to file, or filing, any legislation or any application with the Texas Commission on Environmental Quality to create any such special district, other than those contemplated herein.

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

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

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

ARTICLE V

DEVELOPMENT PROCESS AND CHARGES

5.1 Development, Review and Inspection Fees. Except as provided in Sections 5.2 and 5.3 below, development of any portion of the Property and ROFR Tract shall be subject to payment to the City of the applicable fees according to the City Regulations, including without limitation fees relating to platting and any other charges and fees not expressly exempted or altered by the terms of this Agreement.

5.2 Impact Fees. The Developer shall not pay Impact Fees to develop the Property as described in **Exhibit C** and **Exhibit D**.

5.3 Fire Lanes. The Developer shall provide fire lanes on the Property as depicted/described in **Exhibit C** and **Exhibit D**. Fire lanes shall be required on the ROFR Tract in compliance with City Regulations.

5.4 Park Fees. The Developer shall not pay Park Fees to develop the Property as described in **Exhibit C** and **Exhibit D**.

5.5 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 AND ROFR TRACT, 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 (“Term”) and annexation of the Property and ROFR Tract shall occur in the last year of the term or after expiration of the term. The procedure herein regarding annexation shall survive the expiration of this Agreement until adoption of an ordinance annexing the properties. The Parties may extend the term of this Agreement if they execute an agreement in writing.

This Agreement shall only apply to the ROFR Tract if purchased by the Developer during the Term.

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

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

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

ARTICLE VIII **EVENTS OF DEFAULT; REMEDIES**

8.1 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the

alleged failure, but in no event more than thirty (30) days after written notice of the alleged failure has been given). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured and within such 30-day period gives written notice to the non-defaulting Party of the details of why the cure will take longer than 30 days with a statement of how many days are needed to cure.

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

ARTICLE IX

ASSIGNMENT AND ENCUMBRANCE

9.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. The obligations, requirements or covenants to the development of the Property and/or ROFR Tract shall not be assigned by 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. 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, the ROFR Tract or the Property.

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

9.3 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, ROFR Tract and/or any part thereof and/or any of its rights or benefits under this Agreement:

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

ARTICLE X

RECORDATION/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 and ROFR Tract. 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 and ROFR Tract. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the Property and ROFR Tract; 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.

ARTICLE XI

ADDITIONAL PROVISIONS

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

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

To the City:

Attn: City Manager
City of Celina
142 North Ohio
Celina, TX 75009

Email: jlaumer@celina-tx.gov

With a copy to:

Attn: Julie Fort
Messer, 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@hbwvlaw.com

To the Developer:

Matthew Edgemon
ETS Celina, LLC
6251 FM 2478
McKinney, Texas 75071
Email: matt@swerosioncontrol.com

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

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

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

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

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

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

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

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

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

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

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

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

- | | |
|-------------|--|
| Exhibit A | Legal Description of Property |
| Exhibit B | Survey of Property |
| Exhibit C | Concept Plan |
| Exhibit D | Development Standards |
| Exhibit D-1 | Required building elevation examples and color pallets |
| Exhibit D-2 | Landscaping Plan |
| Exhibit E | Legal Description of ROFR Tract |
| Exhibit F | Survey of ROFR Tract |

11.13 Governmental Powers; Waivers of Immunity. By its execution of this Agreement, the City does not waive or surrender any of its respective governmental powers, immunities, or rights

except as provided in this section. The Parties acknowledge that the City waives its sovereign immunity as to suit solely for the purpose of adjudicating a claim under this Agreement. This is an agreement for the provision of goods or services to the City under Section 271.151 et seq. of the Texas Local Government Code.

11.14 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three (3) business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance, shall give notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term “force majeure” shall include events or circumstances that are not within the reasonable control of Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.

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

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

[signatures on following pages]

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

Date: _____

CITY OF CELINA

By: _____
Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

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: Development Agreement (ETS Celina Development Agreement)

DEVELOPER:**ETS Celina**

a Texas limited liability company

By: _____

Name: Matthew Edgemon

Title: Manager

STATE OF TEXAS

§
§
§

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of _____, 2019 by Matthew Edgemon, a Manager of **ETS Celina**, a Texas limited liability company on behalf of said limited liability company.

(SEAL)

Notary Public, State of Texas_____
Name printed or typed

Commission Expires: _____

Attachment: Development Agreement (ETS Celina Development Agreement)

EXHIBIT A **Legal Description**

LEGAL DESCRIPTION

BEING a tract of land in the Levin Routh Survey, Abstract No. 779, Collin County, Texas and being part of a called 4.517 acre tract conveyed to Wesley Stalcup as recorded in Volume 3014, Page 280 of the Land Records of Collin County, Texas, and being part of a called 5.000 acre tract conveyed to Wesley Stalcup as recorded in Volume 3014, Page 276 of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for corner at the southwest corner of said 4.517 acre tract, said iron rod being in C.R. No. 88;

THENCE N 02°25'59" W a distance of 662.64' to a 1/2" iron rod with a yellow plastic cap stamped "4613" set for corner;

THENCE N 89°19'23" E a distance of 536.61' to a 1/2 inch iron rod found for corner;

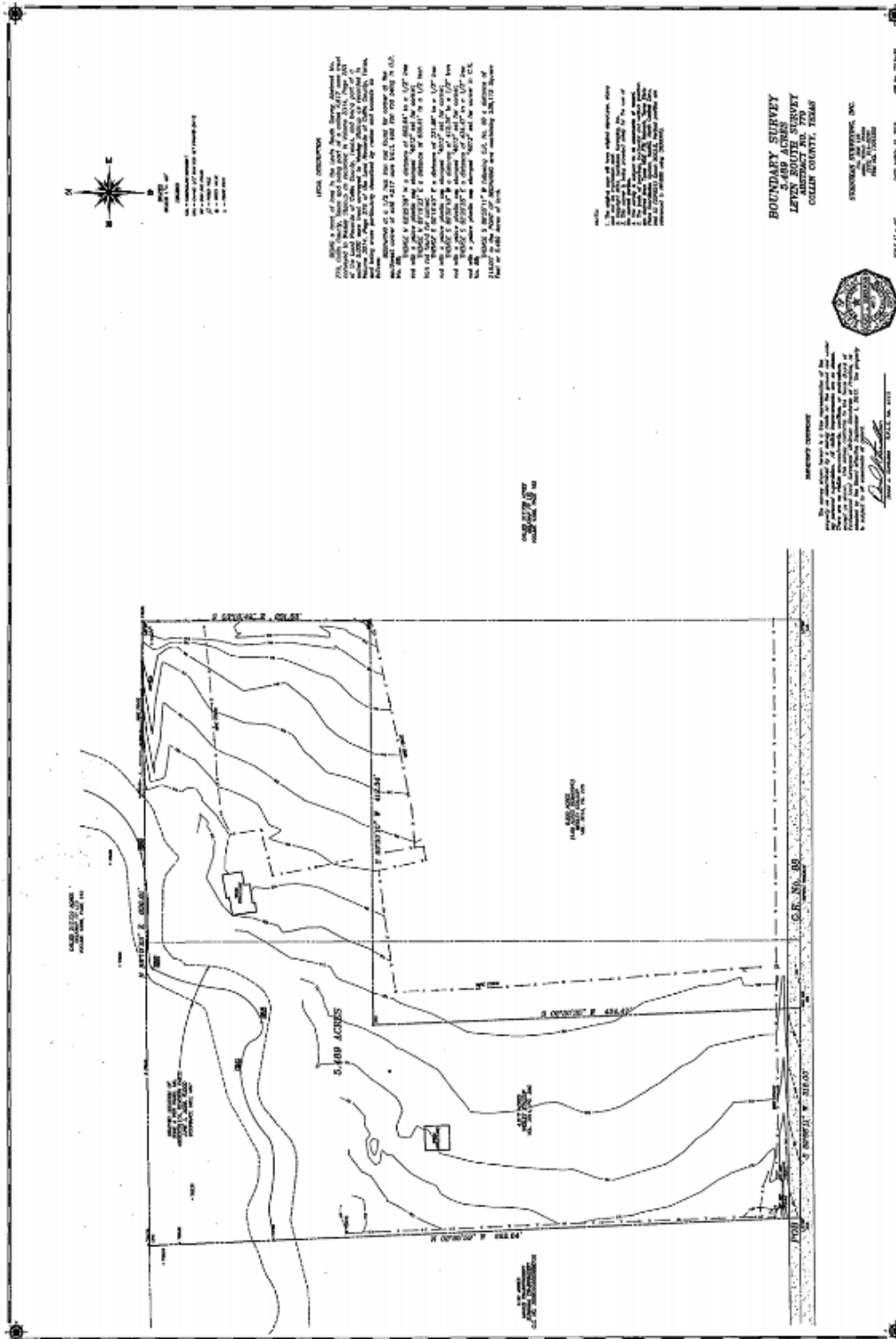
THENCE S 00°16'49" E a distance of 231.58' to a 1/2" iron rod with a yellow plastic cap stamped "4613" set for corner;

THENCE S 89°30'10" W a distance of 412.34' to a 1/2" iron rod with a yellow plastic cap stamped "4613" set for corner;

THENCE S 02°20'35" E a distance of 434.47' to a 1/2" iron rod with a yellow plastic cap stamped "4613" set for corner in C.R. No. 88;

THENCE S 89°55'11" W following C.R. No. 88 a distance of 215.00' to the POINT OF BEGINNING and containing 239,112 Square Feet or 5.489 Acres of land.

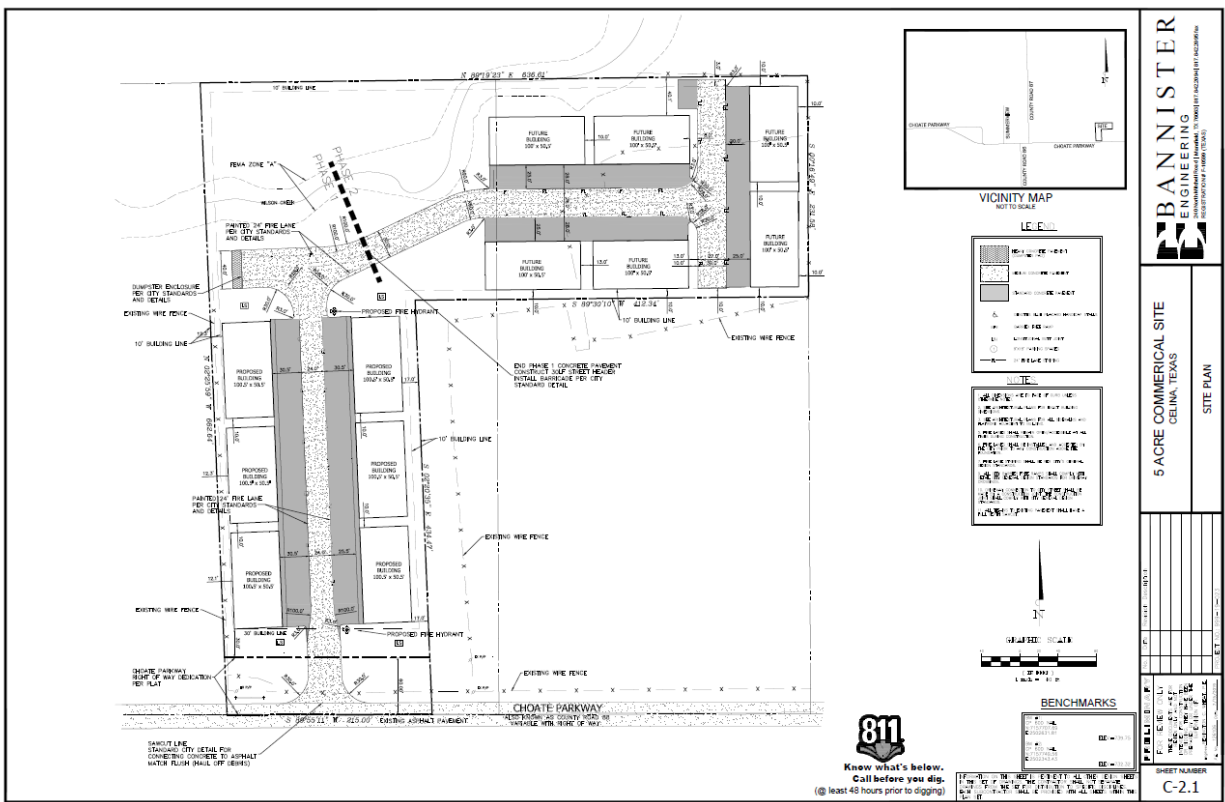
EXHIBIT B
Survey of Property



Attachment: Development Agreement (ETS Celina Development Agreement)

EXHIBIT C

Concept Plan



Attachment: Development Agreement (ETS Celina Development Agreement)

EXHIBIT D Development Standards

A. PUBLIC INFRASTRUCTURE

1. ETS will dedicate right-of-way on Choate Parkway street frontage equal to a distance of sixty feet (60') from the existing centerline of the asphalt road.
2. ETS shall dedicate a sidewalk/water/sewer easement equal to a distance of ten feet (10') from the 60' right-of-way dedicate for Choate Parkway required herein. This easement is allowed to encumber the front setback and buffer as described in Item 3 below.
3. ETS will provide a minimum 30' Front Setback and landscape buffer on the Choate Parkway street frontage (starting from the right-of-way dedication line described in Item 1 above).
4. Domestic Water: The existing 2-inch water line, located within Choate Parkway, is the only water line required to serve domestic water needs. The Property will be allowed to be served with a single master domestic water meter.
5. Fire Water: The first phase of development on the Property will include two (2) fire hydrants and a 8-inch water line to be designed and constructed by Developer, but only stubbed to Choate Parkway for future connection to a transmission water line (to be installed by others at a later date). It is understood that the 8-inch water line and hydrants will remain dormant on-site until such time a transmission line exists within Choate Parkway. The first phase's development permit, building permit, plat and certificates of occupancy are not contingent upon a fire water line connection.
6. If stormwater detention is determined to be required onsite, the Property's internal paved areas may be used for detention storage purposes, if it is possible to do so without flooding the paved areas, as determined by the City's engineer.
7. Sanitary Sewer: The City agrees to install a sanitary sewer manhole and a drop connection point as part of its current trunk main project (under construction as of July 2019) and obtain necessary easements to bring sanitary sewer to the Property. The Developer agrees to prepare the necessary easement legal description & exhibit (only, as the City will be required to provide the front end language and obtain signature) and the offsite sanitary sewer extension design plans at their cost. If for any reason the necessary easements for the sanitary sewer extension are not executed and filed ninety (90) days after receipt of the easements by the City, the Property will be allowed to sewer via a septic system. Upon the change of its current use, the ROFR Tract shall not be allowed to have any septic systems and must be connected to a sanitary sewer line.
8. The remainder of the Stalcup tract (the "ROFR Tract") is not subject to platting or annexation until application for Site Plan is made to the City, but development start on ROFR Tract is

not subject to or restricted by annexation completion.

9. Items A.1. through A.6., above, are applicable to future phases to be developed on the Property and to the ROFR Tract.

B. DEVELOPMENT REGULATIONS

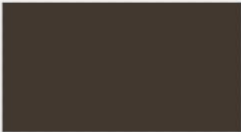
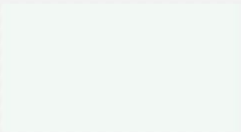
1. Side and Rear building setbacks within the Property shall be ten feet (10').
2. No minimum parking standards will be enforced within the Property.
3. ETS will be allowed to construct metal office-warehouse buildings that will include a 4' high wainscot brick or stone accent on exterior building areas facing the fire lane and Choate Parkway on the Property and ROFR Tract, for which the example elevations and color pallets are attached as **Exhibit D-1**.
4. Landscape and entry monumentation are allowed to be constructed within the ten foot (10') sidewalk/water/sewer easement required by A.2, above. ETS agrees to install landscaping with the first phase of development on the Property. Landscaping for the ROFR Tract shall installed by Developer with the first phase of development of the ROFR Tract. The landscaping for the Property shall meet the standards in Exhibit D-2. The landscaping for the ROFR Tract shall meet the City Regulations.
5. A site plan for the ROFR Tract shall be submitted by Developer for approval by the City prior to platting. The ROFR Tract may be annexed prior to being developed.
6. Items B.1. through B.4., above, are applicable to future phases to be developed on the Property and to the ROFR Tract.

EXHIBIT D-1
EXAMPLE BUILDING ELEVATIONS AND COLOR PALETS
FOR PROPERTY AND ROFR TRACT



* The above elevation is an example of the planned building materials and is not intended to be an exact elevation requirement as door and window numbers/sizes/locations are not determined and are subject to change.

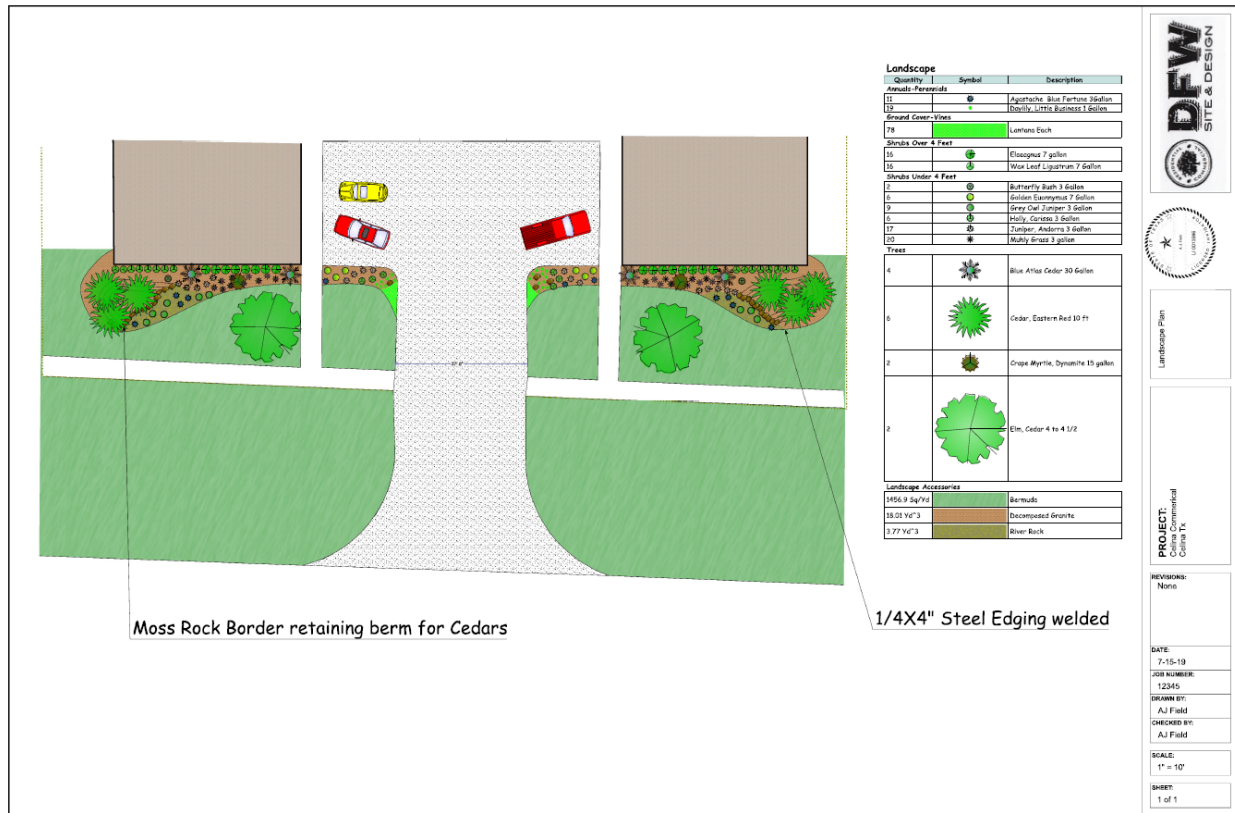
COLOR CHART

			
Polar White PPOL *	Light Stone	Ash Gray	Desert Sand
			
Charcoal Gray	Burnished Slate	Solar White	Koko Brown
			
Rustic Red	Fern Green	Evergreen	

* Color names and shades are from Rhino Building Materials and are presented as examples. If a different manufacturer is selected for construction, names and shades may vary but will be in the same presented tones.

Attachment: Development Agreement (ETS Celina Development Agreement)

EXHIBIT D-2 LANDSCAPING PLAN FOR PROPERTY



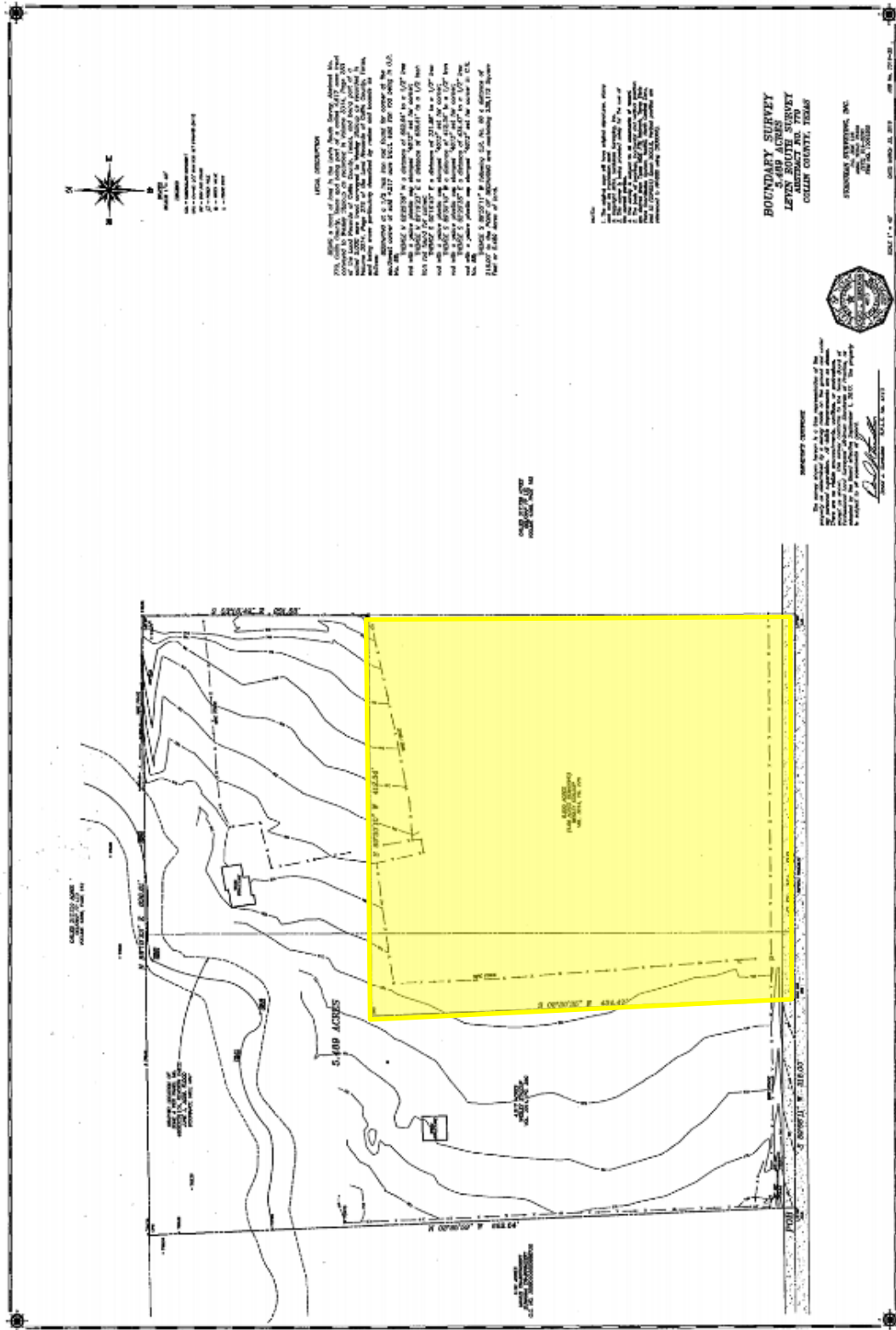
**EXHIBIT E
LEGAL DESCRIPTION OF ROFR TRACT**

Being a tract of land in the Levin Routh Survey, Abstract No. 779, Collin County, Texas containing 4.06 Acres remaining from 5.0 Acres described in Volume 3014, Page 276 of the Land Records of Collin County, Texas.

DRAFT

Attachment: Development Agreement (ETS Celina Development Agreement)

EXHIBIT F
SURVEY OF ROFR TRACT



Attachment: Development Agreement (ETS Celina 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: August 13, 2019
 Re: Mustang Lakes West PID Public Hearing & Creation

Action Requested:

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)

Background Information:

This item creates the Mustang Lakes (Annex) Public Improvement District (PID). The new district will be located adjacent to and northwest of the existing Mustang Lakes subdivision, and is generally bordered by Custer Road (FM 2478) to the east and Choate Parkway to the north.

Chapter 372 of the Texas Local Government Code states that a Petition to create a PID is sufficient if signed by owners of more than fifty percent (50%) of the taxable real property, according to appraised value, and either of the following:

- more than fifty percent (50%) of the area of all taxable real property liable for assessment under the proposal, or
- more than fifty percent (50%) of all record owners of property liable for assessment.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

This item does not affect the City's budget. However, estimated costs for authorized improvements funded by the PID are \$66,000,000.

Legal Review:

This item has been reviewed by the City Attorney.

Supporting Documents:

- Proposed resolution

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS
RESOLUTION NO. _____

**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; PROVIDING FOR
RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City of Celina, Texas (the “**City**”), is authorized under Chapter 372 of the Texas Local Government Code (the “**Act**”), to create a public improvement district within the corporate limits of the City; and

WHEREAS, on April 9, 2019, Celina 557 Partners, L.P., a Texas limited partnership, (the “**Petitioner**”) submitted and filed with the City Secretary of the City a petition (the “**Petition**”) requesting the establishment of a public improvement district for property within the corporate limits of the City; and

WHEREAS, the Petition requested the creation of the Mustang Lakes (Annex) Public Improvement District (the “**District**”), which District is located within the corporate limits of the City and more particularly depicted in Exhibit A and described by metes and bounds in Exhibit B (the “**Property**”) each attached hereto and incorporated herein for all purposes; and

WHEREAS, the City Council of the City (the “**City Council**”) has investigated and determined that the facts contained in the Petition are true and correct; and

WHEREAS, after publishing notice in the *Celina Record*, a newspaper of general circulation in the City, and mailing notice of the hearing, all as required by and in conformity with the Act, the City Council opened a public hearing on the advisability of the improvements on August 13, 2019, and, after all interested parties were given the opportunity to speak, the City Council closed the public hearing.

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

Section 1. The findings set forth in the recitals of this Resolution are found to be true and correct.

Section 2. The Petition submitted to the City by the Petitioner was filed with the City Secretary and complies with Section 372.005 of the Act.

Section 3. Pursuant to the requirements of the Act, including, without limitation, Sections 372.006, 372.009(a), and 372.009(b), the City Council, after considering the Petition and the evidence and testimony presented at the public hearing on August 13, 2019, hereby finds and declares:

- (a) **Advisability of the Proposed Improvements.** It is advisable to create the District to provide the Authorized Improvements (as described below). The Authorized Improvements are feasible and desirable and will promote the interests of the City and will confer a special benefit on the Property.
- (b) **General Nature of the Authorized Improvements.** The purposes of the District include the design, acquisition, and construction of public improvement projects authorized by the Act that are necessary for the development of the Property, which Authorized Improvements will include, but not be limited to: (i) roadway improvements; storm drainage improvements; water and wastewater system improvements; right-of-way acquisitions related to such improvements; parks, open space and landscaping improvements; and, other similar improvement projects; (ii) payment of expenses incurred in the establishment, administration and operation of the District; and, (iii) payment of expenses associated with financing such public improvement projects, which may include, but are not limited to, costs associated with issuance and sale of revenue bonds secured by assessments levied against the Property (the “Authorized Improvements”). These Authorized Improvements promote the interests of the City and confer a special benefit upon the Property.
- (c) **Estimated Costs of the Authorized Improvements and Apportionment of Costs.** The estimated total costs to design, acquire, and construct the Authorized Improvements, including payment of expenses to finance such public improvement projects such as eligible legal and financial fees and expenses incurred in the establishment, administration and operation of the District, is \$66,000,000.00, which costs shall be paid by assessments levied on the Property within the District. The City will not be obligated to provide any funds to finance the Authorized Improvements,

other than from assessments levied on the Property and possible tax increment reinvestment zone revenue. No municipal property in the District shall be assessed. The developer of the Property (the “**Developer**”) may also pay certain costs of the Authorized Improvements from other funds available to the Developer.

- (d) **Boundaries of the District.** The District is proposed to include approximately 556.836 acres of land generally located in the area encompassed directly south of Choate Parkway, north of FM 1461, east of Coit Road, and west of FM 2478, and as more particularly depicted in Exhibit A attached hereto, and as more properly described in the metes and bounds described in Exhibit B attached hereto.
- (e) **Proposed Method of Assessment.** The City shall levy assessments on each parcel within the District in a manner that results in imposing equal shares of the costs on property similarly benefited. All assessments may be paid in full at any time (including interest and debt), and certain assessments may be paid in annual installments (including interest and debt). If an assessment is allowed to be paid in installments, then the installments must be paid in amounts necessary to meet annual costs for those Authorized Improvements financed by the assessments and must continue for a period necessary to retire the indebtedness issued to finance or refinance those Authorized Improvements (including interest).
- (f) **Management of the District.** The District shall be managed by the City, with the assistance of a consultant, who shall, from time to time, advise the City regarding certain operations of the District.
- (g) **Advisory Board.** The District shall be managed without the creation of an advisory body.

Section 4. The Mustang Lakes (Annex) Public Improvement District is hereby authorized and created as a public improvement district under the Act in accordance with the findings of the City Council as to the advisability of the Authorized Improvements contained in this Resolution, the nature and the estimated costs of the Authorized Improvements, the boundaries of the District, the method of assessment, and the apportionment of costs as described herein; and the conclusion that the District is needed to fund such Authorized Improvements.

Section 5. Notice of this Resolution authorizing the District shall be given by publishing such notice once in the *Celina Record*, a newspaper of general circulation in the City. Effective upon the publication of such notice, the District shall be established.

Section 6. This Resolution shall take effect immediately from and after its passage and publication as required by law.

PASSED, APPROVED AND ADOPTED on the 13th day of August, 2019.

ATTEST:

SEAN TERRY, MAYOR

VICKI FAULKNER, CITY SECRETARY

1245.013\81486.2

EXHIBIT B
Metes and Bounds Description of the Property

LEGAL DESCRIPTION
OVERALL TRACT 556.836 AC

BEING a tract of land situated in the COLEMAN WATSON SURVEY, ABSTRACT NO. 945, Collin County, Texas, being all of those tracts of land conveyed to Brinkmann Ranches of Collin County, L.P., according to deeds recorded in Document Number 2005-0176477 and 2005-0176476, Official Public Records, Collin County, Texas, and being all of those tracts of land conveyed to Collin County Two Trees Investments, LP, according to deeds recorded in Document Numbers 20090603000680790 (Tract 4), 20110929001040010 (Tract III) and 20090603000680810 (Parcels I and II), Official Public Records, Collin County, Texas;

BEGINNING at a 1/2 inch iron rod found for the northwest corner of said Tract 4 of Collin County Two Trees Investments, LP tract, same being the northeast corner of that tract of land conveyed to Donald T. Koch, as trustee of the surviving grantor's revocable trust, according to deed recorded in Document Number 20170616000785220, Official Public Records, Collin County, Texas, and being in the center line of County Road 88 (Choate Road);

THENCE N 89° 45' 07" E, with the north line of said Tract 4 of Collin County Two Trees Investments, LP tract and the center line of said County Road 88, a distance of 868.09 feet to a 1/2 inch iron rod with cap stamped "DAA" set for the northeast corner of said Tract 4 of Collin County Two Trees Investments, LP tract, same being the northwest corner of said Tract III, Collin County Two Trees Investments, LP tract;

THENCE N 89° 41' 25" E, with the north line of said Tract III of Collin County Two Trees Investments, LP tract and the center line of said County Road 88, a distance of 658.13 feet to a 1/2 inch iron rod with cap stamped "DAA" set for the northeast corner of said Tract III of Collin County Two Trees Investments, LP tract, same being the northwest corner of said Parcel II of Collin County Two Trees Investments, LP tract;

THENCE N 89° 30' 23" E, with the north line of said Parcel II of Collin County Two Trees Investments, LP tract and the center line of said County Road 88, passing the northeast corner of said Parcel II of Collin County Two Trees Investments, LP tract, same being the northwest corner of said Parcel I of Collin County Two Trees Investments, LP tract, at a distance of 351.59 feet, continuing a total distance of 691.06 feet to a 1/2 inch iron rod with cap stamped "DAA" set in the north line of said Parcel I of Collin County Two Trees Investments, LP tract, same being the southwest corner of that of land conveyed to G&N Estates, LLC, according to deed recorded in Document Number 20070315000355600, Official Public Records, Collin County, Texas;

THENCE N 88° 59' 17" E, with the north line of said Parcel I of Collin County Two Trees Investments, LP tract and the center line of said County Road 88, a distance of 663.23 feet to a 5/8 inch iron rod found in the north line of said Parcel I of Collin County Two Trees Investments, LP tract, same being the southeast corner of said G&N Estates, LLC tract, also being the southwest corner of that tract of land conveyed to Robert D. Newell and Charlotte K. Newell, according to the deed recorded in Document Number 20120615000717260, Official Public Records, Collin County, Texas;

THENCE N 89° 12' 54" E, with the north line of said Parcel I of Collin County Two Trees Investments, LP tract and the most northern line of that tract of land conveyed to Brinkmann Ranches of Collin County, L.P., according to deed recorded in Document Number 2005-0176477, Official Public Records, Collin County, Texas, and the center line of said County Road 88, a distance of 1,177.40 feet to a 1/2 inch iron rod found for an angle point in the most northern line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176477), same being the northwest corner of that tract of land conveyed to Metallic Land Company, LLC, according to deed recorded in Document Number 20150304000239620, Official Public Records, Collin County, Texas, also being in the south line of that tract of land conveyed to Vijay Prathani and wife, Pavani Chillarige, according to deed recorded in Document Number 20160908001195410, Official Public Records, Collin County, Texas;

THENCE S 73° 41' 33" E, with the most northern line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176477), same being the south line of said Metallic Land Company, LLC tract, and the center line of said County Road 88, a distance of 398.67 feet to a 1/2 inch iron rod found for the northeast corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176477), same being the south corner of said Metallic Land Company, LLC tract, also being in the west line of Farm-To-Market Road 2478;

THENCE with the east line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176477), same being west line of said Farm-To-Market Road 2478, the following courses and distances:

S 09° 48' 59" E, a distance of 570.67 feet to a wooden monument with nail in the top found for the beginning of a non-tangent curve to the right having a central angle of 05° 44' 05", a radius of 5,679.58 feet and a chord bearing and distance of S 07° 01' 46" E, 568.23 feet;

With said non-tangent curve to the right, an arc distance of 568.47 feet to a wooden monument found;

S 04° 06' 50" E, a distance of 2,257.45 feet to a 1/2 inch iron rod found for the southeast corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176477), same being the northeast corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 9);

THENCE S 04° 14' 30" E, with the east line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 9), same being west line of said Farm-To-Market Road 2478, a distance of 49.85 feet to a 1/2 inch iron rod with cap stamped "DAA" found for the southeast corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 9), same being the northeast corner of that tract of land conveyed to the City of McKinney, according to deed recorded in Document Number 2011026001149950, Official Public Records, Collin County, Texas;

THENCE with the south line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 9), same being the north lines of said City of McKinney tract, the remainder of that tract of land conveyed to Celina 682 Partners, L.P., according to deed recorded in Document Number 20060419000517060, Official Public Records, Collin County, Texas, the Amended Plat Mustang Lakes Phase One, and addition to the City of McKinney, Texas, according to the plat thereof recorded Cabinet 2017, Page 74, Official Public Records, Collin County, Texas and Mustang Lakes Phase 2A, and addition to the City of McKinney, according to the plat thereof recorded in Cabinet 2017, Page 816, Official Public Records, Collin County, Texas, the following courses and distances:

S 89° 42' 42" W, a distance of 620.02 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner;

N 89° 56' 24" W, a distance of 311.73 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner;

S 89° 51' 51" W, a distance of 816.05 feet to a 1/2 inch iron rod found for corner;

S 89° 47' 20" W, a distance of 305.39 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner;

S 89° 49' 55" W, a distance of 465.82 feet to a 1/2 inch iron rod with cap stamped "DAA" found for corner;

S 89° 48' 09" W, a distance of 2,167.88 feet to a 1/2 inch iron rod with cap stamped "DAA" found for the southwest corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 9), same being the northwest corner of said Mustang Lakes Phase 2A, also being in the east line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8);

THENCE S 00° 13' 49" E, with the east line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being west line of said Mustang Lakes Phase 2A, a distance of 1,721.82 feet to a 1/2 inch iron rod found for the southeast corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being an interior ell corner of said remainder of said Celina 682 Partners, L.P. tract;

THENCE S 89° 39' 02" W, with the south line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being a north line of said Celina 682 Partners, L.P. tract, a distance of 1,986.38 feet to a 1 inch pipe found for the southwest corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being an interior ell corner of Wilson Creek Estates 2, and addition to the City of McKinney, Texas, according to the plat thereof recorded in Document Number 98-0015033, Official Public Records, Collin County, Texas;

THENCE N 00° 18' 19" W, with a west line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the most northern east line of said Wilson Creek Estates 2, a distance of 213.89 feet to a 1/2 inch iron pipe found for an interior ell corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the northeast corner of said Wilson Creek Estates 2;

THENCE S 89° 40' 43" W, with the south line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the most northern line of said Wilson Creek Estates 2, a distance of 1,120.91 feet to a 1 inch iron pipe found for the southwest corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the northwest corner of said Wilson Creek Estates 2, also being in the east line of that tract of land conveyed to Donald L. Vest and wife, Julie Ann Vest, according to deed recorded in Volume 1344, Page 66, Deed Records, Collin County, Texas;

THENCE N 00° 19' 48" W, with the west line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the east line of said Donald L. Vest and wife, Julie Ann Vest tract and the east line of that tract of land conveyed to Celina Ownsby Coit, LLC, according to deed recorded in Document Number 20180816001026240, Official Public Records, Collin County, Texas, a distance of 2,456.94 feet to a 1/2 inch iron pipe found for the northwest corner of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the northeast corner of said Celina Ownsby Coit, LLC tract, also being in the south line of that tract of land conveyed to Celina Titus, LLC, according to deed recorded in Document Number 20160401000388930, Official Public Records, Collin County, Texas;

THENCE N 89° 40' 51" E, with the north line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the south line of said Celina Titus, LLC tract, a distance of 1,507.21 feet to a 1/2 inch iron rod found in the north line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), and being the southeast corner of said Celina Titus, LLC tract, same being the southwest corner of that tract of land conveyed to City Global Investments, LLC, according to deed recorded in Document Number 20151130001493760, Official Public Records, Collin County, Texas;

THENCE N 89° 36' 59" E, with the north line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the south line of said City Global Investments, LLC tract, a distance of 680.76 feet to a 1/2 inch iron rod found in the north line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), and being the southeast corner of said City Global Investments, LLC tract, same being the southwest corner of that tract of land conveyed to Donald T. Koch, as trustee of the surviving grantor's revocable trust, according to deed recorded in Document Number 20170616000785220, Official Public Records, Collin County, Texas;

THENCE N 89° 46' 39" E, with the north line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), same being the south line of said Donald T. Koch, as trustee of the surviving grantor's revocable trust tract, a distance of 869.09 feet to a 1/2 inch iron rod with cap stamped "DAA" set in the north line of said Brinkmann Ranches of Collin County, L.P. tract (2005-0176476-Tract 8), and being the southeast corner of said Donald T. Koch, as trustee of the surviving grantor's revocable trust tract, same being the southwest corner of said Tract 4 of Collin County Two Trees Investments, LP tract;

THENCE N 00° 36' 33" W, with the west line of said Tract 4 of Collin County Two Trees Investments, LP tract, same being the east line of said Donald T. Koch, as trustee of the surviving grantor's revocable trust tract, a distance of 2,566.39 to the **POINT OF BEGINNING** and containing 556.836 acres of land, more or less.



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: August 13, 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.

A notice of the public hearing was published in *The Celina Record* on July 26, 2019.

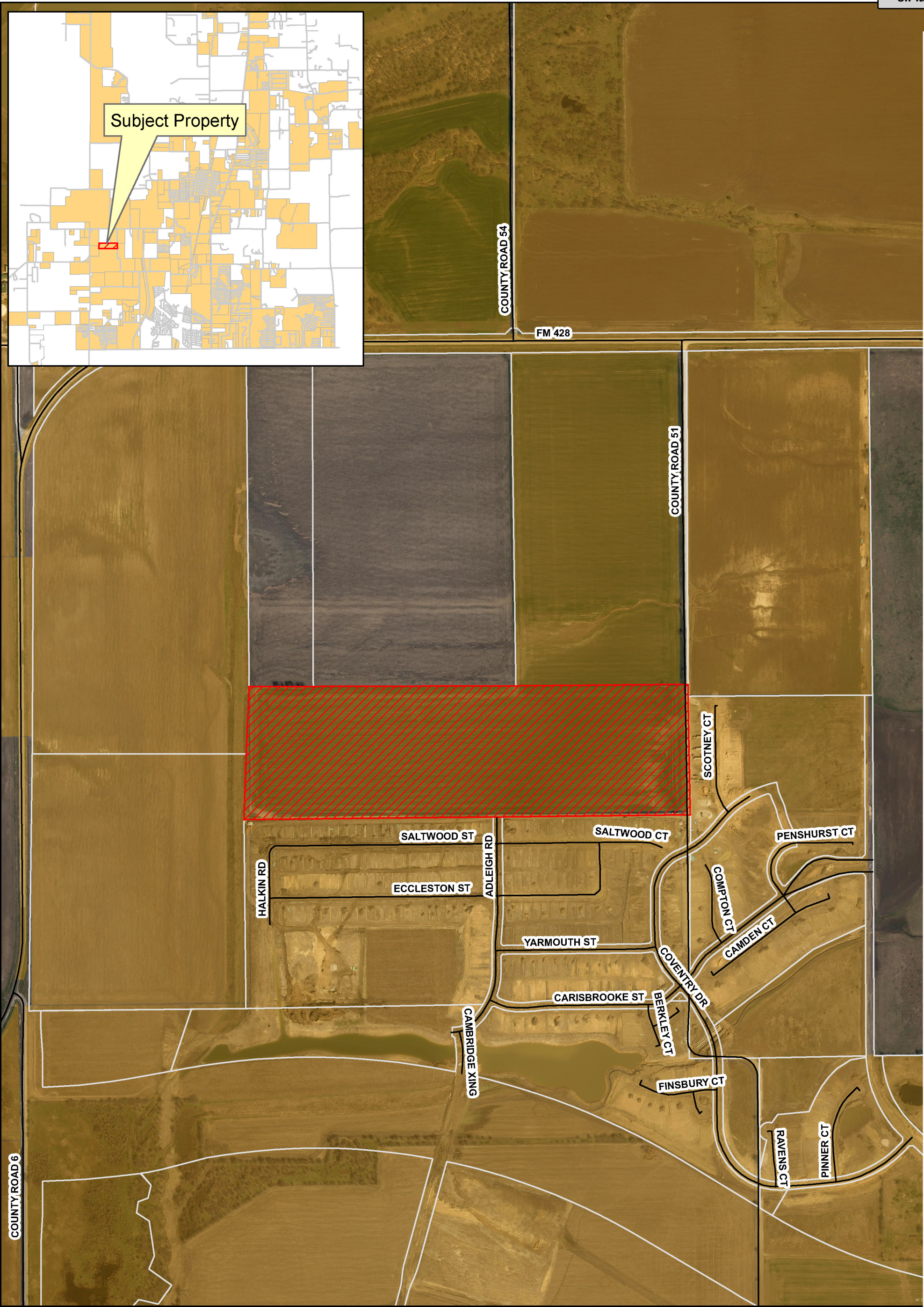
Notices of the public hearing have been sent to all owners of property residing within the city limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Supporting Document:

- Location Map
- Staff Presentation
- Draft Ordinance

Staff Recommendation:

Staff recommends approval.



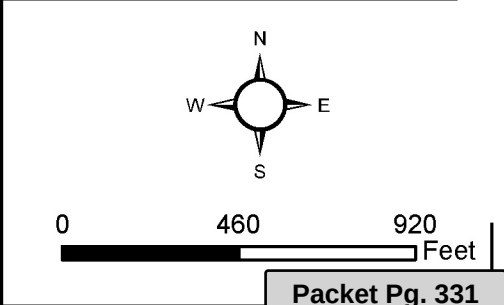
Attachment: Location Map (The Monschke Tract Zoning)



Monschke Tract Location Map

Date: 6/20/2019

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



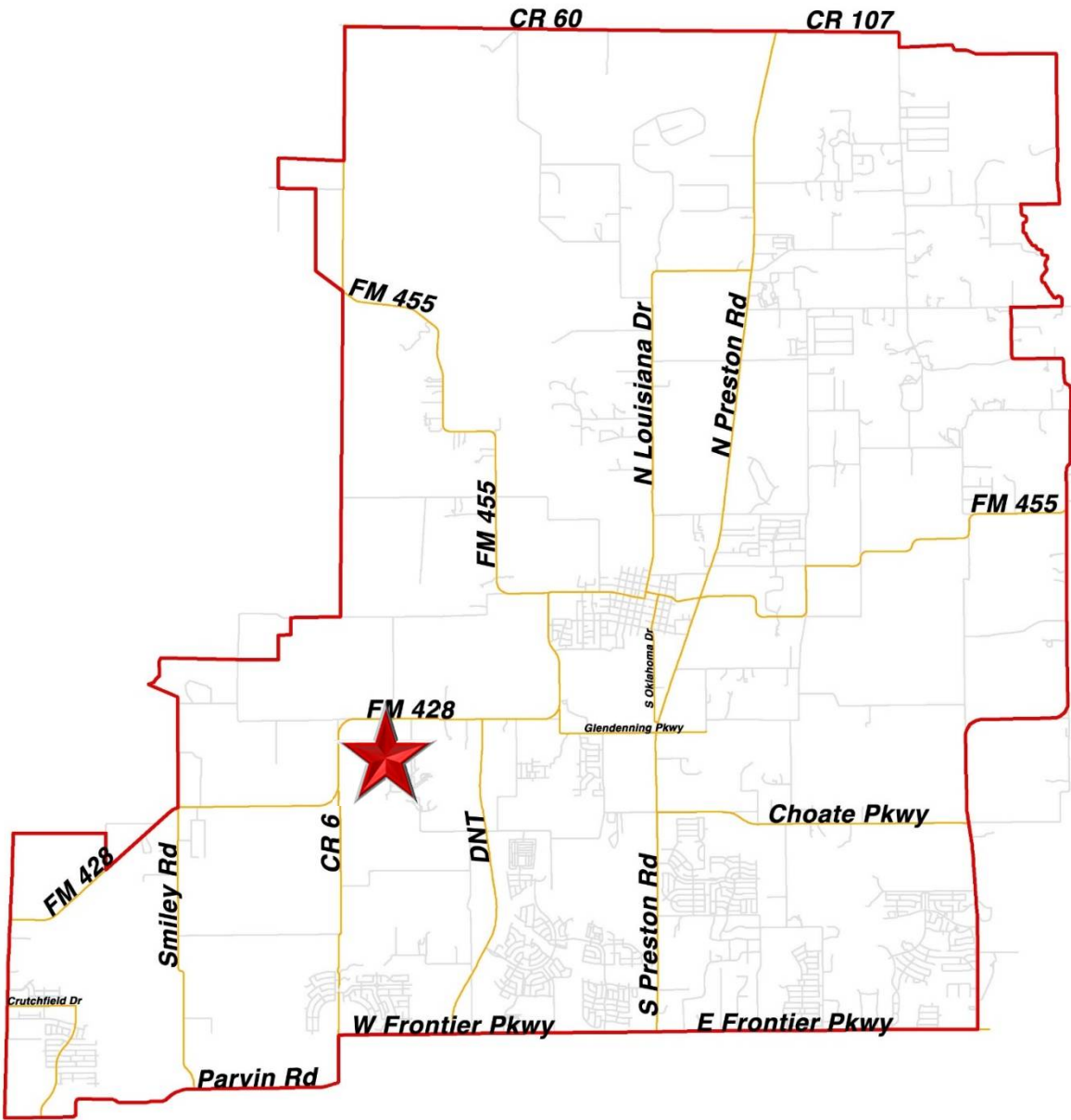
Monschke Tract

Planned Development MU-2 Zoning

City Council

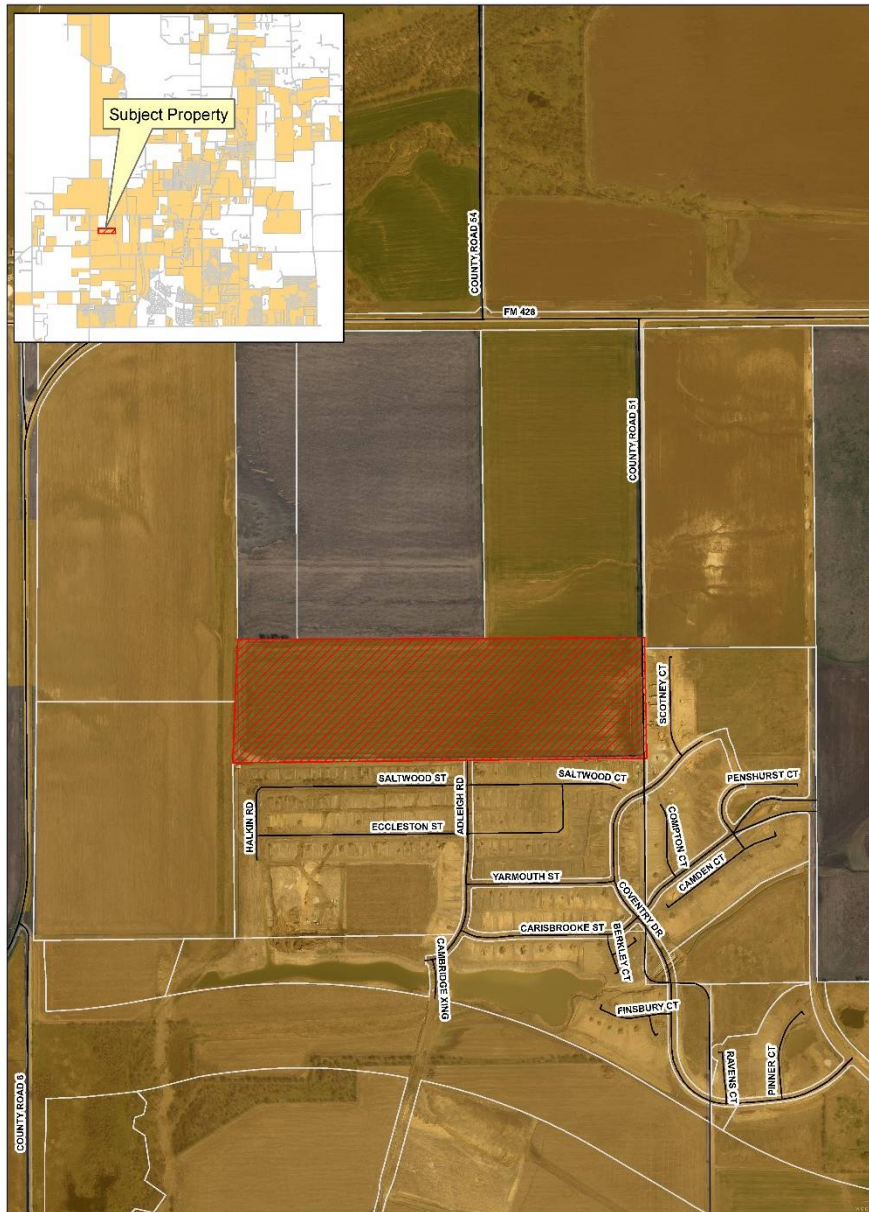
August 13, 2019





Attachment: Staff Presentation (The Munschke Tract Zoning)



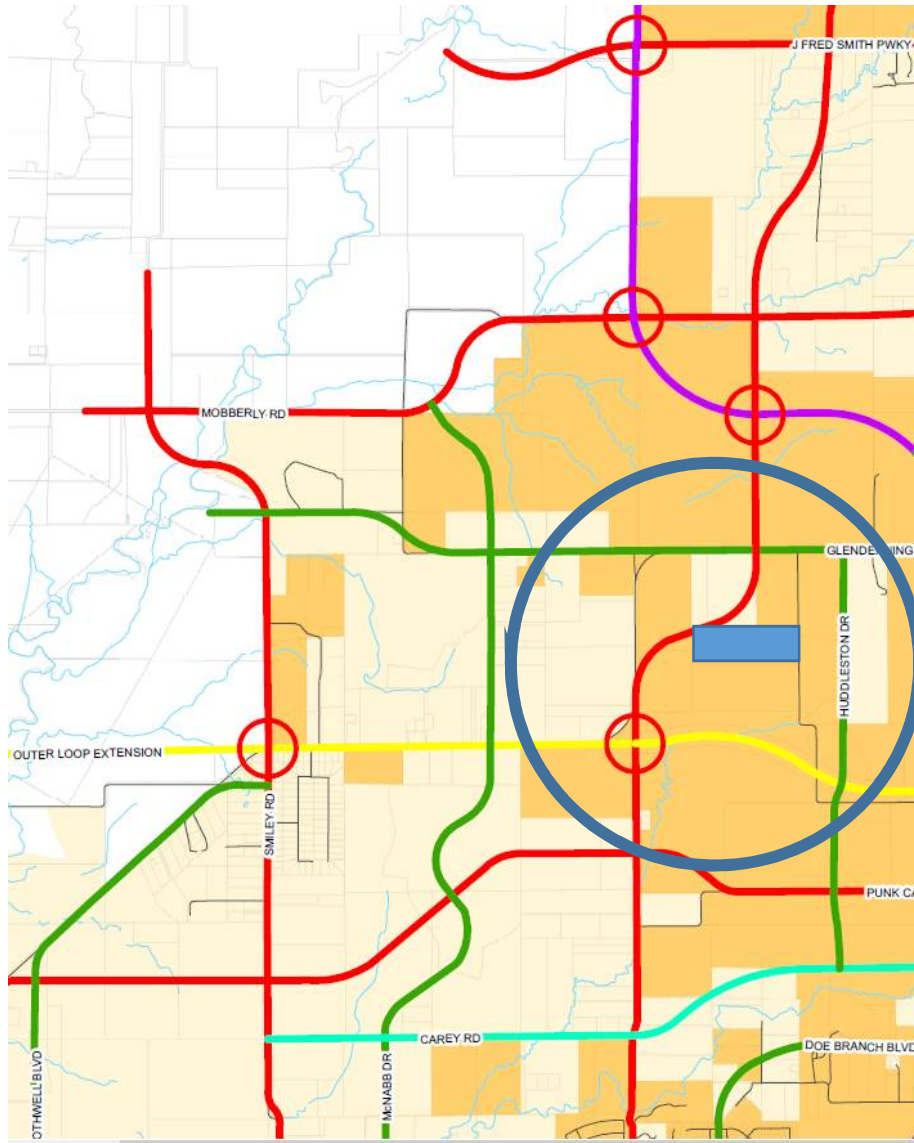


Location Map

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 August 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
- 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

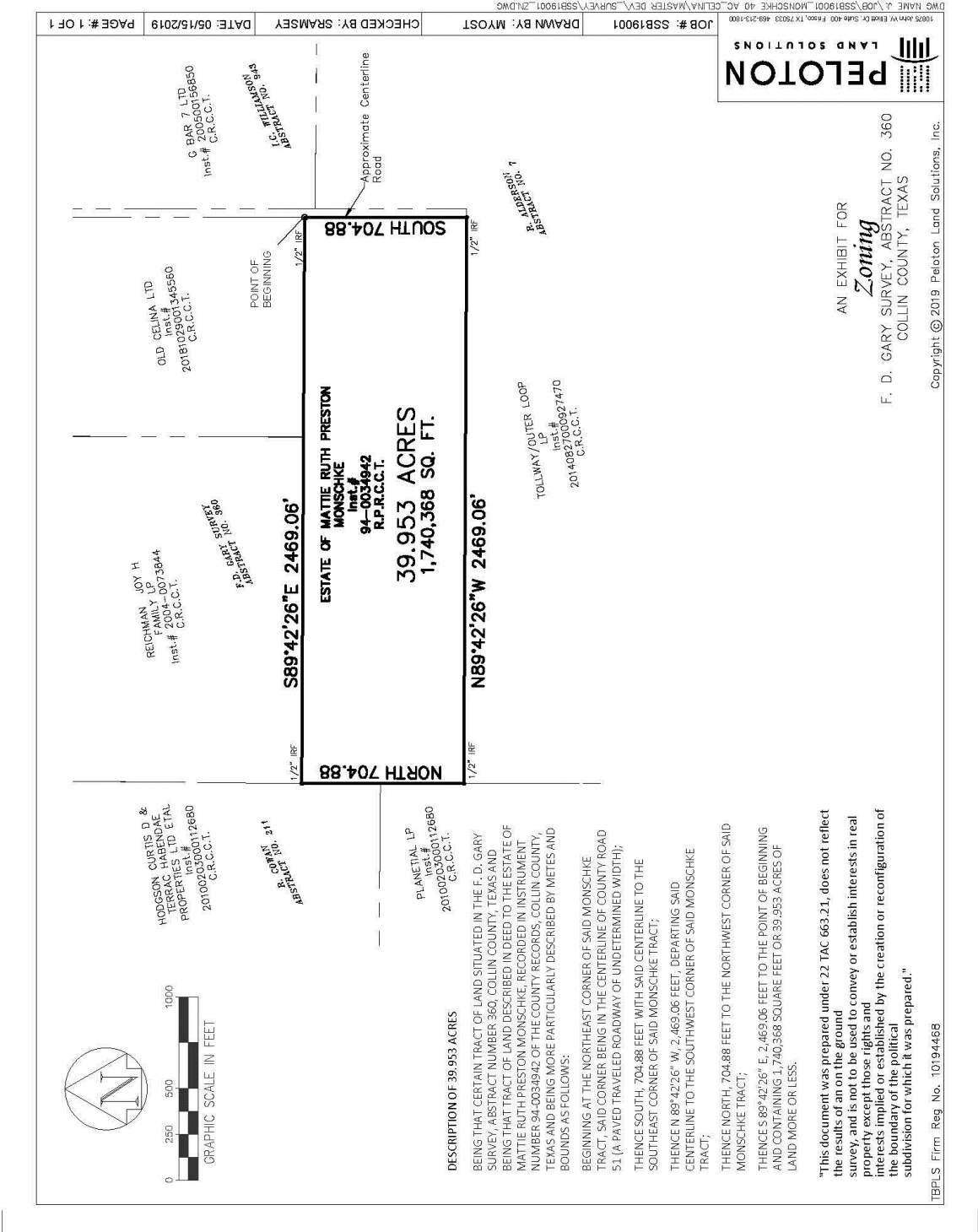


Exhibit “C” Concept Plan

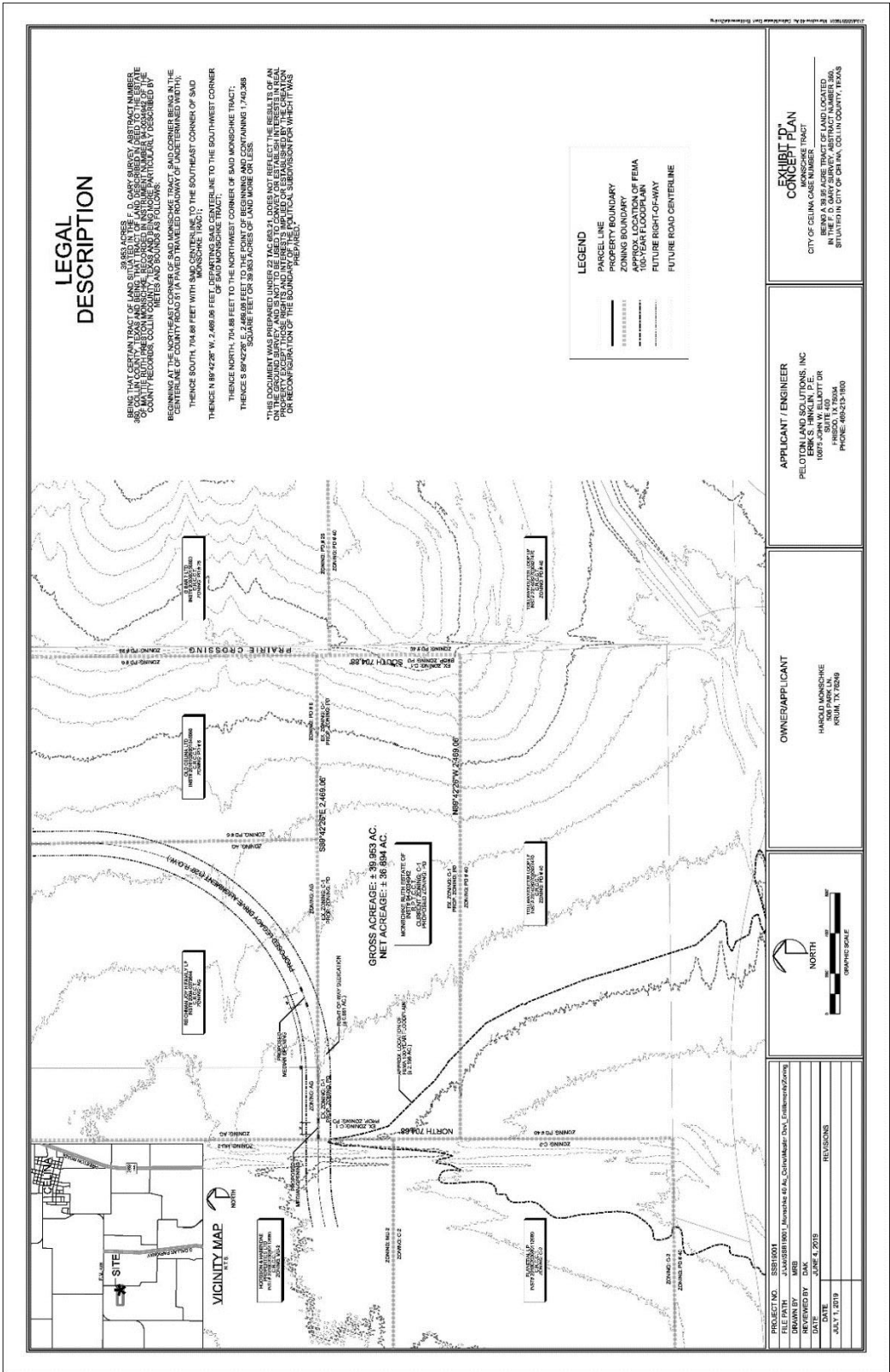


Exhibit “D” Development Regulations

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 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.

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)
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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.



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: August 13, 2019
Re:

Action Requested:

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)

Background Information:

The City has received a written request for variance to serve alcoholic beverages at the Greater Celina Chamber of Commerce Oktoberfest Event on the Downtown Square.

Board Review/Citizen Input:

Alternatives:

Financial Considerations:

Legal Review:

Supporting Documents:

Letter of request.

Staff Recommendation:



2019 Board of Directors

Chad Cunningham –
Chairman
Saddleback Roofing

Justin Steiner – Past Chairman
City Bank Mortgage

Caleb Lavey – Chair Elect
Rex Real Estate

Karla Scheve - Secretary
Financial Advisor TM

Connor Nichols - Treasurer
Herrin Real Estate

Chad Anderson
Moyer Anderson Insurance Group

Cindy Peters
Caldwell Banker Real Estate

Michelle Meeks
Crossland Construction

Bill Hemby
Celina ISD

CELINA STAR MEMBERS

Austin Bridge & Road
Herrin Real Estate
Independent Bank
Lamar National Bank
Landmark Bank
Light Farms
North Texas Custom Plumbing
Texas Star Bank

312 W. Walnut, Celina, TX 75009
www.celinachamber.org
972-382-3300

July 15, 2019

Celina City Council
142 North Ohio Street
Celina, TX 75009

Dear City Council Members,

The Greater Celina Chamber of Commerce is planning the upcoming 2019 Oktoberfest for Saturday, October 12th, 2019. The event will be held on the Historic Downtown Celina Square.

We are asking the city for a 1-day variance to serve alcoholic beverages at our event, which will be held on property that is owned by the City of Celina. The event time is from 11am to 10pm. The Chamber will have a temporary TABC alcohol permit for the day. We have hired TABC certified bartenders and we are purchasing our alcohol from Ben E. Keith Distributing.

At this time, we are asking that you approve our request for this variance. If you have any questions, please contact me at 469-207-6136.

Thank you,

Melissa Cromwell
President
The Greater Celina Chamber of Commerce



**THE REWARDS OF BELONGING TO THE GREATER CELINA CHAMBER OF
COMMERCE ARE FULL-TIME REPRESENTATION AND
YEAR-ROUND RESULTS!**

Attachment: Oktoberfest Alcohol Variance Letter (Variance to serve alcoholic beverages)



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: August 13, 2019
Re: 2019 Series Certificates of Obligation

Action Requested:

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)

Background Information:

Board Review/Citizen Input:

Alternatives:

Financial Considerations:

Legal Review:

Supporting Documents:

Draft Ordinance

Staff Recommendation:

ORDINANCE NO. 2019-__

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; and providing an effective date.

WHEREAS, notice of the City Council's intention to issue certificates of obligation in the maximum principal amount of \$45,000,000 for the purpose of paying contractual obligations to be incurred for (i) constructing, equipping and improving public safety facilities, including the acquisition of land therefor (ii) constructing street improvements, including drainage, landscaping, curbs, gutters, sidewalks, entryways, pedestrian pathways, signage and traffic signalization and the acquisition of land and rights-of-way therefor, (iii) constructing, equipping and improving existing municipal buildings, (iv) acquiring, constructing, improving and equipping park and recreation facilities, including the acquisition of land therefor, (v) improving and extending the City's combined waterworks and sewer system, including the acquisition of land and rights-of-way therefor and (vi) professional services rendered in connection with such projects and the financing thereof; has been duly published in the *Celina Record*, a newspaper hereby found and determined to be of general circulation in the City of Celina, Texas, on June 14, 2019 and June 21, 2019, the date of the first publication of such notice being not less than thirty-one (31) days prior to the tentative date stated therein for the passage of the ordinance authorizing the issuance of such certificates; and

WHEREAS, no petition protesting the issuance of the certificates of obligation and bearing valid petition signatures of at least 5% of the qualified electors of the City, has been presented to or filed with the Mayor, City Secretary or any other official of the City on or prior to the date of the passage of this ordinance; and

WHEREAS, the Council hereby finds and determines that the certificates of obligation described in the aforesaid notice should be issued and sold at this time in the amount and manner as hereinafter provided; now, therefore,

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

SECTION 1: Authorization - Designation - Principal Amount - Purpose. Certificates of obligation of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$_____ to be designated and bear the title "CITY OF CELINA, TEXAS, TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019" (hereinafter referred to as the "Certificates"), for the purpose of paying contractual obligations to be incurred for (i) constructing, equipping and improving public safety facilities, including the acquisition of land therefor (ii) constructing street improvements, including drainage, landscaping, curbs, gutters, sidewalks, entryways, pedestrian pathways,

signage and traffic signalization and the acquisition of land and rights-of-way therefor, (iii) constructing, equipping and improving existing municipal buildings, (iv) acquiring, constructing, improving and equipping park and recreation facilities, including the acquisition of land therefor, (v) improving and extending the City's combined waterworks and sewer system, including the acquisition of land and rights-of-way therefor and (vi) professional services rendered in connection with such projects and the financing thereof, pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Texas Local Government Code, Subchapter C of Chapter 271, as amended.

SECTION 2: Fully Registered Obligations - Authorized Denominations - Stated Maturities - Certificate Date. The Certificates are issuable in fully registered form only; shall be dated August 1, 2019 (the "Certificate Date") and shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity) and the Certificates shall become due and payable on September 1 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the per annum rate(s) in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		

The Certificates shall bear interest on the unpaid principal amounts from the date of delivery to the initial purchaser at the rates per annum shown above in this Section (calculated on the basis of a 360-day year of twelve 30-day months), and such interest shall be payable on March 1 and September 1 of each year, commencing March 1, 2020 until maturity or prior redemption.

SECTION 3: Terms of Payment Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Certificates, due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the registered owners or holders of the Certificates (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar, and the payment thereof shall be in any coin or currency of the United States of

America which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of U.S. Bank National Association, Dallas, Texas, to serve as Paying Agent/Registrar for the Certificates is hereby approved and confirmed. Books and records relating to the registration, payment, transfer and exchange of the Certificates (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement", substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Mayor or Mayor Pro Tem and City Secretary are hereby authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Certificates. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Certificates are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Certificates, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Certificates, shall be payable at the Stated Maturities or the redemption thereof only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its designated offices, initially in St. Paul, Minnesota, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest on the Certificates shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (the fifteenth day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4: Redemption.

(a) Optional Redemption. The Certificates maturing on and after September 1, 2029 shall be subject to redemption prior to maturity, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if in part by lot by the Paying

Agent/Registrar), on September 1, 2028, or on any date thereafter, at the redemption price of par plus accrued interest to the date of redemption.

At least forty five (45) days prior to an optional redemption date for the Certificates (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of the decision to redeem Certificates, the principal amount of each Stated Maturity to be redeemed, and the date of redemption therefor.

(b) Selection of Certificates for Redemption. If less than all Outstanding Certificates of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Certificates as representing the number of Certificates Outstanding which is obtained by dividing the principal amount of such Certificates by \$5,000 and shall select the Certificates to be redeemed within such Stated Maturity by lot.

(c) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Certificates, a notice of redemption shall be sent by United States mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Certificate to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Certificates, (ii) identify the Certificates to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Certificates, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, provided moneys sufficient for the payment of such Certificate (or the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar and (v) specify that payment of the redemption price for the Certificates, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender of the Certificates. If a Certificate is subject by its terms to prior redemption and has been called for redemption and notice of redemption has been duly given as hereinabove provided, such Certificate (or the principal amount thereof to be redeemed) shall become due and payable and interest thereon shall cease to accrue from and after the redemption date therefor.

(d) Conditional Notice of Redemption. With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

SECTION 5: Registration - Transfer - Exchange of Certificates - Predecessor Certificates. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every owner of the Certificates issued under and

pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Certificate may be transferred or exchanged for Certificates of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Certificate (other than the single Initial Certificate(s) authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Certificate or Certificates surrendered for transfer.

At the option of the Holder, Certificates (other than the single Initial Certificate(s) authorized in Section 8 hereof) may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Certificates surrendered for exchange, upon surrender of the Certificates to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Certificates are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Certificates to the Holder requesting the exchange.

All Certificates issued in any transfer or exchange of Certificates shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States mail, first class postage prepaid, to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Certificates", evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Certificates" shall include any mutilated, lost, destroyed or stolen Certificate for which a replacement Certificate has been issued, registered and delivered in lieu thereof pursuant to the provisions of Section 20 hereof and such new replacement Certificate shall be deemed to evidence the same obligation as the mutilated, lost, destroyed or stolen Certificate.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Certificate called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Certificate; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Certificate called for redemption in part.

SECTION 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 3, 4 and 5 hereof relating to the payment, and transfer/exchange

of the Certificates, the City hereby approves and authorizes the use of “Book-Entry-Only” securities clearance, settlement and transfer system provided by The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York (“DTC”), in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the City and DTC (the “Depository Agreement”).

Pursuant to the Depository Agreement and the rules of DTC, the Certificates shall be deposited with DTC who shall hold said Certificates for its participants (the “DTC Participants”). While the Certificates are held by DTC under the Depository Agreement, the Holder of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Certificate (the “Beneficial Owners”) being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City decides to discontinue use of the system of book-entry transfers through DTC, the City covenants and agrees with the Holders of the Certificates to cause Certificates to be printed in definitive form and issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Certificates in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Certificates shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

SECTION 7: Execution - Registration. The Certificates shall be executed on behalf of the City by the Mayor or Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signature of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Certificate Date shall be deemed to be duly executed on behalf of the City, notwithstanding that one or more of the individuals executing the same shall cease to be such officer at the time of delivery of the Certificates to the initial purchaser(s) and with respect to Certificates delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code Chapter 1201, as amended.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified, registered and delivered.

SECTION 8: Initial Certificate(s). The Certificates herein authorized shall be initially issued either (i) as a single fully registered certificate in the total principal amount stated in Section 1 hereof with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1, or (ii) as multiple fully registered certificates with one certificate for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (hereinafter called the “Initial Certificate(s)”) and, in either case, the Initial Certificate(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Certificate(s) shall be the Certificate(s) submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the

Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Certificate(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Certificate(s) delivered hereunder and exchange therefor definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms.

(a) Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Certificates, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and 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 insurance legends in the event the Certificates, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Certificates as evidenced by their execution. Any portion of the text of any Certificates may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Certificate.

The definitive Certificates and the Initial Certificate(s) shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Certificates as evidenced by their execution.

(b) Form of Definitive Certificates.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF CELINA, TEXAS
TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE
CERTIFICATE OF OBLIGATION
SERIES 2019

Certificate Date:
August 1, 2019

Interest Rate:
_____ %

Stated Maturity:
September 1, 20__

CUSIP No.:

Registered Owner:

Principal Amount:

DOLLARS

The City of Celina (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Collin and Denton, State of Texas, for value received,

acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Certificate appearing below (unless this Certificate bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Certificate is prior to the initial interest payment date in which case it shall bear interest from the date of delivery to the initial purchaser) 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 being payable on March 1 and September 1 in each year, commencing March 1, 2020, until maturity or prior redemption. Principal of this Certificate is payable at its Stated Maturity or on a redemption date to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Certificate is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Certificate. Interest is payable to the registered owner of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the fifteenth day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Certificates") for the purpose of paying contractual obligations to be incurred for (i) constructing, equipping and improving public safety facilities, including the acquisition of land therefor (ii) constructing street improvements, including drainage, landscaping, curbs, gutters, sidewalks, entryways, pedestrian pathways, signage and traffic signalization and the acquisition of land and rights-of-way therefor, (iii) constructing, equipping and improving existing municipal buildings, (iv) acquiring, constructing, improving and equipping park and recreation facilities, including the acquisition of land therefor, (v) improving and extending the City's combined waterworks and sewer system, including the acquisition of land and rights-of-way therefor and (vi) professional services rendered in connection with such projects and the financing thereof, under and in strict conformity with the Constitution and laws of the State of Texas, particularly Texas Local Government Code, Subchapter C of Chapter 271, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

The Certificates maturing on and after September 1, 2029 may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if in part by lot by the Paying Agent/Registrar), on September 1, 2028 or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Certificate to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Certificate (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon the redemption date such Certificate (or the portion of its principal sum to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount redeemed.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

The Certificates are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City and from a limited pledge of the Net Revenues of the City's combined Waterworks and Sewer System (the "System"), such pledge being limited to an amount of \$1,000 and being junior and subordinate to the lien on and pledge of such Net Revenues securing the payment of the Prior Lien Obligations (identified and defined in the Ordinance) now outstanding and hereafter issued by the City. In the Ordinance, the City reserves and retains the right to issue Prior Lien Obligations without limitation as to principal amount but subject to any applicable terms, conditions or restrictions under law or otherwise, as well as the right to issue additional obligations payable from the same sources as the Certificates and, together with the Certificates, equally and ratably secured by a parity lien on and pledge of the Net Revenues of the System.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all the provisions of which the owner or holder of this Certificate by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificates; the Net Revenues pledged to the payment of the principal of and interest on the Certificates; the nature and extent and manner of enforcement of the pledge; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the pledges, charges and covenants made therein may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein and not otherwise defined have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to payment of principal hereof at its Stated Maturity or upon its prior redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, 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 (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates as aforesated. In case any provision in this Certificate shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Certificate to be duly executed under the official seal of the City as of the Certificate Date.

CITY OF CELINA, TEXAS

[Mayor][Mayor Pro Tem]

COUNTERSIGNED:

City Secretary

(City Seal)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Certificate(s) only.

REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER	)	
OF PUBLIC ACCOUNTS	)	REGISTER NO. _____
THE STATE OF TEXAS	)	

I HEREBY CERTIFY that this Certificate has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

Attachment: Celina CO Ordinance (Certificates of Obligation)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Certificates only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued and registered under the provisions of the within mentioned Ordinance; the certificate or certificates of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar located in St. Paul, Minnesota, is the "Designated Payment/Transfer Office" for this Certificate.

U.S. BANK NATIONAL ASSOCIATION,
Dallas, Texas,
as Paying Agent/Registrar

Registration Date:

By _____
Authorized Signature

(e) 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 Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular.

Attachment: Celina CO Ordinance (Certificates of Obligation)

(f) The Initial Certificate(s) shall be in the form set forth in paragraph (b) of this Section, except that the form of a single fully registered Initial Certificate shall be modified as follows:

Heading and first paragraph shall be modified to read as follows:

REGISTERED
NO. T-1

REGISTERED
\$_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF CELINA, TEXAS
TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE
CERTIFICATE OF OBLIGATION
SERIES 2019

Certificate Date: August 1, 2019

Registered Owner: _____

Principal Amount: _____ MILLION ____ HUNDRED _____ THOUSAND DOLLARS

The City of Celina (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Collin and Denton, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on September 1 in each of the years and in principal installments in accordance with the following schedule:

YEAR OF MATURITY	PRINCIPAL INSTALLMENTS (\$)	INTEREST RATE (%)
---------------------	--------------------------------	----------------------

(Information to be inserted from schedule in Section 2 hereof).

(or so much thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid principal amounts hereof from the date of delivery to the initial purchaser at the per annum rate(s) of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on March 1 and September 1 of each year, commencing March 1, 2020, until maturity or prior redemption. Principal installments of this Certificate are payable on the Stated Maturity dates or on a redemption date to the registered owner hereof by U.S. Bank National Association, Dallas, Texas (the "Paying Agent/Registrar"), upon its presentation and surrender at its designated offices, initially in St. Paul, Minnesota, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Certificate whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the fifteenth day of the month next preceding each interest payment date hereof and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which

is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 10: Definitions. For purposes of this Ordinance and for clarity with respect to the issuance of the Certificates herein authorized, and the levy of taxes and appropriation of Net Revenues therefor, the following words or terms, whenever the same appears herein without qualifying language, are defined to mean as follows:

(a) The term “Additional Obligations” shall mean tax and revenue obligations hereafter issued which by their terms are payable from ad valorem taxes and additionally payable from and secured by a parity lien on and pledge of the Net Revenues of the System of equal rank and dignity with the lien and pledge securing the payment of the Certificates.

(b) The term “Certificates” shall mean the “CITY OF CELINA, TEXAS, TAX AND WATERWORKS AND SEWER SYSTEM (LIMITED PLEDGE) REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019” authorized by this Ordinance.

(c) The term “Certificate Fund” shall mean the special fund created and established under the provisions of Section 11 of this Ordinance.

(d) The term “Collection Date” shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the City become delinquent.

(e) The term “Fiscal Year” shall mean the annual financial accounting period used with respect to the operations of the System now ending on September 30th of each year; provided, however, the City Council may change, by ordinance duly passed, such annual financial accounting period to end on another date if such change is found and determined to be necessary for budgetary or other fiscal purposes.

(f) The term “Government Securities” shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Certificates under the then applicable laws of the State of Texas.

(g) The term “Gross Revenues” shall mean, with respect to the System and for any defined period, all income and revenues derived from the operation and ownership of the System, excluding, however, meter deposits, gifts, grants in aid of construction and similar kinds of receipts and moneys restricted as to use or expenditure.

(h) The term “Net Revenues” shall mean, with respect to the System and for any defined period, the Gross Revenues of the System after deducting the System’s Operating and Maintenance Expenses.

(i) The term “Operating and Maintenance Expenses” shall mean, for any defined period, all current expenses and costs of operating and maintaining the System, including all salaries, labor, materials and repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions, as in the judgment of the City Council, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the security of any Certificates or obligations payable from and secured by a lien on the Net Revenues of the System, shall be deducted in determining “Net Revenues”. Depreciation and payments into and out of the funds maintained for the payment of the Prior Lien Obligations and similar funds maintained for the payment of obligations payable from and secured by a lien on and pledge of the Net Revenues shall never be considered as Operating and Maintenance Expenses.

(j) The term “Outstanding” when used in this Ordinance with respect to Certificates means, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except:

(1) those Certificates cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Certificates for which payment has been duly provided by the City in accordance with the provisions of Section 21 hereof; and

(3) those Certificates that have been mutilated, destroyed, lost, or stolen and replacement Certificates have been registered and delivered in lieu thereof as provided in Section 20 hereof.

(k) The term “Prior Lien Obligations” shall mean (A) all revenue bonds or other obligations hereafter issued, payable solely from and secured only by a lien on and pledge of the Net Revenues of the System, and (B) obligations now outstanding and hereafter issued which by the terms of this Ordinance and the ordinances authorizing their issuance have a prior right and claim on the Net Revenues of the System to the claim and right securing the payment of the Certificates.

(l) The term “System” shall mean all plants, properties and facilities owned, operated and maintained by the City for the supply, storage and distribution of treated water and the collection, treatment and disposal of water-carried wastes, together with all future improvements, extensions, enlargements and additions thereto and replacements thereof.

SECTION 11: Certificate Fund. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption and retirement of the Certificates, there shall be and is hereby created a special account or fund on the books and records of the City known as the “SPECIAL SERIES 2019 TAX AND REVENUE CERTIFICATE OF OBLIGATION FUND” (the “Certificate Fund”), and all moneys deposited to the credit of such fund shall be kept and maintained in a special banking account at the City’s depository bank. The Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary, individually or collectively, of the City are hereby authorized and directed to make withdrawals from said fund sufficient to pay the principal of and interest on the Certificates as the same become due and payable, and, shall

cause to be transferred to the Paying Agent/Registrar from moneys on deposit in the Certificate Fund an amount sufficient to pay the amount of principal and/or interest falling due on the Certificates, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the last business day next preceding each interest and principal payment date for the Certificates.

Pending the transfer of funds to the Paying Agent/Registrar, money in the Certificate Fund may, at the option of the City, be invested in obligations identified in, and in accordance with the provisions of the "Public Funds Investment Act" (Texas Government Code, Chapter 2256, as amended) relating to the investment of "bond proceeds"; provided that all such investments shall be made in such a manner that the money required to be expended from said fund will be available at the proper time or times. All interest and income derived from deposits and investments in said Certificate Fund shall be credited to, and any losses debited to, the said Certificate Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Certificates.

SECTION 12: Tax Levy. To provide for the payment of the "Debt Service Requirements" on the Certificates being (i) the interest on said Certificates and (ii) a sinking fund for their payment at maturity or redemption or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied a sufficient tax on each one hundred dollars' valuation of taxable property in said City, within the limitations prescribed by law, adequate to pay such Debt Service Requirements while the Certificates remain Outstanding, full allowance being made for delinquencies and costs of collection; and said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Certificate Fund. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the said Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Certificates shall be determined and accomplished in the following manner:

(a) Prior to the date the City Council establishes the annual tax rate and passes an ordinance levying ad valorem taxes each year, the City Council shall determine:

(1) The amount on deposit in the Certificate Fund after (a) deducting therefrom the total amount of Debt Service Requirements to become due on Certificates prior to the Collection Date for the ad valorem taxes to be levied and (b) adding thereto the amount of the Net Revenues of the System, together with any other lawfully available revenues of the City, appropriated and allocated to pay such Debt Service Requirements prior to the Collection Date for the ad valorem taxes to be levied.

(2) The amount of Net Revenues of the System, together with any other lawfully available revenues of the City, appropriated and to be set aside for the payment of the Debt Service Requirements on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(3) The amount of Debt Service Requirements to become due and payable on the Certificates (or a sinking fund of 2% if greater than the amount due and payable on the Certificates) between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(b) The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Certificates shall be the amount established in paragraph (3) above less the sum total of the amounts established in paragraphs (1) and (2), after taking into consideration delinquencies and costs of collecting such annual taxes.

Any surplus proceeds from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said Fund from ad valorem taxes.

The City has sufficient current funds available and such funds are hereby appropriated to make the payments to become due on the Certificates on March 1, 2020 and September 1, 2020, and the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary of the City, individually or jointly, are hereby authorized and directed to transfer and deposit in the Certificate Fund such amount of current funds which will be sufficient to pay the amounts to become due on the Certificates on March 1, 2020 and September 1, 2020.

SECTION 13: Limited Pledge of Revenues. The City hereby covenants and agrees that, subject to the prior lien on and pledge of the Net Revenues of the System to the payment and security of Prior Lien Obligations, the Net Revenues of the System in an amount equal to \$1,000 are hereby irrevocably pledged to the payment of the principal of and interest on the Certificates, and the limited pledge of \$1,000 of the Net Revenues of the System herein made for the payment of the Certificates shall constitute a lien on the Net Revenues of the System (until such time as the City shall pay all of such \$1,000, after which time the pledge shall cease) in accordance with the terms and provisions hereof. Furthermore, such lien on and pledge of the Net Revenues securing the payment of the Certificates shall be valid and binding and fully perfected from and after the date of adoption of this Ordinance without physical delivery or transfer or transfer of control of the Net Revenues, the filing of this Ordinance or any other act; all as provided in Texas Government Code, Chapter 1208, as amended ("Chapter 1208").

Chapter 1208 applies to the issuance of the Certificates and the pledge of the Net Revenues of the System granted by the City under this Section 13, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are Outstanding such that the pledge of the Net Revenues of the System granted by the City under this Section 13 is to be subject to the filing requirements of the Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the registered owners of the Certificates 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 the Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 14: System Fund. The City covenants and agrees that all Gross Revenues (excluding earnings from the investment of money held in any special funds or accounts created for the payment and security of the Prior Lien Obligations) shall be deposited as collected into a fund maintained at an official depository of the City and known on the books of the City as the "System Fund" (hereinafter called the "System Fund"). All moneys deposited to the credit of the

System Fund shall be allocated, dedicated and disbursed to the extent required for the following purposes and in the order of priority shown, to wit:

First: To the payment of all necessary and reasonable Operating and Maintenance Expenses of the System as defined herein or required by statute to be a first charge on and claim against the revenues thereof.

Second: To the payment of all amounts required to be deposited in the special Funds created and established for the payment, security and benefit of Prior Lien Obligations in accordance with the terms and provisions of the ordinances authorizing the issuance of Prior Lien Obligations.

Third: To the payment, equally and ratably, of the amounts pledged to the payment of the Certificates and Additional Obligations, if any.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 15: Deposits to Certificate Fund. Subject to the provisions of Section 13 hereof, the City hereby covenants and agrees to cause to be deposited in the Certificate Fund from the pledged Net Revenues of the System in the System Fund, the amount of Net Revenues of the System pledged to the payment of the Certificates.

The City covenants and agrees that the amount of pledged Net Revenues of the System (\$1,000), together with other lawfully available revenues appropriated by the City for payment of the debt service requirements on the Certificates and ad valorem taxes levied, collected, and deposited in the Certificate Fund for and on behalf of the Certificates, will be an amount equal to one hundred percent (100%) of the amount required to fully pay the interest and principal due and payable on the Certificates. In addition, any surplus proceeds from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said Fund from ad valorem taxes and the Net Revenues of the System.

SECTION 16: Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds, and moneys on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

SECTION 17: Special Covenants. The City hereby further covenants as follows:

(a) It has the lawful power to pledge the Net Revenues of the System to the payment of the Certificates in the manner herein contemplated and has lawfully exercised such power under the Constitution and laws of the State of Texas, including said power existing under Texas Government Code, Chapter 1502, as amended, and Texas Local Government Code, Subchapter C of Chapter 271, as amended.

(b) Other than for the payment of the Prior Lien Obligations and the Certificates, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the City or of the System.

SECTION 18: Issuance of Prior Lien Obligations and Additional Parity Obligations. The City hereby expressly reserves the right to hereafter issue Prior Lien Obligations, without limitation as to principal amount but subject to any terms, conditions or restrictions applicable thereto under law or otherwise, payable, in whole or in part, from the Net Revenues (without impairment of the obligation of contract with the Holders of the Certificates) upon such terms and conditions as the City Council may determine. Additionally, the City reserves the right to issue obligations payable, in whole or in part, from the Net Revenues of the System and, to the extent provided, secured by a lien on and pledge of the Net Revenues of equal rank and dignity with the lien and pledge securing the payment of the Certificates.

SECTION 19: Application of Prior Lien Obligations Covenants and Agreements. It is the intention of this governing body and accordingly hereby recognized and stipulated that the provisions, agreements and covenants contained herein bearing upon the management and operations of the System, and the administering and application of revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements and covenants contained in the ordinances authorizing the issuance of the Prior Lien Obligations, and to the extent of any irreconcilable conflict between the provisions contained herein and in the ordinances authorizing the issuance of the Prior Lien Obligations, the provisions, agreements and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance but in all respects subject to the priority of rights and benefits, if any, conferred thereby to the holders of the Prior Lien Obligations.

SECTION 20: Mutilated - Destroyed - Lost and Stolen Certificates. In case any Certificate shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Certificate of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Certificate, or in lieu of and in substitution for such destroyed, lost or stolen Certificate, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Certificate, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Certificate shall be borne by the Holder of the Certificate mutilated, or destroyed, lost or stolen.

Every replacement Certificate issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Certificates.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Certificates.

SECTION 21: Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and the Net Revenues of the System (to the extent such pledge of Net Revenues shall not have been discharged or terminated by prior payment of principal of or interest on the Certificates) and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Certificates or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Certificates or the principal amount(s) thereof at maturity or the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Certificates such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

SECTION 22: Ordinance a Contract - Amendments. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City while any Certificates remain Outstanding except as permitted in this Section and in Section 36 hereof. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders holding a majority in aggregate principal amount of the Certificates then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Certificates, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Certificates, reduce the principal amount thereof, the redemption price or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, or (3) reduce the aggregate principal amount of Certificates required to be held by Holders for consent to any such amendment, addition, or rescission.

SECTION 23: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

“*Closing Date*” means the date on which the Certificates 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 Certificates.

“*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 Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

“*Rebate Amount*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*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 Certificates. 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 Certificates 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 Certificate 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 Certificate, 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 Certificates:

(1) 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 Certificates, 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

(2) 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 Certificates 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. 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 Certificates 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.

(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 Certificates 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 Certificates.

(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 Certificates 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:

(1) 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 Certificate is discharged. However, to the extent permitted by

law, the City may commingle Gross Proceeds of the Certificates 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.

(2) 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 Certificates until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Certificates by the Underwriters 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 pay to the United States from the construction fund, the general fund, or other appropriate fund or, if permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the Certificate Fund, the amount that when added to the future value of previous rebate payments made for the Certificates 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.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), 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 Certificates, 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 Certificates not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary, individually or collectively, 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 Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

SECTION 24: Sale of Certificates – Official Statement Approval. Pursuant to a public sale for the Certificates, the bid submitted by _____ (herein referred to as the

“Underwriters”) is declared to be the best bid received producing the lowest true interest cost rate to the City, and the sale of the Certificates to said Purchaser at the price of par plus a cash premium of \$_____ is hereby determined to be in the best interests of the City and is approved and confirmed. Delivery of the Certificates to the Underwriters shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale. The Initial Certificate shall be registered in the name as provided in the winning bid.

The use of the Preliminary Official Statement by the Underwriters in connection with the public offering and sale of the Certificates is hereby ratified, confirmed and approved in all respects. The final Official Statement which reflects the terms of sale (together with such changes approved by the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary, any one or more of said officials), shall be and is hereby in all respects approved and the Underwriters are hereby authorized to use and distribute said final Official Statement, dated August 13, 2019, in the reoffering, sale and delivery of the Certificates to the public. The Mayor or Mayor Pro Tem and City Secretary are further authorized to deliver for and on behalf of the City copies of said Official Statement in final form as may be required by the Underwriters, and such final Official Statement in the form and content authorized to be delivered by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Underwriters.

SECTION 25: Proceeds of Sale. The proceeds of sale of the Certificates, excluding amounts to pay costs of issuance, shall be deposited in a construction fund maintained at a depository bank of the City. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments in accordance with the provisions of Texas Government Code, Chapter 2256, as amended, including guaranteed investment contracts permitted by Texas Government Code, Section 2256.015 et seq., as amended, and the City’s investment policies and guidelines, and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Certificate Fund as shall be determined by the City Council. Any surplus proceeds of sale of the Certificates, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Certificate Fund.

SECTION 26: Control and Custody of Certificates. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending the sale of the Certificates, the investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Certificates, and shall take and have charge and control of the Initial Certificate(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Underwriters.

SECTION 27: Notices to Holders Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Certificates. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying

Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 28: Cancellation. All Certificates surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Certificates held by the Paying Agent/Registrar shall be returned to the City.

SECTION 29: Bond Counsel's Opinion. The Underwriters' obligation to accept delivery of the Certificates is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Dallas, Texas, Bond Counsel to the City, approving the Certificates as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Certificates. An executed counterpart of said opinion shall accompany the global certificates deposited with DTC or a reproduction thereof shall be printed on the definitive Certificates in the event the book-entry-only system shall be discontinued.

SECTION 30: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

SECTION 31: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, and this Ordinance and all its provisions is intended to be and shall be for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

SECTION 32: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 33: 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 34: Effect of Headings. The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SECTION 35: 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 36: Continuing Disclosure Undertaking.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“Financial Obligation” means 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 to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

(b) Annual Reports. The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year ending in or after 2019, financial information and operating data with respect to the City of the general type of information contained in tables 1 through 6, 8 through 14, 19 and 20 in the Official Statement, and (2) within twelve months after the end of each fiscal year ending in or after 2019, audited financial statements of the City. Any financial statements so provided shall be prepared in accordance with the accounting principles described in described in Appendix B to the Official Statement, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation. If audited financial statements are not available within 12 months after the end of any fiscal year, the City will provide unaudited financial statements by the required time, and audited financial statements when and if such audited financial statements become available.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB’s Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Certificates to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

- (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 Internal Revenue Service 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 Certificates, or other material events affecting the tax status of the Certificates;
- (7) Modifications to rights of holders of the Certificates, if material;
 - (8) Certificate calls, if material, and tender offers;
 - (9) Defeasances;
 - (10) Release, substitution, or sale of property securing repayment of the Certificates, if material;
 - (11) Rating changes;
 - (12) Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
 - (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of 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 or additional trustee or the change of name of a trustee, if material;
 - (15) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
 - (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) 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 City 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 City, 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 City and (b) the City intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the meanings ascribed to them in SEC Release No. 34-83885, dated August 20, 2018.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) of this Section of

any Certificate calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Certificates; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the City does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects; nor does the City undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, 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.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Certificates. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City’s right to do so would not prevent underwriters of the initial public offering of the Certificates from lawfully purchasing or selling Certificates in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 37: 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 and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 38: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Certificates. In addition, prior to the initial delivery of the Certificates, the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Certificates by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 39: Incorporation of Findings and Determinations. The findings and determinations of the City Council contained in the preamble hereof 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 40: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 41: Effective Date. This Ordinance shall take effect and be in full force from and after its adoption on the date shown below in accordance with Texas Government Code, Section 1201.028, as amended.

[Remainder of page left blank intentionally]

PASSED AND ADOPTED, this August 13, 2019.

CITY OF CELINA, TEXAS

Mayor

ATTEST:

City Secretary

(City Seal)

Attachment: Celina CO Ordinance (Certificates of Obligation)

EXHIBIT A
PAYING AGENT/REGISTRAR AGREEMENT

Attachment: Celina CO Ordinance (Certificates of Obligation)

PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT is entered into as of August 13, 2019 (this "Agreement"), by and between U. S. Bank National Association, a banking association duly organized and existing under the laws of the United States of America, or its successors (the "Bank") and the City of Celina, Texas (the "Issuer"),

RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "City of Celina, Texas Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2019" (the "Securities"), dated August 1, 2019, such Securities scheduled to be delivered to the initial purchasers thereof on or about September 12, 2019; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1.01 Appointment. The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Authorizing Document" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the Authorizing Document.

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

Section 1.02 Compensation. As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in **Annex A** attached hereto.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

ARTICLE TWO DEFINITIONS

Section 2.01 Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

“Acceleration Date” on any Security means the date, if any, on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

“Authorizing Document” means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, as the same may be amended or modified, including any pricing certificate related thereto, certified by the secretary or any other officer of the Issuer and delivered to the Bank.

“Bank Office” means the designated office of the Bank at the address shown in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

“Holder” and “Security Holder” each means the Person in whose name a Security is registered in the Security Register.

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

“Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Authorizing Document).

“Redemption Date”, when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to the terms of the Authorizing Document.

“Responsible Officer”, when used with respect to the Bank, means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

Attachment: Celina CO PAR Agmt (Certificates of Obligation)

“Security Register” means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

“Stated Maturity” means the date specified in the Authorizing Document the principal of a Security is scheduled to be due and payable.

Section 2.02 Other Definitions. The terms “Bank,” “Issuer,” and “Securities (Security)” have the meanings assigned to them in the recital paragraphs of this Agreement.

The term “Paying Agent/Registrar” refers to the Bank in the performance of the duties and functions of this Agreement.

ARTICLE THREE PAYING AGENT

Section 3.01 Duties of Paying Agent. As Paying Agent, the Bank shall pay, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following address:

U.S. Bank National Association
Attention: Bond Operations
111 Fillmore Avenue East
St. Paul, Minnesota 55107-1402

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date (as defined in the Authorizing Document). All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the paying agent account provided in Section 5.05 hereof, sent by United States mail, first class postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder’s risk and expense.

Section 3.02 Payment Dates. The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Authorizing Document.

ARTICLE FOUR REGISTRAR

Section 4.01 Security Register - Transfers and Exchanges. The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the “Security Register”) for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. The Bank represents and warrants that it will at all times have immediate access to the Security Register by electronic or other means and

will be capable at all times of producing a hard copy of the Security Register for use by the Issuer. All transfers, exchanges and replacements of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority, such written instrument to be in a form satisfactory to the Bank and duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 4.02 Securities. The Issuer shall provide additional Securities when needed to facilitate transfers or exchanges thereof. The Bank covenants that such additional Securities, if and when provided, will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

Section 4.03 Form of Security Register. The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

Section 4.04 List of Security Holders. The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

Section 4.05 Return of Cancelled Securities. The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, all Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

Section 4.06 Mutilated, Destroyed, Lost or Stolen Securities. The Issuer hereby instructs the Bank, subject to the provisions of the Authorizing Document, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such mutilated, destroyed, lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, destroyed, lost or stolen.

Section 4.07 Transaction Information to Issuer. The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

ARTICLE FIVE THE BANK

Section 5.01 Duties of Bank. The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

Section 5.02 Reliance on Documents, Etc.

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality

of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document supplied by the Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(g) The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum or letter as prepared by the Issuer, Issuer's financial advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum or letter acknowledged by the Issuer, the Issuer's financial advisor or other agent as the final closing memorandum or letter. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

Section 5.03 Recitals of Issuer. The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

Section 5.04 May Hold Securities. The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

Section 5.05 Moneys Held by Bank - Paying Agent Account/Collateralization. A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping, and disbursement of moneys received from the Issuer under this Agreement for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such paying agent account shall be made by check drawn on such account unless the owner of the Securities shall, at its own expense and risk, request an alternative method of payment.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal of, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be held by the Bank and disposed of only in accordance with Title 6 of the Texas Property Code, as amended. The Bank shall have no liability by virtue of actions taken in compliance with this provision.

The Bank is not obligated to pay interest on any money received by it under this Agreement.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Issuer, act as trustee under indentures authorizing other bond transactions of the Issuer, or act in any other capacity not in conflict with its duties hereunder.

Section 5.06 Indemnification. To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

Section 5.07 Interpleader. The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the state and county where the administrative office of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

Section 5.08 DTC Services. It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements", which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

ARTICLE SIX MISCELLANEOUS PROVISIONS

Section 6.01 Amendment. This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 6.02 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other.

Section 6.03 Notices. Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page(s) hereof.

Section 6.04 Effect of Headings. The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

Section 6.05 Successors and Assigns. All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

Section 6.06 Severability. In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 6.07 Merger, Conversion, Consolidation, or Succession. Any corporation or association into which the Bank may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank as Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of either parties hereto.

Section 6.08 Benefits of Agreement. Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

Section 6.09 Entire Agreement. This Agreement and the Authorizing Document constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Authorizing Document, the Authorizing Document shall govern.

Section 6.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

Section 6.11 Termination. This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. However, if the Issuer fails to appoint a successor Paying Agent/Registrar within a reasonable time, the Bank may petition a court of competent jurisdiction within the State of Texas to appoint a successor. Furthermore, the Bank and the Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with the other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

Section 6.12 Iran, Sudan or Foreign Terrorist Organizations. The Bank 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 Bank 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 Bank understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

Section 6.13 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

[Remainder of page left blank intentionally.]

Attachment: Celina CO PAR Agmt (Certificates of Obligation)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

U. S. BANK NATIONAL ASSOCIATION

By: _____

Title: _____

ATTEST:

Address: 13737 Noel Road, Suite 800
Dallas, Texas 75240

By: _____

Title: _____

Attachment: Celina CO PAR Agmt (Certificates of Obligation)

CITY OF CELINA, TEXAS

By: _____
Mayor

Address: 142 N. Ohio Street
Celina, Texas 75009

Attest:

City Secretary

Attachment: Celina CO PAR Agmt (Certificates of Obligation)

ANNEX A

Attachment: Celina CO PAR Agmt (Certificates of Obligation)