



**CITY COUNCIL REGULAR MEETING
CELINA ISD ADMIN BLDG., BOARD ROOM
205 S. COLORADO STREET
TUESDAY, JUNE 11, 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:

IV. OPEN FORUM:

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

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

V. WORKSESSION/COMMITTEE REPORTS/STAFF REPORTS:

- A. New employee introductions. (McAfee, Griggs)
- B. Brand Messaging presentation. (Matehuala)
- C. Drainage design requirement updates. (Brawner)
- D. Pavement and subgrade design requirement updates. (Brawner)
- E. Discussion regarding any and/or all agenda items.
- F. Staff Reports attached

VI. EXECUTIVE SESSION:

Reconvene Into Open Session

- A. 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 - May 14, 2019 5:00 PM
 - 2. City Council - Special Meeting - May 28, 2019 5:30 PM
- B. Consider and act upon an ordinance of the City of Celina, Texas providing for a reduction of impact fees as described herein for certain property located within the town. (Lamar Bank Impact Fee reduction) (Laumer)
- C. Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and Hawk Custom Pools, LLC for economic incentive funding under Chapter 380 of the Texas Local Government Code. (Laumer)
- D. Consider and act to authorize the award of Bid 2019-0008 to RLC Controls at the unit prices listed for SCADA system maintenance and repairs. (Berry)
- E. Consider and act to authorize the City Manager to execute a contract between the City of Celina and Roadway Solutions in the amount of \$114,989.00 plus 10% contingency (\$11,498.90) for the traffic signal installation located at 289 and Fire Station 1, Bid # 2019-0004. (Brawner)
- F. Consider and act to authorize the City Manager to execute a contract between the City of Celina and Green Mound Landscape in the amount of \$303,629.43 which includes 10% contingency for the 2019 Drainage Improvements, Bid # 2019-0009. (Brawner)
- G. Consider and act upon a resolution of the City Council of the City of Celina hereinafter referred to as “Applicant”, designating certain officials as being responsible for action for and on behalf of the “Applicant” in dealing with Collin County, hereinafter referred to as “County”; for the purpose of participating in the “County’s” Parks and Open Space Project Funding Assistance Program. (Brawner)
- H. Consider and act upon a resolution of the City Council of the City of Celina, Texas, accepting a petition to create the Wilson Creek Meadows Public Improvement District and calling for a public hearing. (DeBuff)
- I. Consider and act upon a resolution of the City of Celina, Texas determining the costs of authorized improvements to be financed within the Glen Crossing West Public Improvement District; approving a preliminary service plan and assessment plan, including proposed assessment roll; directing the filing of the proposed assessment roll with the City Secretary to make available for public inspection; noticing a public hearing for July 9, 2019 to consider an ordinance levying assessments on benefitted property located within Glen Crossing West Public Improvement District; directing city staff to publish and mail notice of said public hearing. (Glen Crossing West PID Costs Determining Resolution) (DeBuff)
- J. Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and James Land & Development, LLC formerly known as Trico Development and Land Company, and Celina 50, LLC for the purpose of the reinstatement of, assignment of, and amendment to an existing development agreement. (The Cottages Development Agreement) (Laumer)

- K. Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina, Texas, the Board of Directors of Tax Increment Reinvestment Zone Number Two, City of Celina, CTMGT Frontier 80, LLC, CADG Creeks of Legacy West, LLC ,and CADG Creeks of Legacy Stonegate, LLC for the purpose of an amendment to an existing development agreement. (Creeks of Legacy Development Agreement Amendment) (Laumer)
- L. Consider and act upon a resolution accepting a petition from Collin County Community College for the voluntary annexation of an approximately 75 acre tract of land, Collin County, Texas, and setting two public hearing dates for July 9, 2019 at 5:00 p.m. and August 13, 2019 at 5:00 p.m. The property is generally located south of Choate Parkway and approximately 2,500 feet east of Preston Road. (CCCC Annexation Resolution) (Mohan)
- M. Consider and act upon an ordinance on the City initiated annexation of an approximately 81.3 acre tract of land, generally located on the Dallas North Tollway, in between Light Farms Way and County Road 51. (NTTA ROW Annexation) (Mohan)
- N. Consider and act upon a Development Agreement with First Baptist Church of Celina on an approximately 0.75 acre tract of land, located at 604 N. Ohio Street in the City Limits. (Iglesia Bautista El Calvario Development Agreement) (McAfee)
- O. Consider and act upon an ordinance amending the City's Code of Ordinances, Appendix A: Fee Schedule to provide a comprehensive fee update and on the adoption of a master fee chart. (Master Fee Chart) (McAfee)
- P. Consider and act upon a Professional Service Agreement with SAFEbuilt Texas, LLC, and authorize and empower the City Manager to execute same. (SAFEbuilt Building Inspections Contract) (McAfee)
- Q. Consider and act to authorize the City Manager to execute a contract between the City of Celina and Ideation Planning for the preparation of the Downtown Code. (Downtown Celina Zoning Professional Service Agreement) (McAfee)
- R. Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and CADG Sutton Fields, LLC for construction, funding and acquisition. (Sutton Fields II) (DeBuff)
- S. Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and CADG Sutton Fields, LLC for reimbursement for the financing of public improvements. (Sutton Fields II) (DeBuff)
- T. Consider and act to authorize the City Manager to execute a landowner agreement by and between the City of Celina and CADG Sutton Fields, LLC for the financing of public improvements. (Sutton Fields II) (DeBuff)

VIII. PUBLIC HEARING/ACTION:

- A. The Celina City Council will conduct the first of two public hearings regarding the proposed voluntary annexation of 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)

- B. The Celina City Council will conduct a public hearing to consider testimony and act upon a Development Agreement to modify development standards to allow for a master planned single-family residential development on an approximately 186 acre tract of land, generally located east of CR 86 (future Coit Road) and south of Choate Parkway within both the extraterritorial jurisdiction (ETJ) and the City Limits. (Wilson Creek Meadows Revised Development Agreement) (McAfee)
- C. 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 Neighborhood Improvement Area #3 assessment roll for the Sutton Fields II 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 payment of the assessments in accordance with Chapter 372, Texas Local Government Code, as amended; providing for the method of assessment and the payment of the assessments, providing penalties and interest on delinquent assessments, providing for severability, and providing an effective date. (Sutton Fields II SAP approval, PID levy) (DeBuff)

IX. ACTION ITEM:

- A. Consider and act to authorize the City Manager to execute a five year contract between the City of Celina and BKD, LLP in the amount of \$280,000.00 in total (\$52,000 for year one) of the City's Audit Services, Bid 2019-0005. (Berry)
- B. Consider and act upon a resolution approving and authorizing publication of notice of intention to issue certificates of obligation. (Toutounchian)
- C. Consider and act upon a Development Agreement by and between the City of Celina and Westgate HS Celina Investments L.P. (Celina Hills Development Agreement) (DeBuff)
- D. Consider and act upon a resolution and agreement by and between the City of Celina and Westgate HS Celina Investments, L.P. for a land purchase by the city of 23.7 acres. (Celina Hills) (DeBuff)
- E. Consider and act upon a resolution of the City Council of the City of Celina, Texas, accepting a petition to create the Celina Hills Public Improvement District and calling for a public hearing. (Celina Hills PID petition) (DeBuff)

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



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: June 11, 2019
Re:

Action Requested:

Drainage design requirement updates. (Brawner)

Background Information:

As part of the annual update of the City's Engineering Design standards and Construction Details, the City contracted Freese and Nichols Inc (FNI) to review the Existing Drainage Design requirements to identify conflicts within the existing criteria. Also FNI is to provide guidance on new and updated drainage criteria that can be incorporated into the City's standards

Board Review/Citizen Input:

None

Alternatives:

None

Financial Considerations:

Drainage Funds

Legal Review:

N/A

Supporting Documents:

-Power Point Presentation

Staff Recommendation:

Approve



Engineering
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Andy Glasgow, Asst Director of Engineering
CC: Kim Brawner, Director of Engineering
Date: June 11, 2019
Re:

Action Requested:

Pavement and subgrade design requirement updates. (Brawner)

Background Information:

As part of the annual update of the City's Engineering Design standards and Construction Details, the City contracted Kimley Horn to evaluate the existing Pavement and subgrade Design requirements for public streets, provide recommendations and develop new pavement and subgrade design requirements for CIP and Development projects.

Board Review/Citizen Input:

None

Alternatives:

None

Financial Considerations:

General Funds

Legal Review:

N/A

Supporting Documents:

-Power Point Presentation

Staff Recommendation:

Approve



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: June 11, 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 Fire Department
City of Celina, Texas

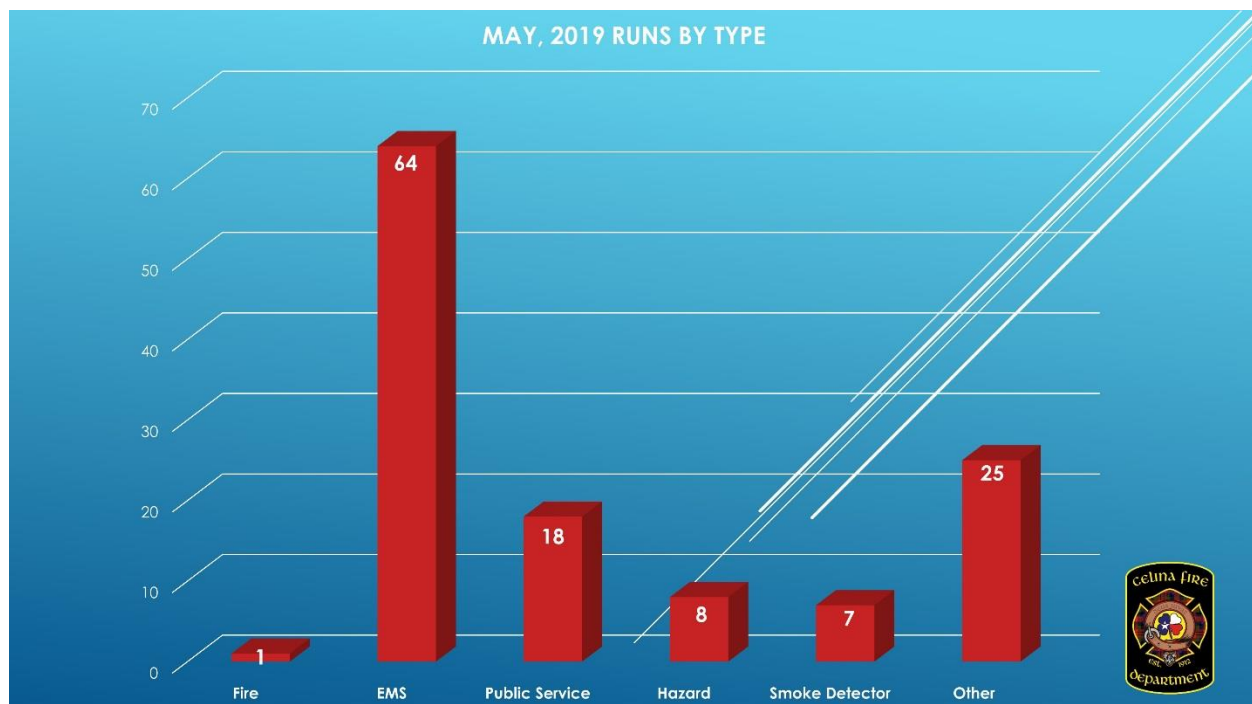
MEMORANDUM

To: Honorable Mayor Sean Terry and the Celina City Council
 From: Mark Metdker, Fire Chief/Fire Marshal
 CC: Jason Laumer, City Manager
 Date: 6/9/2019
 Re: May 2019 Fire Department Activity Report

This is the May 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 123 calls for service. 64 calls were EMS related



Attachment: Fire Report June 2019 (Staff Reports)

Celina FD breakdown of calls by month



2019 projections forecast an overall increase in calls



Fire Prevention Monthly Report

Month – May2019

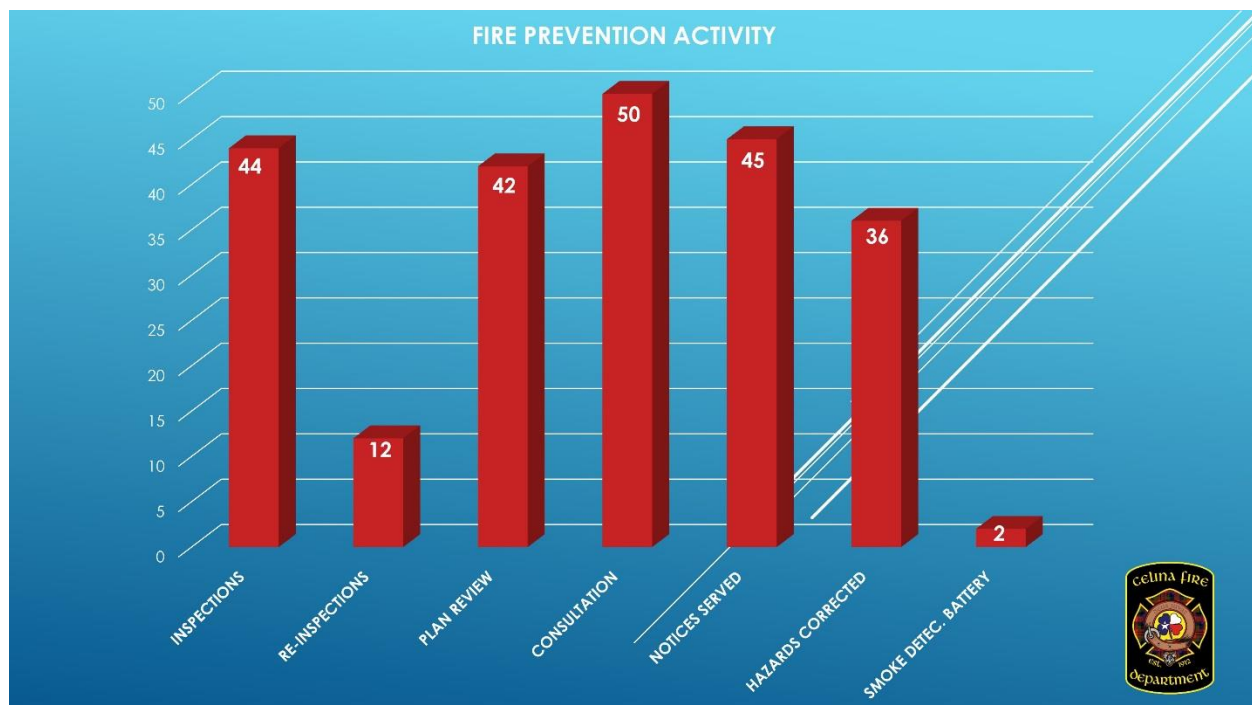
Fire Prevention and Inspections

Fire Marshal Friday

Training over Methodist Church with the crews and new hires.

Projects for May2019

Smoke Detector Battery Replacement Program
 Weekly DRC Meetings on New Construction Projects
 Keller Williams Building (Completed)
 Celina Sports Complex (New Construction)
 Kimley Horn Tenant Finish out (Completed)
 Fire Station # 2
 Bongo Beaux (New Construction)
 Prosper School # 12 Mustang Lakes (New Construction)
 City Buildings Axxen, City Hall, EDC (Remodel)



Attachment: Fire Report June 2019 (Staff Reports)

Operations/EMS/Emergency Management/Training

Month – May 2019

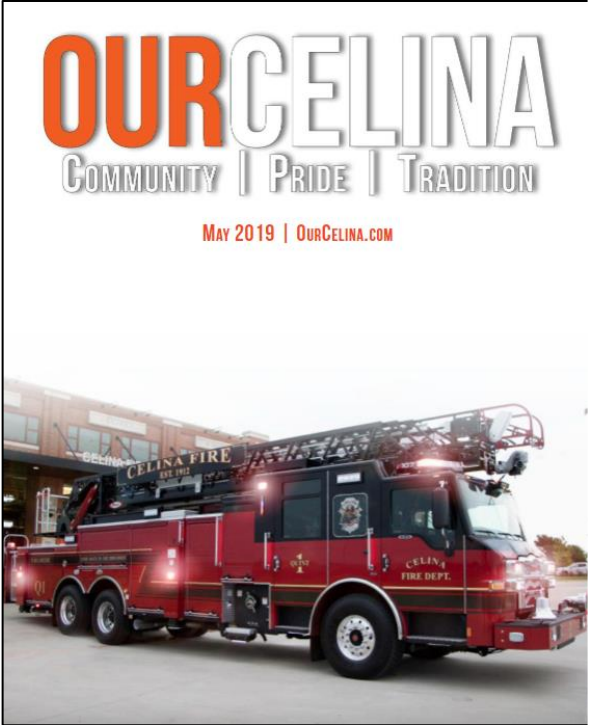
Updates

- **North Central Texas Council of Governments (NCTCOG)** - Chief Metdker has been appointed to the NCTCOG 911 Advisory board. This is a prestigious appointment for Celina.
- **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.
- **Boat Fire** – Celina Fire responded to a boat fire. The flames were contained to the boat itself and all exposures were protected.
- **Station 2** - Station 2 is currently under construction, the building structure is starting to go up and everything is starting to come together.
- **Motor Vehicle Accident w/Extrication** - Provided mutual aid to a structure fire in Prosper due to a lightning strike.
- **Quint 1** – Quint 1 has arrived. Quint 1 has arrived at the station and training is currently under way.
- **Cadaver Lab/Medical CE** – Crews participated in a skills based Cadaver Lab as well as MCP delivered medical CE's at Station # 1



Cadaver Lab





Attachment: Fire Report June 2019 (Staff Reports)



Attachment: Fire Report June 2019 (Staff Reports)



Attachment: Fire Report June 2019 (Staff Reports)



Attachment: Fire Report June 2019 (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.
- **Shift Level Training-** All crews participated in shift level training to include all fire ground operations





Attachment: Fire Report June 2019 (Staff Reports)

Public Relations

- 5/1 – Ribbon Cutting Keller Williams
- 5/2 – National Day of Prayer on the Square
- 5/4 – Cinco De Mayo on the Square
- 5/5 – Birthday Party Visit
- 5/9 – Two 29 Ribbon Cutting
- 5/10 – City Comprehensive Plan Event at Two 29
- 5/13 – Lamar National Bank Ground Breaking
- 5/20 – Pre-School Station Tour
- 5/20 – Celina Young Life Crud War at Old Celina Park
- 5/21 – Frazer Ambulance Expo at Station 1
- 5/23 – AED Training at Friendship Corner
- 5/25 – Birthday Party at First United Methodist Church
- 5/27 – Memorial Day Program on the Square
- 5/29 – Mustang Lakes Pool Safety



Attachment: Fire Report June 2019 (Staff Reports)



Attachment: Fire Report June 2019 (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
- **EOC Activation-** Due to severe weather and confirmed tornados in the area, the EOC was activated. Several different weather sources were monitored for weather related updates. Thankfully, Celina was not in the direct path. The outdoor warning sirens were activated as well.
- **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, MAY 14, 2019
5:00 PM**

MINUTES

I. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT:

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

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

II. PLEDGE OF ALLEGIANCE/INVOCATION:

Gage Gibbs led the pledges of allegiance. Pastor Jake Patton of New City Presbyterian gave the invocation.

III. PROCLAMATIONS/PRESENTATIONS/OATHS OF OFFICE:

Mayor Terry called for Action Item A (General Election Canvass) to be considered at this time.

A. Oaths of Office for newly elected City Council Members. (Faulkner)

Justin Steiner was sworn in as City Councilman Place 1.

B. 2974 : CoServ Economic Development Grant. (Jackson)

C. Building Safety Month Proclamation. (Hernandez)

D. 2949 : Historic Preservation Month Proclamation. (Barton)

E. National Public Works Week Proclamation. (Fourmentin)

F. Motorcycle Safety Awareness Proclamation.

IV. WORKSESSION/COMMITTEE REPORTS/STAFF REPORTS:

A. Employee Introductions. (Cromwell, Metdker, Fourmentin)

Minutes Acceptance: Minutes of May 14, 2019 5:00 PM (Minutes Approval)

- B. Employee Recognition. (Terry)
- C. 2018 Police Annual Report. (Griggs)
- D. Discussion regarding any and/or all agenda items.
- E. Staff Reports attached

V. OPEN FORUM:

No public comment was received.

VI. EXECUTIVE SESSION:

The City Council adjourned into Executive Session at 5:38 p.m. with City Attorney Lance Vanzant, City Attorney Jason Laumer and Economic Development Director Alexis Jackson (Item A).

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

- A. Update regarding potential business opportunities. (Jackson)
- B. Economic Development Agreements. (Laumer)

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

- C. Potential settlement with Kodiak Trenching and Boring LLC.

The Celina City Council will convene into Executive Session pursuant to Texas Government Code 551.072, Deliberations Regarding Real Property, to deliberate the purchase, exchange, lease or value of real property.

- D. Generally located near the Downtown area and near the Punk Carter Parkway and Coit Road area.

Reconvene Into Open Session

The City Council reconvened into Open Session at 6:37 p.m.

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

No action was taken out of Executive Session.

VII. CONSENT AGENDA:

Minutes Acceptance: Minutes of May 14, 2019 5:00 PM (Minutes Approval)

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

A. Minutes Approval:

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

- B. Consider and act upon corrections to the minutes of the December 20, 2019, Special Meeting including the voting record for item II A. (Faulkner)
- C. Consider and act to authorize the City Manager to execute a contract between the City of Celina and Pavecon Public Works, LP., in the amount of \$1,156,093.80 (includes 10% contingency) for the Kentucky Drive Improvements project. The base bid and alternates for this project was in the amount of \$1,054,184.80. (Brawner)
- D. Consider and act to authorize the City Manager to execute a contract between the City of Celina and Insituform Technologies, LLC in the amount of \$432,755.25 for Sanitary Sewer Line Rehabilitation. (Fourmentin)
- E. Consider and act upon a resolution accepting a petition from Molly Ann Huie for the voluntary annexation of an approximately 8.626 acre tract of land, Collin County, Texas and setting two public hearing dates for June 11, 2019 at 5:00 p.m. and July 9, 2019 at 5:00 p.m. The property is generally located south of Choate Parkway and approximately 1,300 feet east of County Road 87. (Huie Property Annexation Resolution) (Mohan)

(2019-21R)

- F. Consider and act to authorize the City Manager to execute a contract between the City of Celina and Norris D Texas, LLC. in the amount of \$84,200.00 for the implementation of a Parks Master Plan. (Brawner)
- G. Consider and act upon an ordinance amending the City's Code of Ordinances, Appendix A: Fee Schedule to provide a comprehensive fee update and on the adoption of a master fee chart. (Master Fee Chart) (McAfee)

(2019-13)

- H. 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)

(2019-22R)

- I. Consider and act upon a resolution of the City Council of the City of Celina, Texas, hereby authorizing the city manager of the City of Celina, Texas to execute a License, Indemnification and Hold Harmless Agreement by and between the City of Celina and Rex and Sherese Glendenning for setting up and launching a fireworks display for Celina and its guests, patrons and invitees. (Splash & Blast Indemnity) (Matehuala)

(2019-23R)

Minutes Acceptance: Minutes of May 14, 2019 5:00 PM (Minutes Approval)

- J. Consider and act an ordinance amending the City's Code of Ordinances; Chapter 13 Utilities, Article 13.03 Water and Sewers; Section 13.03.002 Water Connection and Meters. (Fourmentin)
- (2019-14)
- K. Consider and act upon approval of a Drought Contingency Plan (TCEQ PWS ID#0430004). (Fourmentin)
- L. Consider and act upon approval of a Water Conservation Plan (TCEQ PWS ID#0430004). (Fourmentin)
- M. Consider and act to authorize the City Manager to execute an amendment to the Guaranteed Maximum Price for Fire Station #2 by and between the City of Celina and Hangartner Commercial, Inc. for \$3,585,881. (Brawner)
- N. Consider and act to authorize the City Manager to execute an agreement between the City of Celina and Siddons Martin Emergency Group, LLC in the amount of \$787,131.72 for a new Pierce Custom Velocity PUC Pumper Truck. (Metdker)
- O. A resolution of the City of Celina, Texas finding that Oncor Electric Delivery Company LLC's application for approval to amend its distribution cost recovery factor pursuant to 16 Tex. Admin. Code § 25.243 to increase distribution rates within the City should be denied; finding that the City's reasonable rate case expenses shall be reimbursed by the company. (Oncor Rate Increase Denial) (DeBuff)

(2019-24R)

VIII. PUBLIC HEARING/ACTION:

- A. The City Council will conduct the second of two public hearings on the City initiated annexation of an approximately 81.3 acre tract of land, generally located on the Dallas North Tollway, in between Light Farms Way and County Road 51. (NTTA ROW Annexation) (Mohan)

Mayor Terry opened the hearing at 6:37 p.m. No public comment was received. The hearing was closed at 6:39 p.m.

- B. The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, and amending the official zoning map of the City by designating the zoning of an approximately 7.5 acres of land from Agriculture District (AG), to General Commercial District (C-2) with the Preston Road Overlay (PRO); generally located east of Preston Road and approximately 1,400 feet south of Sunset Boulevard. (Plaza 289 Zoning) (Mohan)

(2019-15) Mayor Terry opened the hearing at 6:39 p.m. No public comment was received. The hearing was closed at 6:41 p.m.

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

- C. The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, and amending the official zoning map of the City by designating the zoning of an approximately 15 acre tract of land situated in the John Ragsdale Survey, Abstract No. 734, Collin County, Texas, amending a portion of Tract 1 of Planned Development No. 84 (PD-84), for The Columns. The tract is generally located 800 feet north of Light Farms Way and east of Dallas North Tollway, within the City limits. (The Columns Zoning Amendment) (McAfee)

(2019-16) Mayor Terry recused himself from the discussion on this item and left the room. (6:41 p.m.) Mayor Pro Tem Anderson opened the hearing at 6:41 p.m. A gentleman representing the development answered council questions related to financial breakpoints with a lower density being proposed. Suzanne D'Amico of Legend Group Texas stated that these developments look great and would be a nice addition to Celina. The hearing was closed at 6:53 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Carmen Roberts, Board Member
SECONDER:	Mindy Koehne, Board Member
AYES:	Nabors, Hopkins, Roberts, Koehne, Anderson, Steiner
ABSENT:	Webber

- 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 Glen Crossing West Public Improvement District in accordance with Chapter 372 of the Texas Local Government Code. (DeBuff)

Mayor Terry returned to the dais and opened the hearing at 6:53 p.m. No public comment was received. The hearing remains open.

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

IX. ACTION ITEM:

- A. Consider and act upon approval of canvass documents for the May 4, 2019, General Election results. (Faulkner)

RESULT: APPROVED [UNANIMOUS]
MOVER: Andy Hopkins, Place 3
SECONDER: Carmen Roberts, Board Member
AYES: Nabors, Hopkins, Roberts, Koehne, Anderson, Steiner
ABSENT: Webber

- B. Consider and act upon an ordinance ordering, establishing procedures, and setting the date for a runoff election for Celina City Council Place 6; providing for the approval of Election Judges and Voting Clerks; and providing for related matters. (Faulkner)

RESULT: APPROVED [UNANIMOUS]
MOVER: Wayne Nabors, Place 2
SECONDER: Carmen Roberts, Board Member
AYES: Nabors, Hopkins, Roberts, Koehne, Anderson, Steiner
ABSENT: Webber

- C. Consider and act to authorize the City Manager to execute a contract between the City of Celina and Advanced Paving Company in the amount of \$465,879.70 plus 10% contingency (\$46,587.97) for the 2019 Street Improvements project. (Brawner)

RESULT: APPROVED [UNANIMOUS]
MOVER: Wayne Nabors, Place 2
SECONDER: Carmen Roberts, Board Member
AYES: Nabors, Hopkins, Roberts, Koehne, Anderson, Steiner
ABSENT: Webber

X. **ADJOURNMENT:**

There being no further comment Mayor Terry adjourned the meeting at 6:56 p.m.

 Sean Terry, Mayor

 Secretary

 Date Minutes Approved

Minutes Acceptance: Minutes of May 14, 2019 5:00 PM (Minutes Approval)



**CITY COUNCIL SPECIAL MEETING
CITY HALL CONFERENCE ROOM
142 N. OHIO DRIVE
TUESDAY, MAY 28, 2019
5:30 PM**

MINUTES

I. CALL TO ORDER:

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

Mayor Terry called the meeting to order 5:30 p.m.

II. PUBLIC HEARING AND ACTION:

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

Mayor Terry opened the hearing at 5:30 p.m. that was continued from the May 14th regular meeting. Rex Glendenning spoke to the Council about drainage issues on Phase II that have impacted his property. Corey Admire with Shupe, Ventura Law Firm, spoke in favor of creation on behalf of the landowner. The hearing was closed at 5:48 p.m.

Minutes Acceptance: Minutes of May 28, 2019 5:30 PM (Minutes Approval)

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

2. Consider and act upon a resolution determining the costs of Neighborhood Improvement Area #3 improvements to be financed by the Sutton Fields II Public Improvement District; approving a preliminary service plan and assessment plan, including proposed Neighborhood Improvement Area #3 assessment roll; calling a special meeting and noticing a public hearing for June 11, 2019 to consider an ordinance levying assessments on property located within the Sutton Fields II Public Improvement District. (Sutton Fields II Costs Resolution) (DeBuff)

Mayor Terry recused himself at this time. Mayor Pro Tem Anderson opened the hearing at 5:48 p.m. No public comment was received. The hearing was closed at 5:50 p.m. Mayor Terry returned to the meeting.

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

III. 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.

The City Council adjourned into Executive Session at 5:50 p.m. with City Attorney Lance Vanzant, City Attorney Julie Fort and Director of Engineering Kim Brawner.

- A. Mustang Lakes Zoning Development Agreement and location of Prosper ISD School site.
- B. The Cottages Development Agreement.
- C. Glen Crossing West Development.
- D. Kodiak Trenching and Boring LLC vs City of Celina and potential settlement.

Reconvene into Open Session

The City Council reconvened into open session at 6:14 p.m.

- E. Consider and act upon any items discussed in Executive Session.

Councilman Hopkins moved to approve the City Manager and City Attorney to pay the bill minus damages.

Minutes Acceptance: Minutes of May 28, 2019 5:30 PM (Minutes Approval)

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

IV. ADJOURN:

There being no further comment Mayor Terry adjourned the meeting at 6:15 p.m.

Sean Terry, Mayor

Secretary

Date Minutes Approved

Minutes Acceptance: Minutes of May 28, 2019 5:30 PM (Minutes 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: June 11, 2019
Re: Lamar Bank Impact Fee Reduction Ordinance

Action Requested:

Consider and act upon an ordinance of the City of Celina, Texas providing for a reduction of impact fees as described herein for certain property located within the town. (Lamar Bank Impact Fee reduction) (Laumer)

Background Information:

This ordinance reduces various impact fees for the Lamar Bank property in Celina.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this Ordinance.

Supporting Documents:

- Proposed ordinance

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CELINA, TEXAS PROVIDING FOR A REDUCTION OF IMPACT FEES AS DESCRIBED HEREIN FOR CERTAIN PROPERTY LOCATED WITHIN THE TOWN; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND EFFECTIVE DATE.

WHEREAS, the City of Celina, Texas (the “City”) is a Texas home rule municipality having full power of local self-government pursuant to Article II, Section 5 of the Texas Constitution, Section 51.072, Tex. Loc. Gov. Code (the “Code”), and its Home Rule Charter; and

WHEREAS, pursuant to State Law, the City Council heretofore adopted ordinances establishing impact fees for water, and wastewater (the “Impact Fee Ordinance”); and

WHEREAS, the City is authorized, pursuant to Chapter 380 of the Code, to establish and provide for the administration of one or more programs, including programs for making loans and grants of public money, to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City is further authorized, pursuant to Section 395.021 of the Code to spend funds from any lawful source to pay for all or part of the capital improvements or facility expansions to reduce the amount of impact fees; and

WHEREAS, Lamar National Bank has submitted a request to the City that the impact fees established by the Impact Fee Ordinance applicable to the development of certain real property owned by Lamar National Bank, and located at _____ (and more fully described in Exhibit A attached hereto and incorporated herein) (the “Property”) be reduced as set forth in Exhibit B attached hereto and incorporated herein, and the City Council desires to reduce the impact fees applicable to the development of the Property as set forth in Exhibit B; and

WHEREAS, the City Council hereby finds that the adoption of this Ordinance and the reduction of impact fees provided for herein will promote and encourage economic development on and in connection with the Property in particular and the City in general, benefits the public welfare of the person within the City, constitutes a project and program providing for an incentive to stimulate economic activity within the City, and is in the vest interest of the health and welfare of the citizens of the City.

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 into and made a part of these Ordinances for all purposes.

Section 2. Impact fee reduction. The impact fees applicable to the Property are hereby reduced set forth in Exhibit B attached hereto and incorporated herein. No other provisions of the Impact Fee Ordinance is waived, modified, or amended in any way by the adoption of this Ordinance, and the Developer shall pay the reduced impact fees in accordance with the Impact Fee Ordinance and otherwise abide by all other terms thereof. In the event the Developer does not timely pay the reduced impact fees as directed by the City, the reduction set forth herein shall be deemed null and void and of no further force or effect, and the developer shall be required to pay the full impact fee applicable to the Property.

Section 3. Savings. This Ordinance is and shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 4. Severability. The provisions of this Ordinance are severable, and if any section, article, paragraph, sentence, clause, phrase or word in this Ordinance of 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 this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. Effective date. This Ordinance shall take effect from and after its date of adoption.

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

Sean Terry, Mayor

ATTEST:

By: _____
Vicki Faulkner, City Secretary
City of Celina, Texas

APPROVED AS TO FORM:

By: _____
Lance Vanzant
City Attorney, City of Celina, Texas

Exhibit A

Exhibit BOriginal Impact Fees

Impact Fee	2" Sewer	\$14,849.00
Impact Fee	2" Water	\$18,549.00
Impact Fee	1" Water	\$4,981.00

With Impact Fee Reduction Credit

Impact Fee	2" Sewer	\$3,712.00
Impact Fee	2" Water	\$4,637.00
Impact Fee	1" Water	\$1,245.00



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: June 11, 2019
Re: Hawk 380 Agreement

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and Hawk Custom Pools, LLC for economic incentive funding under Chapter 380 of the Texas Local Government Code. (Laumer)

Background Information:

This agreement provides economic incentive funding for Hawk Custom Pools, LLC.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this agreement.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT

THIS CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT ("Agreement") is entered into as of the 15th day of June, 2019 (the "Effective Date"), by and between THE CITY OF CELINA, TEXAS, a Texas home-rule municipal corporation (the "City") and Hauk Custom Pools, LLC, a Texas limited liability corporation (the "Owner"). "Owner" shall include the Owner, and all of the Owner's heirs, successors, transferees, and assigns.

RECITALS

WHEREAS, the Owner owns approximately 1.943 acres, more or less, in Collin County, Texas, legally described as Abstract No. A0170 in the Collin County School Land #15 Survey, Sheet 2, Tract 17, Collin County, Texas and more particularly described on Exhibit "A" attached hereto and incorporated for all purposes allowed by law (the "Property"); and

WHEREAS, the City has annexed the Property; and

WHEREAS, the City has offered to reimburse in the form of a grant to the Owner equal to the amount of certain ad valorem tax payments made to the City by Owner (the "Grant"), in consideration for which the Owner agrees to enter into this Agreement and waive and withhold any and all objections to annexation so that the business located on the Property remains in the City's corporate boundary; and

WHEREAS, the City does not make any guarantee as to the Property retaining any specific tax status or classification, as such tax classifications are determined by the Central Appraisal District of Collin County and not by the City; and

WHEREAS, this Agreement is entered into pursuant to Chapter 380 of the Texas Local Government Code, in order to resolve any Owner objections to annexation; and

WHEREAS, the City has established a program in accordance with Article III, Chapter 52-a of the Texas Constitution, and Chapter 380 of the Texas Local Government Code, under which the City has the authority to make grants of public funds for the public purposes of promoting local economic development and stimulating business and commercial activity within the City; and

WHEREAS, consistent with Article III, Chapter 52-a of the Texas Constitution, and Chapter 380 of the Texas Local Government Code, the City has made specific proposals to Owner for the purposes of developing and diversifying the economy; and

WHEREAS, Owner has applied to the City for financial accommodations, including those which are described in this Agreement; and

WHEREAS, Owner understands and agrees that in granting, renewing or extending financial accommodations and incentives to Owner, the City is relying upon Owner's representations, warranties and agreements, and the financial accommodations and incentives described herein shall be and shall remain subject to the following terms and conditions of this Agreement.

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

WHEREAS, the Owner and the City acknowledge that this Agreement is binding upon the City and the Owner and their respective successors and assigns for the term (defined below) of this Agreement; and

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the receipt and sufficiency of which is hereby acknowledged, City and Owner hereby agree as follows:

AGREEMENT

ARTICLE I. DEFINITIONS

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

1.1 Ad Valorem Tax. "Ad Valorem Tax" shall mean the assessed municipal property tax as determined by the Collin County Appraisal District for the Property that is paid to the City during a Tax Year.

1.2 Agreement. "Agreement" is defined in the introductory paragraph of this Agreement.

1.3 City. "City" is defined in the introductory paragraph of this Agreement.

1.4 City Council. "City Council" shall mean the governing body of the City.

1.5 Default. "Default" is defined in Section 5.1 of this Agreement.

1.6 Owner. "Owner" is defined in the introductory paragraph of this Agreement.

1.7 Effective Date. "Effective Date" is defined in the introductory paragraph of this Agreement.

1.8 Grant. "Grant" shall mean for the purposes of Local Government Code Chapter 380, an amount equal to the amount of the Ad Valorem Taxes paid by the Owner for the Property to the City as defined in Section 3.1.

1.9 Party. "Party" and "Parties" are defined in the introductory paragraph of this Agreement.

1.10 Property. "Property" is defined in the recitals of this Agreement.

Attachment: Hawk 380 (Hawk 380 Agreement)

1.11 Tax Year. “Tax Year” shall mean a year beginning on January 1 whereupon the Ad Valorem Taxes are assessed and thereafter such assessed taxes are delinquent on January 31 of the following year.

1.12 Term of Agreement. “Term of Agreement” shall mean the longest period in which an obligation is imposed on a party to this Agreement, so long as the Owner remains the current owner of the Property or until such earlier mutual termination as such is described herein.

ARTICLE II. DUTIES AND OBLIGATIONS OF THE PARTIES

2.1 City Shall Provide Grant: Subject to the terms and conditions contained thin this Agreement, the City agrees to provide the Grant, as set forth in Article III, to the Owner.

2.2 Owner Shall Operate Business in City and Consent to Annexation. The Owner agrees that the annexation of the Property shall be conclusively presumed valid. Owner further agrees that the Owner will not in any manner object to, oppose, or contest the annexation of the Property or any portion thereof for a period of twenty (20) years. Owner also agrees that if any law is passed within the next twenty (20) years affecting the validity of the annexation of the Property, Owner will then execute a petition for voluntary annexation upon the request of the City.

ARTICLE III. GRANT AGREEMENT

3.1 Grant. Subject to the terms and conditions of this Agreement, the City hereby grants to Owner a grant, for the purposes that fulfill the requirements of Chapter 380, an amount equal to that portion of the Ad Valorem Taxes received by the City for the Property for the 2018 Tax Year, save and except any roll-back taxes assessed against the Property during that period (“Grant”). City agrees to pay Owner the Grant within thirty (30) days of receiving confirmation that the Owner has paid the Ad Valorem Tax for the 2018 Tax Year.

3.2 Grant Performance Condition. The Grant provided herein is specifically subject to: (1) Owner’s continued ownership of the Property during the 2018 Tax Year; and (2) Owner’s payment of the City’s portion of the Ad Valorem Taxes on the Property.

3.3 Obligations Limited. The obligations of the City under this Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source. None of the City or any of its elected or appointed officials or any of its officers or employees shall incur any liability hereunder to the Owner or any other party in their individual capacities by reason of this Agreement or their acts or omissions under this Agreement.

ARTICLE IV. REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

4.1 Representations, Warranties of Owner. The Owner represents and warrants to the City that: (1) the Owner has the authority to enter into and perform its obligations under this Agreement; (2) the person executing this Agreement on behalf of the Owner has been duly authorized to do so; (3) this Agreement is binding upon the Owner in accordance with its terms; (4) no other signature or approval is required by law or the governing documents of Owner, other than the signature below; and (5) the execution of this Agreement and the performance by the Owner of its obligations under this Agreement do not constitute a breach or event of default by the Owner under any other agreement, instrument, or order to which the Owner is a party or by which the Owner is bound.

4.2 Obligations of Owner. Owner covenants and agrees that, while this Agreement is in effect, Owner shall comply with the following terms, conditions and agreements:

- A. Owner agrees to perform and comply in all material respects with all terms, conditions, and provisions set forth in this Agreement between Owner and City.
- B. Owner shall at all times comply with all federal, state, and local laws, ordinances, rules, regulations and orders governing the applicable duties of Owner under this Agreement.
- C. Owner shall not be delinquent in the payment of any taxes to any county, school district, state or federal taxing jurisdiction.

ARTICLE V. EVENTS OF DEFAULT

5.1 Events of Default by Owner. Each of the following shall constitute an Event of Default by Owner under this Agreement:

- A. A violation, failure to perform, or breach by the Owner of any covenant, warranty, duty, indemnity, or obligation of the Owner under this Agreement which has not been cured within thirty (30) days of written notice by City to Owner.
- B. Any warranty, representation or statement made or furnished to City by or on behalf of Owner under this Agreement which was false or misleading in any material respect, either now, in the future, or at the time made or furnished, and Owner fails to cure same within thirty (30) days after written notice from City describing the violation, or if such violation cannot be cured within such 30-day period in the exercise of all due diligence, then if Owner fails to commence such cure within such 30-day period or fails to continuously thereafter diligently prosecute the cure of such violation; or if Owner learns that any such warranty, representation or statement has become false or misleading at the time that it was made, and Owner fails to provide written notice to City of the false and misleading nature of such

warranty, representation or statement within ten (10) days after Owner learns of its false or misleading nature.

5.2 Events of Default by City. The failure of the City to perform the duties and obligations contemplated in this Agreement.

5.3 Remedies. If any Event of Default by Owner shall occur and shall not be cured within the time period prescribed, all commitments of City under this Agreement immediately will terminate, all without further notice to Owner (except as may otherwise be required by specific provision hereunder), at the option of City. If any Event of Default by City shall occur and shall not be cured within the time period prescribed, Owner may terminate this Agreement and seek damages for such default based solely on the amount of any payments owing by City, as such payments may accrue.

ARTICLE VI. MISCELLANEOUS PROVISIONS

6.1 Immunity. The Parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

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

Exhibit A Depiction/Diagram of Property/Metes and Bounds Description

6.3 Assignment/Non-Transferable. The Parties agree that this Agreement shall not be assigned without the prior written consent of the other Party.

6.4 Execution and Consideration. This Agreement is executed by the Parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

6.5 Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

To City of Celina:

City of Celina
Attn: City Manager
142 N. Ohio St.
Celina, Texas 75009

With a copy to:
 Messer, Rockefeller & Fort , P.L.L.C.
 Attn: Julie Fort
 6371 Preston Rd., Ste. 200
 Frisco, Texas 75034
 E-mail: julie@txmunicipallaw.com
 TEL: (972) 668-6400
 FAX: (972) 668-6414

To Owner:

Robert G. Hawk, Jr
 Hawk Custom Pools, LLC
 1060 N. Preston Rd.
 Celina, Texas 75009

6.6 Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law, or by any other provisions of the Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.

6.7 Waiver of Breach. A waiver by either Party of a breach of the Agreement by the other Party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.

6.8 Parties Bound. The Agreement shall be binding upon, and inure to the benefit of, the Parties to the Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

6.9 No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

6.10 Incorporation of Recitals. The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of the Parties and as legislative determinations by the City Council.

6.11 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified, amended or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto. The subject matter of this Agreement is for the stated purposes herein only and not any other matters that may exist between the Parties past, present or future.

6.12 Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Collin County, Texas.

Attachment: Hawk 380 (Hawk 380 Agreement)

6.13 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

6.14 Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

6.15 Force Majeure. Neither Owner nor The City of Celina shall be required to perform any term, condition, or covenant in the Agreement so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of the Party and which by the exercise of due diligence the Party is unable, wholly or in part, to prevent or overcome. Failure of a Party to timely perform an obligation hereunder shall only be excused as an event of force majeure described in this paragraph if a Party who cannot perform sends written notice to the other Party within thirty (30) days of the start of the event of force majeure: (a) stating the obligations that the Party cannot perform due to the event of force majeure; (b) describing in detail the event of force majeure that is preventing performance; and (c) providing a date by which such Party reasonably expects to be able to perform and the length of the force majeure event.

6.16 Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

6.17 Savings/Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6.18 Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its legal counsel.

6.19 Employment of Undocumented Workers. During the term of this Agreement, each Payee agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), the Payee shall repay to the City the funds received by the Payee under this Agreement within 120 days after the date the Payee is notified by the City of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid. Pursuant to Section 2264.101(c), TEXAS GOVERNMENT CODE, a business is not liable for a violation of Chapter 2264 by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

6.20 Time is of the essence in the performance of this Agreement.

EXECUTED this the _____ day of _____, 2019.

CITY OF CELINA

By: _____

Name: Jason W. Laumer

Title: City Manager

Date: _____

THE STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on _____, 2019, by Jason W. Laumer, City Manager of the City of Celina, Texas on behalf of said City.

Notary Public in and for the State of TEXAS

HAUK CUSTOM POOLS, LLC
a Texas ~~Limited Liability~~ Corporation

By: _____

Name: Robert G. Hauk, Jr.

Title: Owner

Date: 5/30/2019

THE STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on May 30th, 2019, by Robert G. Hauk Jr., owner of said Property.

Denise Gregory
Notary Public in and for the State of TEXAS

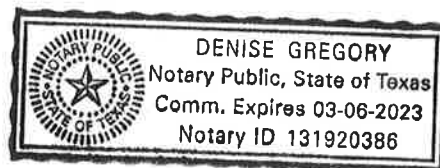
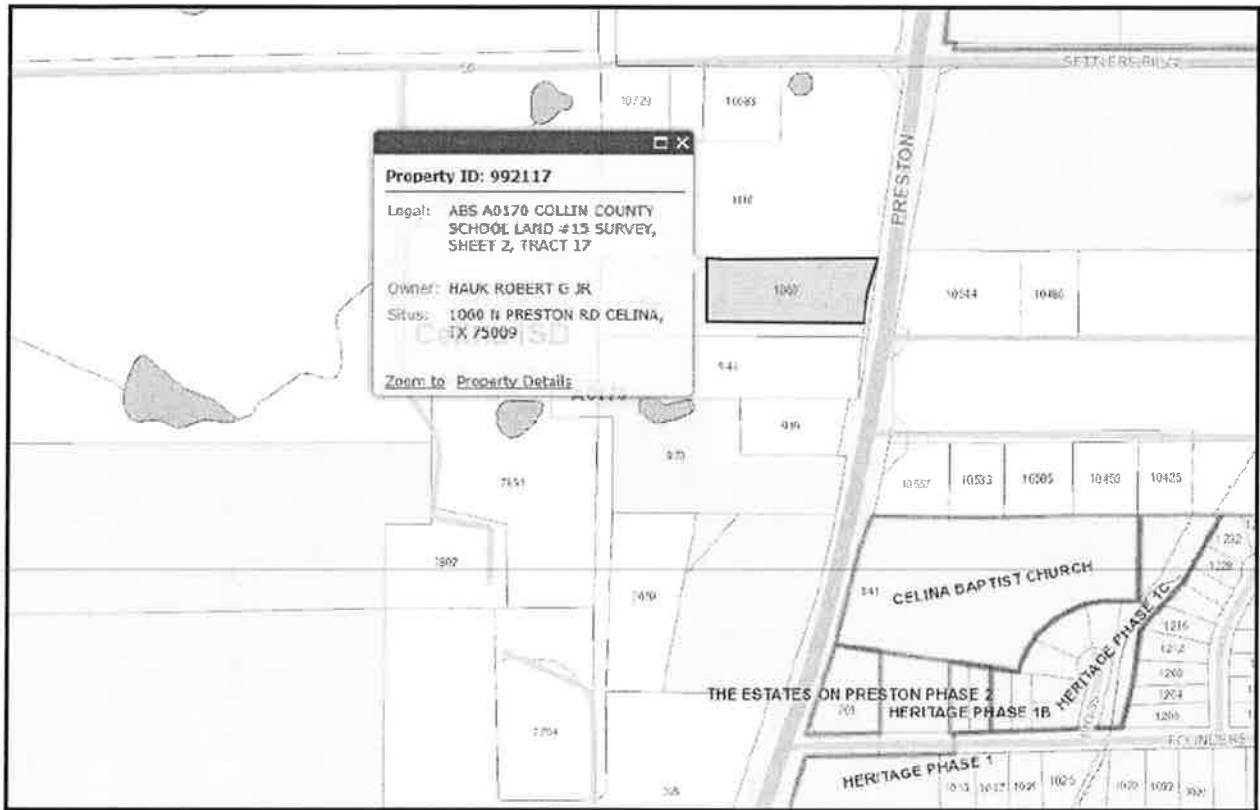


EXHIBIT A The "Property"



Attachment: Hauk 380 (Hauk 380 Agreement)



Finance Department
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dawn Berry, Purchasing Manager
CC: Alan Fourmentin, Director of Public Works
Date: June 11, 2019
Re:

Action Requested:

Consider and act to authorize the award of Bid 2019-0008 to RLC Controls at the unit prices listed for SCADA system maintenance and repairs. (Berry)

Background Information:

On June 3, 2019 the City received responses to Bid #2019-0008 for SCADA system maintenance and repairs. The invitation was advertised in the local paper and posted on the City's eProcurement system in which five vendors were notified. One submittal was received. Staff reviewed the response and recommends the apparent low bidder.

The term of the contract will be effective on the date of award and valid for one year. The contract includes the option to renew for four additional one-year options (five years total).

Alternatives:

Council may chose to not to award the Bid.

Financial Considerations:

Funds are available in the current budget.

Expenditures will not exceed funds appropriated. Funds will be committed at the issuance of a purchase order.

Legal Review:

N/A

Supporting Documents:

Bid Tabulation

Staff Recommendation:

Staff recommends awarding bid 2019-0008 to RLC Controls, Inc., at the unit prices listed .

TAB SHEET
SCADA MAINTENANCE & REPAIRS
2019-0008

				RLC Controls Inc
				Total Price
Line #	Description	QTY	UOM	Unit
1	ON-SITE SERVICE FEES			
1.1	Field Service Engineer, Cost per Hour	1	Hour	<u>\$110.00</u>
1.2	Remote Service Engineer, Cost per Hour	1	Hour	<u>\$75.00</u>
1.3	Junior Field Service Engineer, Cost per Hour	1	Hour	<u>\$90.00</u>
1.4	Field Service Technician, Cost per Hour	1	Hour	<u>\$85.00</u>
1.5	Design and Consulting, Cost per Hour	1	Hour	<u>\$100.00</u>
2	OFF-SITE SERVICES			
2.1	Shop Labor for panel assembly, Cost per Hour	1	Hour	<u>\$60.00</u>
3	PARTS & EQUIPMENT			
3.1	Indicate percent (%) markup above actual cost of parts & equipment.	1	EA	<u>25%</u>

Attachment: Bid Tabulation (SCADA System Maintenance & Repairs)



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: June 11, 2019
 Re: 2019 Street Improvements

Action Requested:

Consider and act to authorize the City Manager to execute a contract between the City of Celina and Roadway Solutions in the amount of \$114,989.00 plus 10% contingency (\$11,498.90) for the traffic signal installation located at 289 and Fire Station 1, Bid # 2019-0004. (Brawner)

Background Information:

On April 22, 2019, the City received bids for bid 2019-0004 for the installation of a traffic signal at Preston Road and Fire Station 1. The bid invitation was advertised in the local paper and posted on the City's eProcurement system in which one hundred sixty-one vendors were notified. Two submittals and two no bids were received. Staff reviewed the bids and recommends the apparent lowest responsible bidder.

The bid for this project is in the amount of \$114,989.00. Contingency in the amount of \$11,498.90 is included to cover unexpected costs that may arise during construction.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

Funding is available in the current budget and will be tracked as project R17.

Base Bid	\$	114,989.00
Contingency	\$	<u>11,498.90</u>
Total	\$	126,489.90

Expenditures will not exceed funds appropriated. Funds will be committed at the issuance of a purchase order.

Legal Review:

N/A

Supporting Documents:

Bid Tab
Agreement

Staff Recommendation:

Staff recommends awarding bid 2019-0004 to Roadway Solutions in an amount not to exceed \$114,989.00 plus \$11,498.90 in contingency and to authorize the City Manager to execute the agreement.

BID TABULATION
SIGNAL INSTALLATION (PRESTON RD AT FIRE STATION 1)

7.E.a

Line #	Description	QTY	UOM	Roadway Solutions		Durable Specialties	
				Unit	Extended	Unit	Extended
1	DRILL SHAFT (TRF SIG POLE) (36 IN)	26	l.f.	\$375.00	\$9,750.00	\$450.00	\$11,700.00
2	MOBILIZATION	1	l.s.	\$9,675.00	\$9,675.00	\$15,000.00	\$15,000.00
3	BARRICADES, SIGNS, AND TRAFFIC HANDLING	3	mo.	\$1,500.00	\$4,500.00	\$2,705.00	\$8,115.00
4	CONDUIT (PVC) (SCHD 40) (1")	15	l.f.	\$10.00	\$150.00	\$10.00	\$150.00
5	CONDUIT (PVC) (SCHD 40) (2")	170	l.f.	\$11.00	\$1,870.00	\$11.00	\$1,870.00
6	CONDUIT (PVC) (SCHD 40) (3")	25	l.f.	\$12.00	\$300.00	\$12.00	\$300.00
7	CONDUIT (PVC) (SCHD 40) (4")	45	l.f.	\$13.00	\$585.00	\$13.00	\$585.00
8	CONDUIT (PVC) (SCHD 40) (4") (BORE)	110	l.f.	\$32.00	\$3,520.00	\$30.00	\$3,300.00
9	ELEC CONDUCTOR (NO. 8) INSULATED	610	l.f.	\$1.00	\$610.00	\$2.00	\$1,220.00
10	ELEC CONDUCTOR (NO. 6) BARE	325	l.f.	\$1.00	\$325.00	\$2.00	\$650.00
11	ELEC CONDUCTOR (NO. 6) INSULATED	155	l.f.	\$1.00	\$155.00	\$2.00	\$310.00
12	GROUND BOX TY C (162911) W/APRON	4	ea.	\$650.00	\$2,600.00	\$1,755.00	\$7,020.00
13	ELC SRV TY D 120/240 070	1	ea.	\$5,400.00	\$5,400.00	\$9,000.00	\$9,000.00
14	IN SM RD SN SUPAM TY	8	ea.	\$600.00	\$4,800.00	\$1,250.00	\$10,000.00
15	REFL PAV MRK TY I (W) 24" (SLD) (100 MIL)	64	l.f.	\$20.00	\$1,280.00	\$8.00	\$512.00
16	REFL PAV MRK TY II (W) 24" (SLD)	64	l.f.	\$20.00	\$1,280.00	\$8.00	\$512.00
17	ELIM EXT PAV MRK MRKS (4")	60	l.f.	\$20.00	\$1,200.00	\$2.00	\$120.00
18	PAV SURF PREP FOR MRK (24")	64	l.f.	\$20.00	\$1,280.00	\$2.00	\$128.00
19	INSTALL HWY TRF SIG (ISLOATED)	1	ea.	\$24,785.00	\$24,785.00	\$36,500.00	\$36,500.00
20	VEH SIG SEC (12") LED (GRN)	6	ea.	\$250.00	\$1,500.00	\$500.00	\$3,000.00
21	VEH SIG SEC (12") LED (YEL)	6	ea.	\$250.00	\$1,500.00	\$500.00	\$3,000.00
22	VEH SIG SEC (12") LED (RED)	6	ea.	\$250.00	\$1,500.00	\$500.00	\$3,000.00
23	BACKPLATE, 12 INCH, 3 SEC, VENTED, ALUM.	6	EA	\$125.00	\$750.00	\$200.00	\$1,200.00
24	TRF SIG CBL (TY A) (14 AWG) (5 CNDR)	173	l.f.	\$2.00	\$346.00	\$3.00	\$519.00
25	TRF SIG CBL (TY A) (14 AWG) (10 CNDR)	410	l.f.	\$3.00	\$1,230.00	\$4.00	\$1,640.00
26	INS TRF SIG PL AM (S) 1 ARM (40')	1	ea.	\$9,500.00	\$9,500.00	\$12,000.00	\$12,000.00
27	INS TRF SIG PL AM (S) 1 ARM (40') LUM	1	ea.	\$11,000.00	\$11,000.00	\$13,000.00	\$13,000.00
28	PEDESTAL POLE ASSEMBLY	1	ea.	\$1,600.00	\$1,600.00	\$3,800.00	\$3,800.00
29	BBU SYSTEM (EXTERNAL BATT	1	ea.	\$7,400.00	\$7,400.00	\$8,491.00	\$8,491.00
30	UNI-DIRECTIONAL OPTICOM DETECTOR	1	ea.	\$800.00	\$800.00	\$1,210.00	\$1,210.00
31	PHASE SELECTOR	1	ea.	\$3,500.00	\$3,500.00	\$4,000.00	\$4,000.00
32	OPTICOM DETECTOR CABLE	149	l.f.	\$2.00	\$298.00	\$2.00	\$298.00
					\$114,989.00		\$162,150.00

Attachment: Bid Tabulation (Traffic Signal Installation (SH 289 st FS1))

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**SECTION 00400
EJCDC STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE**

THIS AGREEMENT is by and between City of Celina (hereinafter called OWNER) and Roadway Solutions, (hereinafter called CONTRACTOR). OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

**City of Celina
Traffic Signal Installation at SH 289 and Fire Station #1**

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Installation of signal mast arms & heads, ground boxes, conduit, wiring, a traffic signal controller & cabinet, electrical service, and signage as well as all other items not mentioned to make this a fully operational traffic signal.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by:

**Lee Engineering, L.L.C.
3030 LBJ Freeway, Suite 1660
Dallas, Texas 75234
(972) 248-3006**

which hereinafter called ENGINEER and which is to act as OWNER'S representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

Attachment: Agreement (Traffic Signal Installation (SH 289 st FS1))

A. The Work will be substantially completed within 120 calendar days after the date when the Contract Times commence to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 130 calendar days after the date when the Contract Times commence to run.

4.03 Liquidated Damages

A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidate damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$500 for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$500 for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 5.01.A below:

For all Work other than Unit Price Work, a Lump sum of: **\$114,989.00**

All specific cash allowances are included in the above price and have been computed in accordance with paragraph 11.02 of the General Conditions.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment on the last day of each month during performance of the Work as provided in paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine

or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:

- a. 95% of Work completed (with the balance being retainage).
 - b. 95% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less 100% of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

ARTICLE 7 – INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0% per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all: (1) Geotechnical Investigations, explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions.

E. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

F. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.

G. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

H. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement;
2. Performance Bond;
3. Payment Bond;
4. Maintenance Bond;
5. General Conditions;
6. Supplementary Conditions;
7. Specification as listed in the table of contents of the Project Manual;
8. Drawings;
9. Addenda;
10. Exhibits to this Agreement (enumerated as follows):
 - a. CONTRACTOR'S Bid Response;
 - b. Documentation submitted by CONTRACTOR prior to Notice of Award;
11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Written Amendments;
 - b. Work Change Directives;
 - c. Change Order(s).

B. The documents listed in paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests on the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law of Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Contractor's Certifications

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have assigned this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on _____, 2019, (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

By: _____

By: _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Attest _____

Address for giving notices:

Address for giving notices:

142 N Ohio
City of Celina, Texas 75009

Designated Representative:

Designated Representative:

Name: Jason Laumer

Name:

Title: City Manager

Title:

Address: 142 N Ohio

Address:

City of Celina, Texas 75009

Phone 972-382-2682

Phone:

Attachment: Agreement (Traffic Signal Installation (SH 289 st FS1))



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: June 11, 2019
 Re: 2019 Drainage Improvement Project

Action Requested:

Consider and act to authorize the City Manager to execute a contract between the City of Celina and Green Mound Landscape in the amount of \$303,629.43 which includes 10% contingency for the 2019 Drainage Improvements, Bid # 2019-0009. (Brawner)

Background Information

On June 6, 2019, the City received bids for bid 2019-0009 for the 2019 Drainage Improvements project. The bid invitation was advertised in the local paper and posted on the City's eProcurement system in which one hundred thirty-seven vendors were notified. Two submittals were received. Staff reviewed the bids and recommends the apparent lowest responsible bidder.

The bid for this project is in the amount of \$276,026.75. Contingency in the amount of \$27,602.68 is included to cover unexpected costs that may arise during construction.

This project consists of the of the following:

- Project A - Replacement of an existing 3-60" CMP culverts with 2-5'x5 RCB crossing CR 8 at CR 9 intersection.
- Project B - Removal and Replacement of an existing 2-24" CMP culverts crossing Elm Street east of BNSF Railroad.
- Project C - Regrading of approximately 150 LF of existing drainage channel in the Preston Hills III subdivision.
- Project D - Installation of a 2' square drop inlet with inlet protection, 47 LF of 18" RCP and grading improvements.
- Project E - Construction of sloped bank and drop structures as shown on plans. Extension of wing wall and pressure cement grout under existing sidewalk and top of wing wall. Removal of wrought iron fence on the southwest corner of lot 32Z, construction of retaining wall, filling and grading to proposed top of retaining wall and reinstall fence upon completion of the wall.

Alternatives

N/A

Financial Considerations

Funding is available in the current budget from the Drainage Fund and will be tracked as project D.

Base Bid	\$	276,026.75
Contingency	\$	<u>27,602.68</u>
Total	\$	303,629.43

Expenditures will not exceed funds appropriated. Funds will be committed at the issuance of a purchase order.

Legal Review

A standard approved agreement form is being used.

Supporting Documents

Bid tabulation

Agreement form

Staff Recommendation:

Staff recommends awarding bid 2019-0009 to \$303,629.43 in an amount not to exceed \$XX plus \$11,498.90 in contingency and to authorize the City Manager to execute the agreement.

TAB SHEET

2019-0009

2019 Drainage Project

7.F.a

Green Mound Landscape

ANA Site Construction

Total Price

\$276,026.75

Total Price

\$338,467.00

Line #	Description	QTY	UOM	Unit	Extended	Unit	Extended
1	PROJECT A	1		\$67,920.00	\$67,920.00	\$76,119.00	\$76,119.00
1.1	Mobilization	1	LS	\$2,530.00		\$3,660.00	
1.2	Prepare Right-of-Way	1	LS	\$15,540.00		\$6,900.00	
1.3	Remove and Replace Existing Gravel Pavement	65	SY	\$65.00		\$54.00	
1.4	2-5'X5' RCB	29	LF	\$1,225.00		\$1,765.00	
1.5	Trench Protection	29	LF	\$52.00		\$104.00	
1.6	6" Unreinforced Concrete	120	SY	\$65.00		\$48.00	
1.7	Hydromulch	72	SY	\$11.00		\$29.00	
2	PROJECT B	1		\$22,801.00	\$22,801.00	\$24,541.00	\$24,541.00
2.1	Mobilization	1	LS	\$863.00		\$1,220.00	
2.2	Prepare Right-of-Way	1	LS	\$11,308.00		\$6,225.00	
2.3	Remove and Replace Existing Asphaly Pavement	40	SY	\$163.00		\$170.00	
2.4	24" CMP	44	LF	\$72.00		\$118.00	
2.5	Trench Protection	22	LF	\$11.00		\$82.00	
2.6	Block Sod (Bermuda)	100	SY	\$7.00		\$33.00	
3	PROJECT C	1		\$7,052.75	\$7,052.75	\$12,172.00	\$12,172.00
3.1	Mobilization	1	LS	\$345.00		\$590.00	
3.2	Excavation, Embankment, and Grading	1	LS	\$4,678.00		\$6,640.00	
3.3	Block Sod (Bermuda)	353	SY	\$5.75		\$14.00	
4	PROJECT D	1		\$48,620.00	\$48,620.00	\$63,395.00	\$63,395.00
4.1	Mobilization	1	LS	\$1,265.00		\$3,000.00	
4.2	Excavation, Embankment, and Grading	1	LS	\$29,395.00		\$31,200.00	
4.3	Remove and Replace Existing Concrete Pavement	20	SY	\$58.00		\$220.00	
4.4	Connect to Existing Storm Sewer	1	EA	\$2,300.00		\$2,760.00	
4.5	18" RCP	47	LF	\$92.00		\$107.00	
4.6	Trench Protection	47	LF	\$10.00		\$38.00	
4.7	2' Square Drop Inlet	1	EA	\$4,255.00		\$4,380.00	
4.8	Inlet Protection	1	LS	\$115.00		\$1,560.00	
4.9	Hydromulch	4640	SY	\$1.15		\$2.00	
5	PROJECT E	1		\$129,633.00	\$129,633.00	\$162,240.00	\$162,240.00
5.1	Mobilization	1	LS	\$2,000.00		\$8,000.00	
5.2	Tree Protection Fencing	164	LF	\$11.50		\$24.00	
5.3	Channel Excavation	300	CY	\$77.00		\$101.00	
5.4	Erosion Control BMPs	1	LS	\$4,140.00		\$5,200.00	
5.5	Gabion Mattress	50	CY	\$393.00		\$429.00	
5.6	Boulder Drop Structures	3	EA	\$3,200.00		\$2,740.00	
5.7	Boulder Sloped Bank	160	TON	\$270.00		\$348.00	
5.8	Remove Existing Retaining Wall	12	SF	\$25.00		\$30.00	
5.9	Remove and Re-install Existing Iron Fence	30	LF	\$172.00		\$210.00	
5.10	Construct Small Block Retaining Wall	33	SF	\$64.00		\$78.00	
5.11	Block Sod (Bermuda)	1200	SY	\$6.00		\$7.00	
5.12	Temporary Irrigation	1	LS	\$1,685.00		\$2,070.00	
5.13	Wingwall Extension	2	EA	\$4,800.00		\$4,875.00	

Attachment: Tab Sheet by Line (2019 Drainage Improvement Project)

SECTION 00400
EJCDC STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

THIS AGREEMENT is by and between _____ (hereinafter called OWNER) and _____, (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

City of Celina
2019 DRAINAGE IMPROVEMENTS

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

- **Project A – Replace existing 3-60” CMP culverts with 2-5’x5’ RCB crossing CR 8 at CR 9 intersection.**
- **Project B – Remove and Replace existing 2-24” CMP culverts crossing E. Elms St. near BNSF Railroad intersection.**
- **Project C – Regrade approximately 150 LF of existing drainage channel in the Preston Hills III subdivision.**
- **Project D – Install a 2’ drop inlet with inlet protection, 47 LF of 18” RCP and grading improvements.**
- **Project E – Construct sloped bank and drop structures as shown on the plans. Extend wing wall and pressure cement grout under existing sidewalk and top of wing wall. Remove wrought iron fence on the southwest corner of lot 32Z, construct retaining wall, fill and grade to proposed top of retaining wall, reinstall fence upon completion of the wall.**

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by:

TRC Engineers, Inc.
700 Highlander Blvd., Suite 210
Arlington, Texas 76015
(817) 522-1000

which hereinafter called ENGINEER and which is to act as OWNER'S representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

A. The Work will be substantially completed within 90 days after the date when the Contract Times commence to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 120 days after the date when the Contract Times commence to run.

4.03 Liquidated Damages

A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidate damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$500 for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$500 for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 5.01.A below:

For all Work other than Unit Price Work, a Lump sum of: \$-----
All specific cash allowances are included in the above price and have been computed in accordance with paragraph 11.02 of the General Conditions.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment on or about the last day of each month during performance of the Work as provided in paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:
 - a. 95% of Work completed (with the balance being retainage).
 - b. 95% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less 100% of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

ARTICLE 7 – INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0% per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all: (1) Geotechnical Investigations, explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating

to existing surface or subsurface structures at or contiguous to the Site which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions.

E. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

F. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.

G. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

H. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement;
2. Performance Bond;
3. Payment Bond;
4. Maintenance Bond;
5. General Conditions;
6. Supplementary Conditions;
7. Specification;
8. Drawings;
9. Addenda;
10. Exhibits to this Agreement (enumerated as follows):
 - a. CONTRACTOR'S Bid Response;
 - b. Documentation submitted by CONTRACTOR prior to Notice of Award;
11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Written Amendments;
 - b. Work Change Directives;
 - c. Change Order(s).

B. The documents listed in paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests on the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law of Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Contractor's Certifications

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have assigned this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on June 11, 2019, (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

Attest

Address for giving notices:

Address for giving notices:

142 N. Ohio
City of Celina, Texas 75009

Attachment: 00400 - Standard Form of Agreement (2019 Drainage Improvement Project)



Engineering
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Kim Brawner, Director of Engineering
 CC: Cody Webb, Director of Parks and Recreation
 Date: June 11, 2019
 Re: 2019 Collin County Park Grant

Action Requested:

Consider and act upon a resolution of the City Council of the City of Celina hereinafter referred to as “Applicant”, designating certain officials as being responsible for action for and on behalf of the “Applicant” in dealing with Collin County, hereinafter referred to as “County”; for the purpose of participating in the “County’s” Parks and Open Space Project Funding Assistance Program. (Brawner)

Background Information:

The City of Celina has entered into a purchase agreement to purchase 52.7549 acres of property for the creation of a future community park in the northeast quadrant of the city. The proposed resolution will allow the City of Celina to apply for the 2019 Collin County Open Space Funding Assistance Program to assist in this purchase. The City will use grant funds to purchase land for future parks and recreational space.

Board Review/Citizen Input:

City of Celina Parks Board supports the grant application.

Alternatives:

Council could chose to direct staff to not proceed.

Financial Considerations:

The city will apply for approximately \$1.4 million in grant money.

Legal Review:

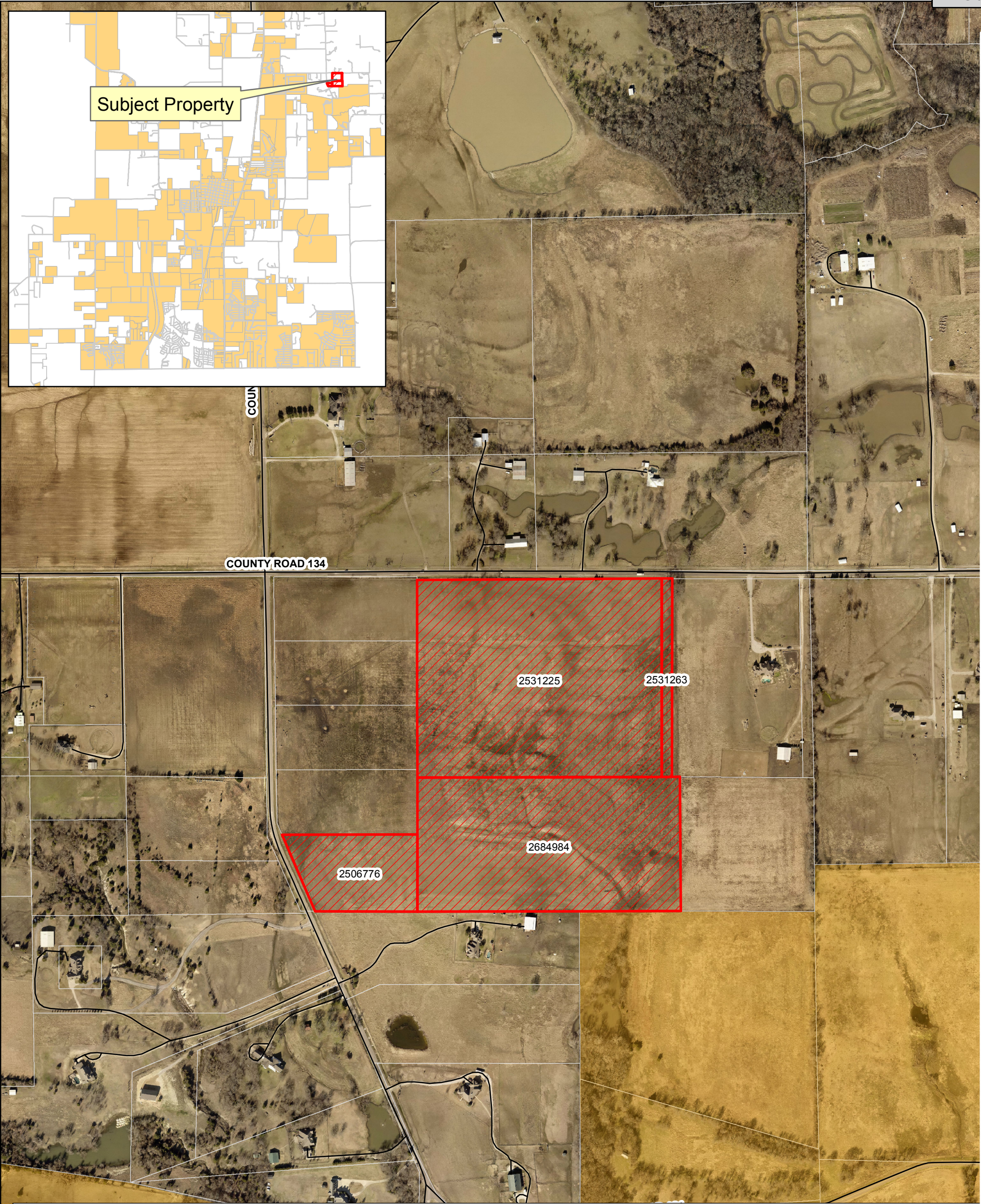
Standard Resolution language utilized. No legal review required.

Supporting Documents:

Resolution

Staff Recommendation:

Staff recommends approval of the grant resolution.



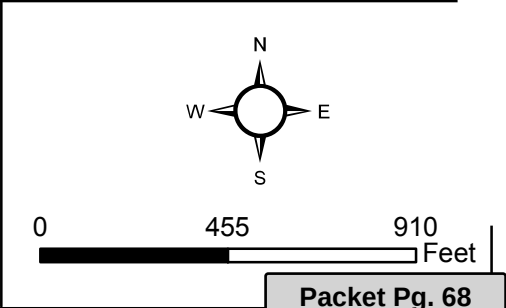
Prop ID	Owner	Address	City	State	Zip	Acres
2506776	CHAN CHI CHU & TSUN-HUEI	4120 HAMPSHIRE ST	PLANO	TX	75093-6063	5.00
2531225	CHAN CHI CHU & TSUN-HUEI	4120 HAMPSHIRE ST	PLANO	TX	75093-6063	26.50
2531263	CHAN CHI CHU & TSUN-HUEI	4120 HAMPSHIRE ST	PLANO	TX	75093-6063	1.11
2684984	CHAN CHI CHU & TSUN-HUEI	4120 HAMPSHIRE ST	PLANO	TX	75093-6063	19.29



Exhibit

Date: 6/3/2019

- Legend**
- Roads
 - Parcels
 - City Limits
 - CollinCountyParcels



RESOLUTION NO. 2019--_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA HEREINAFTER REFERRED TO AS “APPLICANT”, DESIGNATING CERTAIN OFFICIALS AS BEING RESPONSIBLE FOR ACTION FOR AND ON BEHALF OF THE “APPLICANT” IN DEALING WITH COLLIN COUNTY, HEREINAFTER REFERRED TO AS “COUNTY”; FOR THE PURPOSE OF PARTICIPATING IN THE “COUNTY’S” PARKS AND OPEN SPACE PROJECT FUNDING ASSISTANCE PROGRAM, HEREIN AFTER REFERRED TO AS THE “PROGRAM”; CERTIFYING THAT THE “APPLICANT” IS ELIGIBLE TO RECEIVE PROGRAM ASSISTANCE; CERTIFYING THAT THE “APPLICANT” MATCHING SHARE IS READILY AVAILABLE; AND DEDICATING THE PROPOSED SITE FOR PUBLIC RECREATIONAL USES.

WHEREAS, the “Applicant” is fully eligible to receive assistance under the “Program”; and

WHEREAS, the “Applicant” is desirous of authorizing an official to represent and act for the “Applicant” dealing with the “County” concerning the “Program”;

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

Section 1: That the “Applicant” hereby certifies that they are eligible to receive assistance under the “program”;

Section 2: That the “Applicant” hereby certifies that the maximum matching share of \$1,400,000.00 for this application is readily available at this time;

Section 3: That the “Applicant” hereby authorizes and directs the city manager to act for the “Applicant” in dealing with the “County”, and is hereby officially designated as the representative in this regard;

Section 4: The “Applicant” hereby specifically authorizes the official to make an application to the “County” concerning the site ABS 129 BBB & C Ry Co Survey Tract 19 (1.149 Acres), Tract 17 (27.72 Acres), Tract 30 (18.8869 Acres) for a total of 52.7549 acres. The site is hereby dedicated for a public park and recreation purposes in perpetuity.

PASSED THIS 11TH DAY OF JUNE, 2019

Sean Terry, Mayor

Vicki Faulkner, City Secretary



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: June 11, 2019
Re: Resolution accepting Wilson Creek Meadows PID Petition

Action Requested:

Consider and act upon a resolution of the City Council of the City of Celina, Texas, accepting a petition to create the Wilson Creek Meadows Public Improvement District and calling for a public hearing. (DeBuff)

Background Information:

This resolution accepts the PID petition from the Wilson Creek Meadows development, and sets a public hearing regarding the creation of the district.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this resolution.

Supporting Documents:

- Proposed resolution

Staff Recommendation:

Staff recommends approval.

**CITY OF CELINA, TEXAS
RESOLUTION NO. __**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA,
TEXAS, ACCEPTING A PETITION TO CREATE THE WILSON CREEK
MEADOWS PUBLIC IMPROVEMENT DISTRICT AND CALLING FOR A
PUBLIC HEARING.**

WHEREAS, Chapter 372 of the Texas Local Government Code (the “*Act*”) authorizes the creation of public improvement districts; and

WHEREAS, on _____, 2019, the owners of real property delivered to the City of Celina, Texas (the “*City*”) a petition (the “*Petition*”, which is attached as **Exhibit A** and incorporated herein for all purposes) meeting the requirements of the Act and indicating: (i) the owners of more than fifty percent (50%) of the appraised value of the taxable real property liable for assessment, and (ii) the owners of more than fifty percent (50%) of the area of all taxable real property liable for assessment within the District have executed the Petition requesting that the City Council create the Wilson Creek Meadows Public Improvement District (the “*District*”); and

WHEREAS, the Act states that the Petition 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; and

WHEREAS, the Act further requires that prior to the adoption of the resolution creating the District, the City Council must hold a public hearing on the advisability of the improvements, the nature of the improvements contemplated, the estimated costs of the improvements, the boundaries of the District, the method of assessment, and the apportionment, if any, of the costs between the District and the City.

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. City staff reviewed the Petition and determined that same complied with the requirements of the Act and the City Council accepts the Petition. The Petition is filed with the office of the City Secretary and is available for public inspection.

Section 3. The City Council calls a public hearing to be scheduled at or after 5:00 p.m. on _____, 2019 to be held at the regular meeting place of the City Council in Council Chambers, 112 N. Colorado Street, Celina, Texas on the advisability of the improvements, the nature of the improvements contemplated, the estimated costs of the improvements, the boundaries of the District, the method of assessment, and the apportionment, if any, of the costs between the District and the City. Attached hereto as **Exhibit B** is a form of the Notice of Public Hearing, the form and substance of which is hereby adopted and approved. All residents and property owners within the District, and all other persons, are hereby invited to appear in person, or by their attorney, and speak on the creation of the District.

Section 4. The City Council hereby authorizes and directs the City Secretary, on or before _____, 2019, in accordance with the Act, to: (a) publish notice of the public hearing in a newspaper of general circulation in the City and in the extraterritorial jurisdiction in which the proposed District is to be located; and (b) mail notice of the public hearing to the owners of property located in the proposed District as reflected on the tax rolls.

[Remainder of page left blank intentionally.]

PASSED AND APPROVED THIS THE ____ DAY OF _____, 2019.

CITY OF CELINA, TEXAS

SEAN TERRY, MAYOR

ATTEST:

VICKI FAULKNER, CITY SECRETARY

EXHIBIT A
PETITION FOR CREATION

Attachment: PID Doc 2 LEGAL-#78928-v2-Celina_Wilson_Creek_Meadows_PID_2019_-_Resolution_Accepting_PID_Creation_Petition-2

PETITION FOR THE CREATION OF A
PUBLIC IMPROVEMENT DISTRICT WITHIN THE
CORPORATE LIMITS AND EXTRATERRITORIAL JURISDICTION OF
THE CITY OF CELINA, TEXAS FOR THE WILSON CREEK MEADOWS DEVELOPMENT

This petition (the "Petition") is submitted and filed with the City Secretary of the City of Celina, Texas (the "City"), by Celina Titus, LLC a Texas limited liability company and Celina Ownsby Coit, LLC (collectively, the "Owners"), acting pursuant to the provisions of Chapter 372, Texas Local Government Code, as amended (the "Act"), requesting that the City create a public improvement district (the "District") to include property owned by the Owner and located within the corporate limits and the extraterritorial jurisdiction of the City (the "Property"), more particularly described in Exhibit A and depicted in Exhibit B. In support of this Petition, the Owners present the following:

Section 1. General Nature of the Authorized Improvements. The purposes of the District include the design, acquisition, and construction of public improvement projects authorized by §372.003(b) of the Act that are necessary for development of the Property, which public improvements will include, but not be limited to: (i) roadway improvements; storm drainage improvements; water and wastewater system 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 (collectively, the "Authorized Improvements"). These Authorized Improvements shall promote the interests of the City and confer a special benefit on the Property.

Section 2. Estimated Cost of the Authorized Improvements. The Owners estimate that the cost to design, acquire, and construct the Authorized Improvements is \$27,000,000.

Section 3. Boundaries of the Proposed District. The District is proposed to include the Property.

Section 4. Proposed Method of Assessment. The City shall levy an assessment on each lot within the District to pay the cost of the Authorized Improvements in a manner that results in imposing equal shares of the cost on property similarly benefited. Each assessment may be paid in full (including accrued and unpaid interest) without penalty at any time or may be paid in annual installments (including interest and debt). If paid in annual installments, such installments must be paid in amounts necessary to meet annual costs for the Authorized Improvements and must continue for a period necessary to retire any indebtedness on the Authorized Improvements.

Section 5. Proposed Apportionment of Cost between the District and the City. The City shall not be obligated to provide any funds to finance the Authorized Improvements. The cost of the Authorized Improvements will be paid from the assessments and from other sources of funds, if any, available to the Owners.

Section 6. Management of the District. The Owners propose that the District 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.

Section 7. Owners Request Establishment of the District. The persons signing this Petition request the establishment of the District.

Section 8. Advisory Board. The Owners propose that the District be established and managed without the creation of an advisory body.

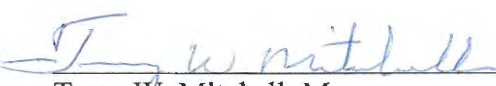
This Petition has been signed by (1) the owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and (2) record owners of real property liable for assessment under the proposal who: (A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or (B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

This Petition is hereby filed with the City Secretary of the City in support of the creation of the District by the City Council as herein provided. The undersigned requests that the City Council grant its consent as above stated.

RESPECTFULLY SUBMITTED, on this the 23 day of May, 2019.

OWNER:

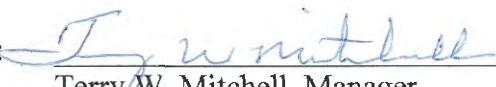
CELINA TITUS, LLC,
a Texas limited liability company

By: 

Terry W. Mitchell, Manager

OWNER:

CELINA OWNSBY COIT, LLC,
a Texas limited liability company

By: 

Terry W. Mitchell, Manager

Exhibit A
Metes and Bounds Description of the Property

LEGAL DESCRIPTION

185.8118 ACRES

BEING a tract of land situated in the McKenzie Wilhite Surveys, Abstract Numbers 1008 and 1009, the Jonathan Westover Survey, Abstract Number 1030 and the Coleman Watson Survey, Abstract Number 945, Collin County, Texas, and being all that called 60.971 acre tract of land conveyed to Celina Ownsby Coit, according to the document filed of record in Instrument Number 20180518000609810, all that called 105.79 acre tract of land conveyed to Celina Titus, LLC, according to the document filed of record in Instrument Number 20160401000388930 and all that called 19.048 acre tract of land conveyed to Celina Ownsby Coit, LLC, according to the document filed of record in Instrument Number 20180816001026240, all being from the Official Public Records Collin County, Texas, said tract being more particularly described as follows:

BEGINNING at the northwest corner of that tract of land conveyed to Christopher Wesson Bosh and Adrienne Bosh, according to the document filed of record in Document Number 20131001001373380, Official Public Records Collin County, Texas, same being the southwest corner of said 60.971 acre tract, being located in the east line of that tract of land conveyed to Tambros Land Company, LLC, according to the document filed of record in Document Number 20170106000027700, Official Public Records Collin County, Texas, from which a "PK NAIL" found for witness in Collin County Road 86 bears North 03°49'24" West, 0.50 feet;

THENCE North 00°49'54" West, generally with said road, with the west line of the above mentioned 60.971 acre tract, a portion of the east line of said Tambros tract and passing at a distance of 210.00 feet a "PK NAIL" found for the northeast corner of said Tambros tract, same being common with the southeast corner of that tract of land conveyed to Westgate 115 Investors, L.P., according to the document filed of record in Document Number 20130621000869270, Official Public Records Collin County, Texas and continuing with the east line of said Westgate tract, same being common with the west line of said 60.971 acre tract for a total distance of 2024.54 feet to a "PK nail" set in said common line for the most westerly northwest corner of said 60.971 acre tract;

THENCE North 89°30'21" East, leaving said road and common line, over and across said 60.971 acre tract, a distance of 113.00 feet to a 5/8" iron rod with red plastic cap stamped "KHA" set for an interior "ell" corner of said 60.971 acre tract;

THENCE North 00°49'54" West, a distance of 100.00 feet to a 5/8" iron rod with red plastic cap stamped "KHA" set for the most easterly northwest corner of said 60.971 acre tract and being in the south line of that tract of land conveyed to Celina Coit 49 Partners, LTD., according to the document filed of record in Document Number 20120612000700130, Official Public Records Collin County, Texas;

THENCE North 89°30'21" East, with said south line, same being common with the north line of said 60.971 acre tract, a distance of 1140.10 feet to a 1/2" iron rod found in the west line of the above mentioned 105.79 acre tract for the southeast corner of said Celina Coit 49 Partners tract and common northeast corner of the above mentioned 60.971 acre tract;

THENCE North 0°34'09" West, with the west line of said 105.79 acre tract same being the east line of said 49.25 acre tract, a distance of 748.86 feet to a 3/4 inch iron pipe found for the southerly northwest corner of said 105.79 acre tract, common to the southwest corner of a called 20.00 acre tract of land described in a deed to Grayson Collin Electric Cooperative, Inc., as recorded in Volume 5191, Page 313 of the Land Records of Collin County, Texas;

THENCE North 89°29'12" East, departing the easterly line of said 49.25 acre tract, along the northerly line of said 105.79 acre tract and the southerly line of said 20.00 acre tract, a distance of 783.89 feet to a point for the southeast corner of said 20.00 acre tract, common to an ell corner of said 105.79 acre tract, same being in the center of Wilson Creek;

THENCE North 21°13'48" West, along the westerly line of said 105.79 acre tract, the easterly line of said 20.00 acre tract, and along said creek, a distance of 38.95 feet to a point for corner;

Exhibit A
Metes and Bounds Description of the Property

THENCE North 35°29'12" East, continuing with the westerly line of said 105.79 acre tract and the easterly line of said 20.00 acre tract, along the easterly line of a called 8.626 acre tract of land described in a deed to Prosper Land Company, Ltd., as recorded in Instrument No. 20161116001556640 of the Official Public Records of Collin County, Texas, and continuing along said creek, a distance of 367.50 feet to a point for corner; **THENCE** continuing with the westerly line of said 105.79 acre tract and the easterly line of said 8.626 acre tract, with the westerly line of aforesaid southeastern 0.172 acre tract, the easterly line of a called 0.172 acre tract of land described in a deed to the County of Collin, as recorded in Volume 2383, Page 570 of the Deed Records of Collin County, Texas (described as the southwestern 0.172 acre tract from hereon), and continuing along said creek, the following courses:

North 06°29'12" East, a distance of 135.40 feet to a point for corner;

North 23°45'48" West, a distance of 206.30 feet to a point for corner;

North 14°59'48" West, a distance of 136.00 feet to a point for corner;

North 12°30'48" West, a distance of 119.98 feet to a point for corner;

THENCE North 89°42'50" East, leaving said creek, a distance of 125.00 feet to a point for corner;

THENCE North 0°17'10" West, a distance of 50.00 feet to a point for corner in the above mentioned County Road Number 88;

THENCE North 89°42'50" East, along said County Road, a distance of 1148.86 feet to a railroad spike found in said road for the northeast corner of the above mentioned 105.79 acre tract, same being the common northwest corner of a called 40.039 acre tract of land described in a deed to City Global Investment, L.L.C., as recorded in Instrument No. 20151130001493760 of the Official Public Records of Collin County, Texas and being on the south line of a called 317.729 acre tract of land described in a deed to Belknap FP, Ltd., as recorded in Volume 4288, Page 156 of the Land Records of Collin County, Texas;

THENCE South 00°27'04" East, leaving said County Road 88, with the east line of said 105.79 acre tract and the west line of said 40.039 acre tract, a distance of 2571.21 feet to the southeast corner of said 105.79 acre tract, same being common with the southwest corner of said 40.039 acre tract and being on the northerly line of a called 185.094 acre tract of land described in a deed to Brinkman Ranches of Collin County, L.P., as recorded in Volume 6067, Page 1306 of the Land Records of Collin County, Texas, from which a 1/2 inch iron rod found for witness bears South 05°02'; West, 0.2 foot

THENCE South 89°39'55" West, with the south line of said 105.79 acre tract, and generally along a fence, a distance of 1507.18 feet to a 3/4 inch iron pipe found for the northeast corner of the above mentioned 19.048 acre tract, same being common with the northwest corner of a called 185.094 acre tract of land conveyed to Brinkman Ranches of Collin County, L.P., according to the document filed of record in Volume 6067, Page 1306 of the Land Records of Collin County, Texas;

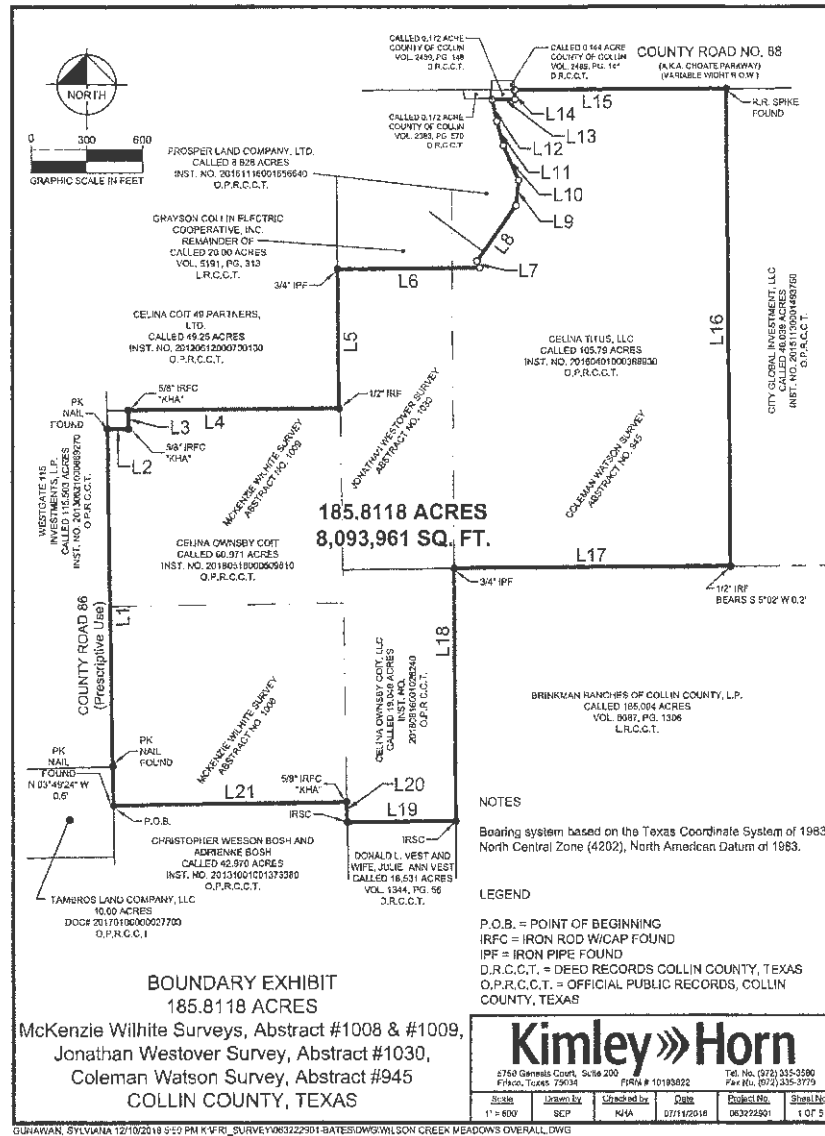
THENCE South 00°19'07" East, leaving the south line of said 105.79 acre tract, with the east line of said 19.048 acre tract, same being common with the west line of said 185.094 acre tract and generally along a fence, a distance of 1360.48 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of said 19.048 acre tract and common northeast corner of a called 18.531 acre tract of land described in a deed to Donald L. Vest and wife, Julie Ann Vest, as recorded in Volume 1344, Page 66 of the Deed Records of Collin County, Texas;

THENCE South 89°24'52" West, along the south line of said 19.048 acre tract and common north line of said 18.531 acre tract, generally along a fence, a distance of 599.52 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set in the east line of the above mentioned Christopher Wesson Bosh and Adrienne Bosh tract, for the southwest corner of said 19.048 acre tract and being common with the northwest corner of said 18.531 acre tract;

THENCE North 1°01'45" West, with said east line, same being common with the west line of said 19.048 acre tract, a distance of 108.16 feet to a 5/8" iron rod with plastic cap stamped "KHA" found in said west line for the northeast corner of said Christopher Wesson Bosh and Adrienne Bosh tract, same being common with the southeast corner of the above mentioned 60.971 acre tract;

THENCE South 89°15'31" West, leaving said west line, with the north line of said Christopher Wesson Bosh and Adrienne Bosh tract, same being the common south line of said 60.971 acre tract, a distance of 1261.77 feet to the **POINT OF BEGINNING** and containing 8,093,961 square feet or 185.8118 acres of land, more or less.

Exhibit B **Depiction of the Property**



LINE TABLE		
NO.	BEARING	LENGTH
L1	N00°49'54"W	2024.54'
L2	N89°30'21"E	113.00'
L3	N00°49'54"W	100.00'
L4	N89°30'21"E	1140.10'
L5	N00°34'09"W	748.86'
L6	N89°29'12"E	783.89'
L7	N21°13'48"W	38.95'
L8	N35°29'12"E	367.50'
L9	N06°29'12"E	135.40'
L10	N23°45'48"W	206.30'
L11	N14°59'48"W	136.00'
L12	N12°30'48"W	119.98'
L13	N89°42'50"E	125.00'
L14	N00°17'10"W	50.00'
L15	N89°42'50"E	1148.86'
L16	S00°27'04"E	2571.21'
L17	S89°39'55"W	1507.18'
L18	S00°19'07"E	1360.48'
L19	S89°24'52"W	599.52'
L20	N01°01'45"W	108.16'
L21	S89°15'31"W	1261.77'

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

LEGEND
P.O.B. = POINT OF BEGINNING
IRFC = IRON ROD W/ CAP FOUND
IPF = IRON PIPE FOUND
D.R.C.C.T. = DEED RECORDS COLLIN COUNTY, TEXAS
O.P.R.C.C.T. = OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS

EXHIBIT B

CITY OF CELINA, TEXAS NOTICE OF PUBLIC HEARING REGARDING THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT

Pursuant to Section 372.009(c) and (d) of the Texas Local Government Code, as amended, notice is hereby given that the City Council of the City of Celina, Texas (“Celina”), will hold a public hearing to accept public comments and discuss the petition (the “Petition”), filed by Celina Titus, LLC a Texas limited liability company and Celina Ownsby Coit, LLC, (collectively, the “Owners”), requesting that Celina create the Wilson Creek Meadows Public Improvement District (the “District”) to include property owned by the Petitioner.

Time and Place of the Hearing. The public hearing will start at or after 5:00 p.m. on _____, 2019 at the regular meeting place of the City Council of the City in Council Chambers, 112 N. Colorado Street, Celina, Texas 75009.

General Nature of the Proposed Authorized Improvements. The purposes of the District include the design, acquisition, construction, and improvement of public improvement projects authorized by the Public Improvement District Assessment Act, codified as Chapter 372, Texas Local Government Code, as amended (the “Act”), that are necessary for the development of the property within the District, which public improvements may include, but not be limited to: (i) roadway improvements; storm drainage improvements; water and wastewater system 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 (collectively, the “Authorized Improvements”). These Authorized Improvements shall promote the interests of the City and confer a special benefit on the Property.

Estimated Cost of the Authorized Improvements. The estimated cost to design, acquire and construct the Authorized Improvements, including eligible costs related to the establishment, administration and operation of the District and expenses associated with financing Authorized Improvements is \$27,000,000.

Proposed District Boundaries. The District is proposed to include approximately 185.8118 acres of land generally located north of Collin County Road 84, on the south side of Collin County Road 88, east of Collin County Road 86 and west of F.M. 2478; and, as more particularly described by a metes and bounds description available at Celina City Hall located at 142 N. Ohio Street, Celina, Texas 75009 and available for public inspection during regular business hours.

Proposed Method of Assessment. Celina 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).

Proposed Apportionment of Cost between the District and Celina. Celina will not be obligated to provide any funds to finance the Authorized Improvements, other than from assessments levied on the District property and possible tax increment reinvestment zone revenue. No municipal property in the District shall be assessed. The Petitioner may also pay certain costs of the improvements from other funds available to it as developer of the District.



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: June 11, 2019
Re: Glen Crossing West Costs Determining Resolution

Action Requested:

Consider and act upon a resolution of the City of Celina, Texas determining the costs of authorized improvements to be financed within the Glen Crossing West Public Improvement District; approving a preliminary service plan and assessment plan, including proposed assessment roll; directing the filing of the proposed assessment roll with the City Secretary to make available for public inspection; noticing a public hearing for July 9, 2019 to consider an ordinance levying assessments on benefitted property located within Glen Crossing West Public Improvement District; directing city staff to publish and mail notice of said public hearing. (Glen Crossing West PID Costs Determining Resolution) (DeBuff)

Background Information:

This resolution outlines the costs of improvements to be financed by the Glen Crossing West PID, and calls a public hearing for July 9, 2019 to levy assessments on the PID property.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this resolution.

Supporting Documents:

- Proposed resolution

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF CELINA, TEXAS DETERMINING THE COSTS OF AUTHORIZED IMPROVEMENTS TO BE FINANCED WITHIN THE GLEN CROSSING WEST PUBLIC IMPROVEMENT DISTRICT; APPROVING A PRELIMINARY SERVICE PLAN AND ASSESSMENT PLAN, INCLUDING PROPOSED ASSESSMENT ROLL; DIRECTING THE FILING OF THE PROPOSED ASSESSMENT ROLL WITH THE CITY SECRETARY TO MAKE AVAILABLE FOR PUBLIC INSPECTION; NOTICING A PUBLIC HEARING FOR JULY 9, 2019 TO CONSIDER AN ORDINANCE LEVYING ASSESSMENTS ON BENEFITTED PROPERTY LOCATED WITHIN GLEN CROSSING WEST PUBLIC IMPROVEMENT DISTRICT; DIRECTING CITY STAFF TO PUBLISH AND MAIL NOTICE OF SAID PUBLIC HEARING; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED THERETO.

WHEREAS, the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended (the "**PID Act**") authorizes the City of Celina, Texas (the "**City**") to create a public improvement district within the City; and

WHEREAS, pursuant to a resolution approved by the City Council (the "**City Council**") of the City on May 28, 2019 (the "**Authorization Resolution**"), the City has created the "Glen Crossing West Public Improvement District" (the "**District**"); and

WHEREAS, the Authorization Resolution estimated the total costs to design, acquire, and construct certain public improvement projects authorized by the PID Act for the benefit of the property within the District (the "**Authorized Improvements**"), including payment of expenses to finance such Authorized Improvements such as eligible legal and financial fees and expenses incurred in the establishment, administration and operation of the District, to be \$1,035,663 and states that such costs shall be paid by assessments levied on the Property within the District; and

WHEREAS, the City Council and the City staff have been presented a preliminary service and assessment plan, including the Proposed Assessment Roll (as defined herein) attached thereto (collectively, the "**Preliminary SAP**"), dated June 11, 2019, that describes the Authorized Improvements to be constructed for the benefit of property within the District and the proposed assessments to be levied on property within the District that benefit from such Authorized Improvements. A copy of Preliminary SAP is (i) attached hereto as **Exhibit A**, (ii) is incorporated herein for all purposes, (iii) identifies the costs of the Authorized Improvements to be constructed for the benefit of the assessed property within the District, and (iv) sets forth the proposed assessment roll for the assessed property in the District (the "**Proposed Assessment Roll**"); and

WHEREAS, the Preliminary SAP sets forth the estimated total costs of certain Authorized Improvements to be financed by the District and the Proposed Assessment Roll states the assessments proposed to be levied against each parcel in the District as determined by the method of assessment chosen by the City and set forth in the Preliminary SAP; and

WHEREAS, the PID Act requires that the Proposed Assessment Roll be filed with the City Secretary of the City (the "**City Secretary**") and be subject to public inspection; and

WHEREAS, the PID Act requires that a public hearing (the "**Assessment Hearing**") be called to consider proposed assessments against the benefitted property within the District and requires the City Council to hear and pass on any objections to the proposed assessments at, or on the adjournment of, the Assessment Hearing; and

WHEREAS, the PID Act requires that notice of the Assessment Hearing be mailed to property owners liable for assessment and published in a newspaper of general circulation in the City before the tenth (10th) day before the date of the Assessment Hearing.

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

SECTION 1. The recitals set forth above in this Resolution are true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2. The City Council does hereby accept the Preliminary SAP for the District, including the Proposed Assessment Roll, in a form substantially similar to the attached **Exhibit A**, which final form shall be approved by the City Manager and the City's land use attorney, and which is incorporated herein for all purposes. All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Preliminary SAP.

SECTION 3. The City Council hereby determines that the total costs of the Authorized Improvements to be financed by the District are as set forth in Table III-A of the Preliminary SAP.

SECTION 4. The City Council's final determination and approval of the costs of the Authorized Improvements, or any portion thereof, shall be subject to and contingent upon City Council approval of a final Service and Assessment Plan which will include a final Assessment Roll, after the properly noticed and held Assessment Hearing.

SECTION 5. The Proposed Assessment Roll states the assessments and the projected annual installments proposed to be levied against each parcel of land in the District that benefits from the Authorized Improvements as determined by the method of assessment chosen by the City in the Authorization Resolution and as more fully described in the Preliminary SAP.

SECTION 6. The City Council hereby authorizes and directs the filing of the Proposed Assessment Roll with the City Secretary and directs the City Secretary to make the same available for public inspection.

SECTION 7. The City Council hereby authorizes, and calls, a public hearing (the Assessment Hearing, as defined above) to be held on **July 9, 2019, at or after 5:00 p.m.** at the meeting place of the City Council in the Celina Independent School District Administration Building located at 205 S. Colorado Street, Celina, Texas 75009, at which, the City Council shall, among other actions, hear and pass on any objections to the proposed assessments, and, upon the adjournment of the Assessment Hearing, the City Council will consider an ordinance levying the assessments as special assessments on property located within the District that benefits from the Authorized Improvements and which ordinance shall specify the method of payment of the assessments.

SECTION 8. The City Council hereby authorizes and directs the City Secretary to publish notice of the Assessment Hearing to be held on **July 9, 2019**, in substantially the form attached hereto as **Exhibit B** and incorporated herein for all purposes, in the *Celina Record*, a newspaper of general circulation in the City, on or before **June 27, 2019**, as required by Section 372.016(b) of the PID Act.

SECTION 9. When the Proposed Assessment Roll is filed with the City Secretary, the City Council hereby authorizes and directs the City Secretary, on or before **June 27, 2019**, to mail to owners of property liable for the proposed assessments notice of the Assessment Hearing to be held on **July 9, 2019**, as required by Section 372.016(c) of the PID Act.

SECTION 10. City staff is authorized and directed to take such other actions as are required (including, but not limited to, notice of the public hearing as required by the Texas Open Meetings Act) to place the public hearing on the agenda for the **July 9, 2019** meeting of the City Council.

SECTION 11. This Resolution shall become effective from and after its date of passage in accordance with law.

ADOPTED, PASSED, AND APPROVED on this the ____ day of _____, 2019.

CITY OF CELINA, TEXAS

Mayor

ATTEST:

City Secretary

(City Seal)

Attachment: 2019.002.007a - LEGAL-#81093-v1-Celina Glen Crossing West PID 2019 -

EXHIBIT A

PRELIMINARY SERVICE AND ASSESSMENT PLAN

Attachment: 2019.002.007a - LEGAL-#81093-v1-Celina Glen Crossing West PID 2019 -

DRAFT

GLEN CROSSING WEST
PUBLIC IMPROVEMENT DISTRICT
PRELIMINARY SERVICE AND ASSESSMENT PLAN

MAY 30, 2019 DRAFT

GLEN CROSSING PUBLIC IMPROVEMENT DISTRICT
PRELIMINARY SERVICE AND ASSESSMENT PLAN

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SECTION I PLAN DESCRIPTION AND DEFINED TERMS

A. Introduction

On May 28, 2019 (the "Creation Date") the City Council (the "City Council") of the City of Celina, Texas (the "City") passed and approved Resolution No. _____ approving and authorizing the creation of the "Glen Crossing West Public Improvement District"(the "PID") to finance the costs of certain public improvements for the benefit of property in such public improvement district (the "Authorized Improvements"), all of which is located within the corporate limits of the City.

The property in the PID is proposed to be developed in one phase. Assessments will be imposed on the property that receives a special benefit from the public improvements to be financed.

Chapter 372 of the Texas Local Government Code, the "Public Improvement District Assessment Act" (as amended, the "PID Act"), governs the creation and operation of public improvement districts within the State of Texas. This Glen Crossing West Public Improvement District Preliminary Service and Assessment Plan (the "Service and Assessment Plan") has been prepared in accordance with the PID Act and specifically Sections 372.013, 372.014, 372.015 and 372.016, which address the requirements of a service and assessment plan and the assessment roll. According to Section 372.013 of the PID Act, a service plan "must cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements. The plan shall be reviewed and updated annually for the purpose of determining the annual budget for improvements." The service plan is described in Section IV of this Service and Assessment Plan.

Section 372.014 of the PID Act requires that "an assessment plan must be included in the annual service plan." The assessment plan is described in Section V of this Service and Assessment Plan.

Section 372.015 of the PID Act requires that "the governing body of the municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district." The method of assessing the Authorized Improvement Costs and apportionment of such costs to the property in the PID is included in Section V of this Service and Assessment Plan.

Section 372.016 of the PID Act requires that "after the total cost of an improvement is determined, the governing body of the municipality or county shall prepare a proposed assessment roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality or county under this subchapter." The Assessment Roll for the PID is included in this Service and Assessment Plan. The Assessments as shown on the Assessment Roll are based on the method of assessment and apportionment of costs described in Section V of this Service and Assessment Plan.

B. Definitions

Capitalized terms used herein shall have the meanings ascribed to them as follows:

“Actual Cost(s)” means, with respect to an Authorized Improvement, the demonstrated, reasonable, allocable, and allowable costs of constructing such Authorized Improvement. Actual Cost may include (a) the costs for the design, planning, financing, administration, management, acquisition, installation, construction and/or implementation of such Authorized Improvement, including general contractor construction management fees, if any, (b) the costs of preparing the construction plans for such Authorized Improvement, (c) the fees paid for obtaining permits, licenses or other governmental approvals for such Authorized Improvement, (d) the costs for external professional costs associated with such Authorized Improvement, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, taxes (property and franchise) (e) the costs of all labor, bonds and materials, including equipment and fixtures, incurred by contractors, builders and material men in connection with the acquisition, construction or implementation of the Authorized Improvements, (f) all related permitting, zoning and public approval expenses, architectural, engineering, legal, and consulting fees, financing charges, taxes, governmental fees and charges (including inspection fees, County permit fees, development fees), insurance premiums, miscellaneous expenses, and all advances and payments for Annual Collection Costs.

Actual Costs may include general contractor’s fees in an amount up to a percentage equal to the percentage of work completed and accepted by the City or construction management fees in an amount up to five percent of the eligible Actual Costs described in a Certification for Payment. The amounts expended on legal costs, taxes, governmental fees, insurance premiums, permits, financing costs, and appraisals shall be excluded from the base upon which the general contractor and construction management fees are calculated.

“Administrator” means the employee or designee of the City, identified in any indenture of trust relating to a series of Bonds or identified in any other agreement approved by the City Council, who shall have the responsibilities provided for herein.

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

collection of amounts to pay Annual Collection Costs.

“Annual Installment” means, with respect to each Parcel, each annual payment of: (i) the Assessments, as shown on the Assessment Roll attached hereto as Appendix E or in an Annual Service Plan Update and calculated as provided in Section VI of this Service and Assessment Plan, and (ii) the Annual Collection Costs.

“Annual Service Plan Update” has the meaning set forth in the second paragraph of Section IV of this Service and Assessment Plan.

“Assessed Property” means any property that benefits from the Authorized Improvements within the PID on which Assessments have been imposed as shown in the Assessment Roll, as the Assessment Roll is updated each year by the Annual Service Plan Update. Assessed Property includes Parcels within the PID other than Non-Benefited Property.

“Assessment” means an assessment levied against a Parcel imposed pursuant to an Assessment Ordinance and the provisions herein, as shown on any Assessment Roll, subject to reallocation upon the subdivision of such Parcel or reduction according to the provisions herein and the PID Act. An Assessment for a Parcel consists of the Annual Installments to be collected in all years and amounts collected to pay Annual Collection Costs and interest on all Assessments.

“Assessment Ordinance” means an Assessment Ordinance adopted by the City Council approving the Service and Assessment Plan (including amendments or supplements to the Service and Assessment Plan) and levying the Assessments.

“Assessment Revenues” mean the revenues actually received by or on behalf of the City from the collection of Assessments.

“Assessment Roll” or **“Assessment Rolls”** means collectively or separately, as applicable, the Assessment Roll included in this SAP as Appendix E, or any other Assessment Roll in an amendment or supplement to this Service and Assessment Plan or in an Annual Service Plan Update, as each may be updated, modified, or amended from time to time in accordance with the procedures set forth in this SAP and in the PID Act.

“Authorized Improvements” mean those public improvements described in Appendix B of this Service and Assessment Plan and Section 372.003 of the PID Act, acquired, constructed and installed in accordance with this Service and Assessment Plan, and any future updates and/or amendments.

“Authorized Improvement Costs” mean the actual or budgeted costs, as applicable, of all or any portion of the Authorized Improvements, as shown in Appendix B.

“Bonds” mean any bonds issued by the City in one or more series and secured in whole or in part by the Assessment Revenues. At this time, the City and the Developer do not anticipate that Bonds will be issued.

“Budgeted Cost(s)” means the amounts budgeted to construct the Authorized Improvements as used in the preparation of this Service and Assessment Plan.

“Certification for Payment” means the certificate to be provided by the Developer, or his designee, to substantiate the Actual Cost of one or more Authorized Improvements, which may be in segments or sections.

“City” means the City of Celina, Texas.

“City Council” means the duly elected governing body of the City.

“County” means Collin County, Texas.

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

“Developer” means Wynne Jackson, Inc., a Texas corporation or other entity affiliated with Wynne Jackson, Inc. responsible for the development of all or a portion of the property within the PID.

“Development Agreement” means that certain "Development Agreement" relating to the PID executed by and between the Developer and the City effective October 9, 2018, as the same may be amended from time to time.

“Equivalent Units” mean, as to any Parcel the number of dwelling units by lot type expected to be built on the Parcel multiplied by the factors calculated and shown in Appendix D attached hereto.

“Homeowner Association” means a homeowners’ association or property owners’ association established for the benefit of property owners within the PID.

“Homeowners’ Association Special Assessment Allocation” means 1% of the total Assessment that will be reallocated to cover the benefit received by the Homeowner’s Association from the Authorized Improvements benefitting the Homeowner Association Property once the Homeowner Association is created within the PID.

“Homeowner Association Property” or **“(HOA Property)”** means property within the PID owned by or irrevocably offered for dedication to, whether in fee simple or through an easement, a homeowners’ association established for the benefit of a group of homeowners or property owners.

“Lot” means a tract of land described as a “lot” in a subdivision plat recorded in the official public records of Collin County, Texas.

“Lot Type” means a classification of final building lots with similar characteristics (e.g. commercial, light industrial, multifamily residential, single family residential, etc.), as determined by the Administrator and confirmed by the City Council. In the case of single family residential lots, the Lot Type shall be further defined by classifying the residential lots by the estimated final average home value for each lot as of the date of the recorded subdivision plat, considering factors such as density, lot size, proximity to amenities, view premiums, location, and any other factors that may impact the average home value on the lot, as determined by the Administrator and confirmed by the City Council.

“Lot Type 1” means lots identified as such on the Assessment Roll, being lots typically with a size of approximately 6,000 square feet and a lot width of 50 feet.

“Non-Benefited Property” means Parcels that accrue no special benefit from the Authorized Improvements, including Public Property and easements that create an exclusive use for a public utility provider to the extent they accrue no special benefit from the Authorized Improvements. Property identified as Non-Benefited Property at the time the Assessments are (i) imposed or (ii) reallocated pursuant to a subdivision of a Parcel is not assessed. Assessed Property converted to Non-Benefited Property, if the Assessments may not be reallocated pursuant to the provisions herein, remains subject to the Assessments and requires the Assessments to be prepaid as provided for in Section VI(C).

“Parcel” or **“Parcels”** means a parcel or parcels within the PID identified by either a tax map identification number assigned by the Collin Central Appraisal District for real property tax purposes or by lot and block number in a final subdivision plat recorded in the official public records for real property in Collin County.

“PID” has the meaning set forth in Section I(A) of this Service and Assessment Plan.

“PID Act” means Texas Local Government Code Chapter 372, Public Improvement District Assessment Act, Subchapter A, Public Improvement Districts, as amended.

“PID Reimbursement Agreement” means that certain PID Reimbursement Agreement, dated _____, by and between the City and the Developer in which the Developer agrees to fund certain Actual Costs of Authorized Improvements and the City agrees to reimburse the Developer for a portion of such Actual Costs funded by the Developer with interest as permitted by the PID Act.

“Prepayment Costs” mean interest and expenses to the date of prepayment, plus any additional expenses related to the prepayment allowed by applicable law, reasonably expected to be incurred by or imposed upon the City as a result of any prepayment of an Assessment.

“Public Property” means property within the boundaries of the PID that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, Collin County, the City, a school district or any other public agency, whether in fee simple or through an exclusive use easement.

“Service and Assessment Plan” means this Service and Assessment Plan prepared for the PID pursuant to the PID Act, as the same may be amended from time to time.

“Trust Indenture” means an indenture of trust, ordinance or similar document setting forth the terms and other provisions relating to the Bonds, as modified, amended, and/or supplemented from time to time.

“Trustee” means the fiscal agent or trustee as specified in a Trust Indenture, including a substitute fiscal agent or trustee.

SECTION II PROPERTY INCLUDED IN THE PID

A. Property Included in the PID

The PID is presently located within the City and contains approximately 29.306 acres of land and is projected to consist of 57 single family residential units as further described in Section III. A map of the property within the PID and depicting the boundaries of the PID is shown on Appendix A to this Service and Assessment Plan.

At completion, the PID is expected to consist of approximately 57 single family residential units, landscaping, and infrastructure necessary to provide roadways, drainage, and utilities to the single-family lots. The estimated number of lots (57) and the classification of each lot are based upon the proposed development plan.

The property within the PID is proposed to be developed as follows:

Table II-A
Updated Proposed Development

Proposed Development Type	Quantity	Measurement
Single Family Residential – 50 Feet	57	units
Total	57	units

The estimated number of units at the build-out of the PID is based on the proposed land use approvals for the property, the anticipated subdivision of property in the PID, and the Developer's estimate of the highest and best use of the property within the PID.

[Remainder of page intentionally left blank.]

Section III DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

A. Authorized Improvement Overview

Section 372.003 of the PID Act defines the improvements that may be undertaken by a municipality or county through the establishment of a public improvement district, as follows:

372.003. Authorized Improvements

(a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.

(b) A public improvement may include:

- (1) landscaping;
- (2) erection of fountains, distinctive lighting, and signs;
- (3) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of way;
- (4) construction or improvement of pedestrian malls;
- (5) acquisition and installation of pieces of art;
- (6) acquisition, construction, or improvement of libraries;
- (7) acquisition, construction, or improvement of off-street parking facilities;
- (8) acquisition, construction, improvement, or rerouting of mass transportation facilities;
- (9) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;
- (10) the establishment or improvement of parks;
- (11) projects similar to those listed in Subdivisions (1)-(10);
- (12) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (13) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; [and]
- (14) payment of expenses incurred in the establishment, administration and operation

of the district.

Attachment: 2019.002.007a - LEGAL-#81093-v1-Celina Glen Crossing West PID 2019 -

B. Description of the Authorized Improvements

The Authorized Improvements will benefit the Assessed Property. The descriptions of the Authorized Improvements are presented below, and the Budgeted Costs of the Authorized Improvements are shown in Table III-A. The Budgeted Costs shown in Table III-A may be revised in an Annual Service Plan Update as needed.

- ***Road Improvements:***
 - The road improvements include construction of road improvements, including related paving, drainage, curbs, gutters, sidewalks, retaining walls, signage, and traffic control devices. The road improvements will provide street access to each lot as well as access to community roadways and state highways. All roadway projects will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.
- ***Water Distribution System Improvements:***
 - The water distribution system improvements consist of construction and installation of on-site water lines, mains, pipes, valves and appurtenances, necessary for the water distribution system, as well as related testing, trench safety and erosion protection, necessary to service the Assessed Property. The water distribution system improvements will extend water service to the boundaries of the PID and to all lots within the PID. The water distribution system improvements will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.
- ***Sanitary Sewer Improvements:***
 - The sanitary sewer improvements consist of construction and installation of on-site pipes, service lines, manholes, encasements and appurtenances necessary to provide sanitary sewer service to the Assessed Property. The sanitary sewer improvements will extend wastewater service to the boundaries of the PID and to all lots within the PID. The sanitary sewer improvements will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.
- ***Storm Drainage Improvements:***
 - The storm drainage improvements consist of construction and installation of pipes, inlets, manholes, detention ponds and appurtenances necessary to provide storm drainage to the Assessed Property. The storm drainage improvements will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City.
- ***Park and Open Space Improvements:***
 - The park and open space improvements consist of construction and installation of landscaping, trails, and related improvements. The park and open space improvements will be designed and constructed in accordance with City standards and specifications and will be owned by the City either by fee or through a public use easement and maintained by the Homeowners' Association.

Additional details of the Authorized Improvements are shown in Appendix B attached to this Service and Assessment Plan. The method of cost allocation is explained in Section V (C).

The Budgeted Costs shown in Tables III-A may be revised in Annual Service Plan Updates. The detailed costs of the Authorized Improvements are shown in Appendix B to this Service and Assessment Plan. Savings from one line-item may be applied to a cost increase in another line-item. These savings may be applied only to increases in costs of the Authorized Improvements (i.e., the improvements for the benefit of property within the PID).

Table III-A
Authorized Improvement Costs

Roadway improvements	\$ 349,919
Water distribution system improvements	\$51,325
Sanitary sewer improvements	\$92,621
Storm drainage improvements	\$280,247
Park and open space improvements	\$35,000
Other soft, contingency and miscellaneous costs	\$226,551
Total	\$ 1,035,663

Other Improvements:

Additionally, concurrently with the construction of the Authorized Improvements, the Developer began constructing certain improvements within the PID including grading, water and sewer services, franchise utility services, landscaping and other miscellaneous items related to the Private Improvements (collectively, the “Private Improvements”) to serve the PID. The Private Improvements are expected to be complete shortly after the completion of the Authorized Improvements. The costs of such Private Improvements have been or will be paid entirely by the Developer without any reimbursement from Assessment Revenue derived from Assessments levied on property within the PID.

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SECTION IV SERVICE PLAN

A. Sources and Uses of Funds

The PID Act requires the service plan to cover a period of at least five years. The service plan is required to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within the PID during the five-year period.

The Budgeted Costs for the Authorized Improvements plus payment of expenses incurred in the establishment, administration and operation of the PID are \$ _____ as shown in Table IV-A. The service plan shall be reviewed and updated at least annually for the purpose of determining the annual budget for Annual Collection Costs, updating the Actual Costs of the Authorized Improvements, and updating the Assessment Roll. Any update to this Service and Assessment Plan is herein referred to as an “Annual Service Plan Update.”

Table IV-A summarizes the sources and uses of funds required to construct the Authorized Improvements to be financed initially by the Developer who will be reimbursed under the terms of the PID Reimbursement Agreement, including Budgeted Costs related to establishing the PID. The sources and uses of funds shown in Table IV-A shall be updated each year in the Annual Service Plan Update to reflect any budget revisions and changes in Actual Costs.

The City reserves the right to issue Bonds secured by the Assessment Revenues to finance (or refinance) all or a portion of costs of the Authorized Improvements.

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Table IV A
Sources and Uses

Sources of Funds	Authorized Improvements (PID)	Other Improvements (Non-PID)	Total Amounts
PID Reimbursement Agreement	\$1,035,663	\$0	\$1,035,663
<i>Subtotal</i>	\$1,035,663	\$0	\$1,035,663
Other funding	\$0	\$0	\$0
Total Sources for Authorized Improvements	\$1,035,663	\$0	\$1,035,663
Other funding sources – Private Improvements	\$0	\$465,449	\$465,449
Total Sources	\$1,035,663	\$470,569	\$1,501,112
Uses of Funds			
Authorized Improvements			
Road improvements	\$349,919	\$0	\$349,919
Water distribution system improvements	\$51,325	\$0	\$51,325
Sanitary sewer improvements	\$92,621	\$0	\$92,621
Storm drainage improvements	\$280,247	\$0	\$280,247
Parks and open space improvements	\$35,000	\$0	\$35,000
Other soft and miscellaneous costs	\$226,551	\$0	\$226,551
<i>Subtotal</i>	\$1,035,663	\$0	\$1,035,663
Private Improvements			
City Parks Fee	\$0	\$85,000	\$85,000
City Technology Impact Fee	\$0	\$28,500	\$28,500
Other private improvements	\$0	\$346,949	\$346,949
<i>Subtotal</i>	\$0	\$460,149	\$460,449
PID establishment/ operation	\$0	\$0	\$0
<i>Subtotal</i>	\$0	\$5,000	\$5,000
Total Uses	\$1,035,663	\$465,449	\$1,501,112

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Attachment: 2019.002.007a - LEGAL-#81093-v1-Celina Glen Crossing West PID 2019 -

The annual projected costs and annual projected indebtedness is shown by Table IV-B. The annual projected costs and indebtedness is subject to revision and each shall be updated in the Annual Service Plan Update to reflect any changes in the costs or indebtedness expected for each year.

TABLE IV-B
Annual Projected Costs and Annual Projected Indebtedness

Year	Annual Projected Cost	Annual Projected Indebtedness
2019	\$750,555	\$517,831
2020	\$750,557	\$517,832
2021	\$0	\$0
2022	\$0	\$0
2023	\$0	\$0
Total	\$1,501,112	\$1,035,663

The annual projected costs shown in Table IV-B are the annual expenditures relating to the Authorized Improvements shown in Table III-A and the costs associated with creating the PID. The difference between the annual projected cost and the annual projected indebtedness, and between the annual projected indebtedness and the principal amount of the bonds each represent an amount funded by the Developer and will not be reimbursed from Assessment Revenue derived from Assessments levied on property within the PID.

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SECTION V ASSESSMENT PLAN

A. Introduction

The PID Act requires the City Council to apportion the costs of the Authorized Improvements on the basis of special benefits conferred upon the property because of the Authorized Improvements. The PID Act provides that the costs of the Authorized Improvements may be assessed: (i) equally per front foot or square foot; (ii) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or (iii) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The PID Act further provides that the governing body may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed and the methods of assessing the special benefits for various classes of improvements.

For purposes of this Service and Assessment Plan, the City Council has determined that the costs of the Authorized Improvements shall be allocated as described below:

1. The Authorized Improvement Costs shall be allocated on the basis of the relative value of Parcels once such property is developed, and that such method of allocation will result in the imposition of equal shares of the costs of the Authorized Improvements to Parcels similarly benefited.
2. The City Council has concluded that as all lots are of the same relative size and value, and that the homes that will be built on all the lots are likely to receive the same benefit from the Authorized Improvements. In determining the relative values of Parcels, the City Council has taken into consideration (i) the type of development (i.e., residential, commercial, etc.), (ii) single-family lot sizes and the size of homes likely to be built on lots of different sizes, (iii) current and projected home process provided by the Developer, (iv) the Authorized Improvements to be provided and the estimated costs, and (v) the ability of different property types to utilize and benefit from the Authorized Improvements.
3. The Assessed Property is classified into a single Lot Type as shown in Appendix D based on the type and size of proposed development on each Parcel.
4. Equivalent Units are calculated for each Lot Type based on the relative value of each Lot Type.
5. The Authorized Improvement costs less the Homeowner Association Special Assessment Allocation are allocated to each Parcel within the Assessed Property based on the total Equivalent Units estimated for each Parcel.

This section of this Service and Assessment Plan currently (i) describes the special benefit received by each Parcel of Assessed Property as a result of the Authorized Improvements, (ii) provides the basis and justification for the determination that this special benefit exceeds the amount of the Assessments to be levied on the Assessed Property, and (iii) establishes the methodologies by which the City Council allocates and reallocates the special benefit to the Assessed Property of the Authorized Improvements in a manner that results in equal shares of the Actual Costs of such improvements being apportioned to Assessed Property similarly benefited. The determination by

the City Council of the assessment methodologies set forth below is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners and developers of the Assessed Property.

B. Special Benefit

Assessed Property must receive a direct and special benefit from the Authorized Improvements, and this benefit must be equal to or greater than the amount of the Assessments. The Authorized Improvements are provided specifically for the benefit of the Assessed Property. The Authorized Improvements (more particularly described in line-item format in Appendix B to this Service and Assessment Plan) and the costs of issuance and payment of costs incurred in the establishment of the PID shown in Table IV-A are authorized by the PID Act. These Authorized Improvements are provided specifically for the benefit of the Assessed Property.

Each owner of the Assessed Property has acknowledged that the Authorized Improvements confer a special benefit on the Assessed Property and has consented to the imposition of the Assessments to pay for the Actual Costs associated therewith. Each of the owners is acting in its interest in consenting to this apportionment and levying of the Assessments because the special benefit conferred upon the Assessed Property by the Authorized Improvements exceeds the amount of the Assessments.

The Authorized Improvements provide a special benefit to the Assessed Property as a result of these improvements being constructed on the Assessed Property or in close proximity to the Assessed Property and the specific purpose of these Authorized Improvements of providing infrastructure for the Assessed Property. In other words, the Assessed Property could not be used in the manner proposed without the construction of the Authorized Improvements. The Authorized Improvements are being provided specifically to meet the needs of the Assessed Property as required for the proposed use of the property.

The Assessments are being levied to provide the Authorized Improvements that are required for the highest and best use of the Assessed Property (i.e., the use of the property that is most valuable, including any costs associated with that use). Highest and best use is defined as “the reasonably probable and legal use of property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.” (*Dictionary of Real Estate Appraisal, Third Edition.*) The Authorized Improvements are required for the proposed use of the Assessed Property to be physically possible, appropriately supported, financially feasible, and maximally productive.

The Developer has evaluated the potential use of the property and has determined that the highest and best use of the property is the use intended and the legal use for the property as described in Section II of this Service and Assessment Plan. The use of the Assessed Property as described herein will require the construction of the Authorized Improvements.

Each owner of the Assessed Property will ratify, confirm, accept, agree to and approve; (i) the determinations and finding by the City Council as to the special benefits described in this Service and Assessment Plan and the Assessment Ordinance; and (ii) the levying of Assessments on the Assessed Property. Use of the Assessed Property as described in this Service and Assessment Plan

and as authorized by the PID Act requires that Authorized Improvements be acquired, constructed, installed, and/or improved. Funding the Actual Costs of the Authorized Improvements through the PID has been determined by the City Council to be beneficial to the City and the PID. As a result, the Authorized Improvements result in a special benefit to the Assessed Property, and this special benefit exceeds the amount of the Assessment. This conclusion is based on and supported by the evidence, information, and testimony provided to the City Council.

In summary, the Authorized Improvements result in a special benefit to the Assessed Property for the following reasons:

1. The Authorized Improvements are being provided specifically for the use of the Assessed Property, are necessary for the proposed best use of the property and provide a special benefit to the Assessed Property as a result;
2. The Developer has consented to the imposition of the Assessments for the purpose of providing the Authorized Improvements and the Developer is acting in its interest by consenting to this imposition;
3. The Authorized Improvements are required for the highest and best use of the property;
4. The highest and best use of the Assessed Property is the use of the Assessed Property that is most valuable (including any costs associated with the use of the Assessed Property);
5. Financing of the costs of the Authorized Improvement through the PID is determined to be beneficial; and,
6. As a result, the special benefits to the Assessed Property from the Authorized Improvements will be equal to or greater than the Assessments.

C. **Assessment Methodology**

The Actual Costs may be assessed by the City Council against the Assessed Property so long as the special benefit conferred upon the Assessed Property by the Authorized Improvements equals or exceeds the Assessments. The Actual Costs may be assessed using any methodology that results in the imposition of equal shares of the Actual Costs on Assessed Property similarly benefited.

1. Assessment Methodology

For purpose of this Service and Assessment Plan, the City Council has determined that the Actual Costs of the Authorized Improvements shall be allocated to the Assessed Property by spreading the entire Assessment across the Parcels based on the estimated Equivalent Units as calculated and shown in Appendix D using the types and number of lots anticipated to be developed on each Parcel of Assessed Property. As part of the determination as to the ability of different Lot Types to utilize and benefit from the Authorized Improvements, the City Council has taken into consideration that larger, more expensive homes, on average, will create more vehicle trips and greater demands for water and wastewater consumption, and larger, more expensive homes are likely to be built on larger, more valuable lots placing greater demand on the Authorized

Improvements.

Based on the Actual Costs of the Authorized Improvements provided by the Developer working with the City's engineers, as set forth in Table III-A, the City Council has determined that the benefit to Assessed Property resulting from the Authorized Improvements is at least equal to the Assessments levied on the Assessed Property.

Upon subsequent divisions of any Parcel, the Assessment applicable to it will then be apportioned pro rata based on the Equivalent Units of each newly created Parcel. For residential Lots, when final residential building sites are platted, Assessments will be apportioned proportionately among each Lot Type based on the ratio of the Equivalent Unit applicable to each Lot Type at the time residential Lots are platted to the total Equivalent Units of all Lots in the platted Parcel, as determined by the Administrator and confirmed by the City Council. The result of this approach is that each final residential Lot within a recorded subdivision plat with similar values will have the same Assessment, with larger, more valuable Lots having a proportionately larger share of the Assessments than smaller, less valuable Lots. As part of the determination as to the ability of different Lot Types to utilize and benefit from the Authorized Improvements, the City Council has taken into consideration that larger, more expensive homes, on average, will create more vehicle trips and greater demands for water and wastewater consumption, and larger, more expensive homes are likely to be built on larger, more valuable lots placing greater demand on the Authorized Improvements.

2. Allocation of Assessments to Lot Types

As shown in Section IV of this Service and Assessment Plan, the total amount of the Assessments to be allocated on all Parcels of Assessed Property is \$1,035,663. As shown in Appendix D, there are a total of 57 estimated Equivalent Units for the residential development of the Assessed Property, resulting in an Assessment per Equivalent Unit of \$18,169.53.

The Assessment per dwelling unit or acre is calculated as the product of (i) \$18,169.53 multiplied by (ii) the applicable Equivalent Unit value for each Lot Type. For example, the Assessment for a Lot Type 1 (50 Ft Lot) dwelling unit is \$18,169.53 (i.e. \$18,169.53 $\times$ 1.00). Table V-1 sets forth the Assessment per dwelling unit for Lot Type I.

Table V-1
Assessment per Unit

Type	Planned No. of Units	Assessment per Equivalent Unit	Equivalent Unit Factor ¹	Assessment per Unit	Total Assessments
Lot Type 1	57	\$18,169.53	1.00	\$18,169.53 per dwelling unit	\$1,035,663
Total	57				\$1,035,663

1 – See Appendix D for the calculation of the Equivalent Unit Factors

The projected leverage calculated based on the estimated land values, finished lot values and home values for each Lot Type is shown in Table V-2 below.

**Table V-2
Projected Leverage**

Lot Type	Planned No. of Units	Estimated Land Value per unit	Estimated Finished Lot Value per unit	Projected Home Value per unit	Assessment per Unit ¹	Leverage (Land Value)	Leverage (Lot Value)	Leverage (Home Value)
Lot Type 1	57	\$25,000	\$67,500	\$337,500	\$18,169.53	1.38	3.72	18.58
Total	57							

1 – Amounts are rounded to the nearest dollar amount.

The projected tax rate equivalent per unit calculated based on the estimated land values, finished lot values and home values for each Lot Type is shown in Table V-3 below.

**Table V-3
Estimated Tax Rate Equivalent per Unit**

Lot Type	Planned No. of Units	Estimated Land Value per unit	Estimated Finished Lot Value per unit	Projected Home Value per unit	Projected Maximum Annual Installment per unit	Tax Rate Equivalent (per \$100 Land Value)	Tax Rate Equivalent (per \$100 Lot Value)	Tax Rate Equivalent (per \$100 Home Value)
Lot Type 1	57	\$25,000	\$67,500	\$337,500	\$1,546	\$6.184	\$2.29	\$0.4581
Total	57							

The Assessment and Annual Installments for each Parcel or Lot located is shown on the Assessment Roll attached as Appendix E and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

Appendix D shows the detailed calculation of the Assessment per Equivalent Unit and the Assessment for each Lot Type.

D. Assessments

The Assessments will be levied on each Parcel according to the Assessment Roll, attached hereto as Appendix E. The Annual Installments will be collected at the time and in the amounts shown on the Assessment Roll subject to any revisions made during an Annual Service Plan Update.

E. Annual Collection Costs

The cost of administering the PID and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of Assessment levied against the Parcel. The Annual Collection Costs shall be collected as part of and in the same manner as Annual Installments in the amounts shown on the Assessment Roll, which may be revised based on actual costs incurred in Annual Service Plan Updates.

SECTION VI TERMS OF THE ASSESSMENTS

A. Amount of Assessments and Annual Installments for Parcels

The Assessments, and Annual Installments thereof, for each Parcel of Assessed Property is shown on the Assessment Roll, attached as Appendix E, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

The Annual Installments shall be collected in an amount sufficient to pay (i) the principal and interest on the amounts due under the PID Reimbursement Agreement for costs related to the Authorized Improvements and / or principal and interest on Bonds, if issued, and (ii) to cover the Annual Collection Costs.

B. Reallocation of Assessments

1. Subdivision

Upon the subdivision of any Parcel, the Assessment for the Parcel prior to the subdivision shall be reallocated among the new subdivided Parcels according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

- A = the Assessment for each new subdivided Parcel
- B = the Assessment for the Parcel prior to subdivision
- C = the estimated Equivalent Units to be built on each new subdivided Parcel
- D = the sum of the estimated Equivalent Units to be built on all of the new subdivided Parcels

The calculation of the estimated number of units to be built on a Parcel shall be performed by the Administrator and confirmed by the City Council based on the information available regarding the use of the Parcel. The estimate as confirmed shall be conclusive. The number of units to be built on a Parcel may be estimated by net land area and reasonable density ratios.

The sum of the Assessments for all newly subdivided Parcels shall equal the Assessment for the Parcel prior to subdivision. The calculation shall be made separately for each newly subdivided Parcel. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the subdivision of the Parcels.

The total Assessment initially allocated to the Assessed Property does not include any allocation of Assessments to the HOA Property. Once a Homeowner Association is created in the PID and Parcel(s) that are owned by the Homeowner's Association appear on the Collin Central Appraisal District ("Collin CAD") records, 1% of the initial total Assessment allocated to the Assessed Property shall be reallocated to such HOA Property.

Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update

approved by the City Council.

2. Consolidation

Upon the consolidation of two or more Parcels, the Assessment for the consolidated Parcel shall be the sum of the Assessments for the Parcels prior to consolidation. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the consolidation of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the City Council.

C. Mandatory Prepayment of Assessments

1. If a Parcel subject to Assessments is transferred to a party that is exempt from the payment of the Assessment under applicable law, or if an owner causes a Parcel subject to Assessments to become Non-Benefited Property, the owner of such Parcel shall pay to the City the full amount of the principal portion of the Assessment on such Parcel, plus all Prepayment Costs, prior to any such transfer or act.
2. The payments required above shall be treated the same as any Assessment that is due and owing under the PID Act, the Assessment Ordinance, and this Service and Assessment Plan, including the same lien priority, penalties, procedures, and foreclosure specified by the Act.

D. Reduction of Assessments

1. If after all Authorized Improvements to be funded with a series of Bonds have been completed and Actual Costs for such Authorized Improvements are less than the Authorized Improvement Costs used to calculate the Assessments securing such series of Bonds, resulting in excess Bond proceeds being available to redeem Bonds of such series, then the Assessment securing such series of Bonds for each Parcel of Assessed Property shall be reduced by the City Council pro rata such that the sum of the resulting reduced Assessments for all Assessed Properties equals the actual reduced Actual Costs and such excess Bond proceeds shall be applied to redeem Bonds of such series. The Assessments shall not be reduced to an amount less than the related outstanding series of Bonds. If all of the Authorized Improvements are not completed, the City may reduce the Assessments in another method if it determines such method would better reflect the benefit received by the Parcels from the Authorized Improvements completed.
2. If after all Authorized Improvements to be funded with a series of Bonds have been completed and a portion of the Bonds have been redeemed, then the Assessment securing such series of Bonds for each Parcel of Assessed Property shall be reduced by the City Council pro rata such that the sum of the resulting reduced Assessments for all Assessed Properties equals the remaining outstanding amount(s) of the Bonds after such redemptions. The Assessments shall not be reduced to an amount less than the related outstanding series of Bonds.
3. If all the Authorized Improvements are not undertaken, resulting in excess Bond proceeds being available to redeem Bonds, then the Assessments and Annual Installments for each

Parcel shall be appropriately reduced by the City Council to reflect only the amounts required to repay the Bonds, including interest on the Bonds and Collection Costs, and such excess Bond proceeds shall be applied to redeem Bonds. The City Council may reduce the Assessments and the Annual Installments for each Parcel (i) in an amount that represents the Authorized Improvements provided for each Parcel or (ii) by an equal percentage calculated based on Equivalent Units, if determined by the City Council to be the most fair and practical means of reducing the Assessments for each Parcel, such that the sum of the resulting reduced Assessments equals the amount required to repay the Bonds, including interest on the Bonds and Collection Costs. The Principal Portion of the Assessment for each Parcel shall be reduced pro rata to the reduction in the Assessments for each Parcel such that the sum of the resulting reduced Principal Portion of the Bonds is equal to the outstanding principal amount of the Bonds.

E. Payment of Assessments

1. Payment in Full

- (a) The Assessment for any Parcel may be paid in full at any time. Such payment shall include all Prepayment Costs.
- (b) If an Annual Installment has been billed prior to payment in full of an Assessment, the Annual Installment shall be due and payable and shall be credited against the payment-in-full amount.
- (c) Upon payment in full of the Assessment and all Prepayment Costs, the City shall deposit the payment in accordance with the Trust Indenture; whereupon, the Assessment shall be reduced to zero, and the owner's obligation to pay the Assessment and Annual Installments thereof shall automatically terminate.
- (d) At the option of the owner, the Assessment on any Parcel plus Prepayment Costs may be paid in part in an amount sufficient to allow for a convenient redemption of Bonds as determined by the Administrator. Upon the payment of such amounts for a Parcel, the Assessment for the Parcel shall be reduced, the Assessment Roll shall be updated to reflect such partial payment, and the obligation to pay the Annual Installment for such Parcel shall be reduced to the extent the partial payment is made.

2. Payment in Annual Installments

The PID Act provides that an Assessment for a Parcel may be paid in full at any time. If not paid in full, the PID Act authorizes the Assessment to be paid in installments and additionally allows the City to collect interest, Annual Collection Costs and other authorized charges in installments. An Assessment for a Parcel that is not paid in full will be collected in Annual Installments each year in the amounts shown on the Assessment Roll, as updated as provided for herein, which include interest and Annual Collection Costs. Payment of the Annual Installments shall commence with tax bills mailed after the levy of the Assessments.

Each Assessment shall be paid with interest of no more than the lesser of (i) the actual interest rate paid on the Bonds, if issued, and (ii) ____ percent per annum in accordance with the Assessment Ordinance and the PID Reimbursement Agreement. The Assessment Roll sets forth for each year the Annual Installment for each Parcel based on interest rates of ____%.

The Annual Installments shall be reduced to equal the actual costs of repaying the obligations and actual Annual Collection Costs (as provided for in the definition of such term), taking into consideration any other available funds for these costs, such as interest income on account balances.

The City reserves and shall have the right and option to refund the Bonds in accordance with Section 372.027 of the PID Act and Chapter 1207 of the Texas Government Code. In the event of such refunding, the Administrator shall recalculate the Annual Installments, and if necessary, may adjust, or decrease, the amount of the Annual Installments so that total Annual Installments of Assessments will be produced in annual amounts that are required to pay the refunding bonds when due and payable as required by and established in the ordinance and/or the indenture authorizing and securing the refunding bonds, and such refunding bonds shall constitute Bonds for purposes of this Service and Assessment Plan.

F. Collection of Annual Installments

No less frequently than annually, the Administrator shall prepare, and the City Council shall approve, an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and a calculation of the Annual Installment for each Parcel. Annual Collection Costs shall be allocated among Parcels in proportion to the amount of the Annual Installments for the Parcels. Annual Installments shall be collected by the City in the same manner and at the same time as ad valorem taxes and shall be subject to the same penalties, procedures, and foreclosure sale in case of delinquencies as are provided for ad valorem taxes of the City. The City Council may provide for other means of collecting the Annual Installments to the extent permitted under the PID Act. The Assessments shall have lien priority as specified in the Act.

Any sale of Assessed Property for nonpayment of the Annual Installments shall be subject to the lien established for the remaining unpaid Annual Installments against such Assessed Property and such Assessed Property may again be sold at a judicial foreclosure sale if the purchaser thereof fails to make timely payment of the non-delinquent Annual Installments against such Assessed Property as they become due and payable.

Each Annual Installment, including the interest on the unpaid amount of an Assessment, shall be updated annually. Each Annual Installment together with interest thereon shall be delinquent if not paid prior to February 1 of the following year. Collection of the initial Annual Installments relating to the Authorized Improvements that benefit the Assessed Property will be due when billed, and will be delinquent if not paid prior to the first February 1 following the earlier of (i) the recording of a final subdivision plat in the official public records of the County for the Assessed Property, (ii) upon issuance of Bonds, or (iii) the second anniversary of the date of levy of the Assessment.

SECTION VII THE ASSESSMENT ROLL

A. Assessment Roll

The Assessed Property will be assessed for the special benefits conferred upon such property as a result of the Authorized Improvements. Table IV-A summarizes the \$1,035,663 in special benefit received by Assessed Property from the Authorized Improvements and costs associated with the PID formation. The total costs of the Authorized Improvements is \$1,035,663 which is equal to the benefit received by Assessed Property, and as such the total Assessment for all Assessed Property is \$1,035,663 plus Annual Collection Costs and other authorized charges. The Assessment for each Parcel of Assessed Property is calculated based on the allocation methodologies described in Section V.C of this Service and Assessment Plan. The Assessment Roll is attached hereto as Appendix E.

B. Annual Assessment Roll Updates

The Administrator shall prepare, and shall submit to the City Council for approval, annual updates to the Assessment Roll in conjunction with the Annual Service Plan Update to reflect the following matters, together with any other changes helpful to the Administrator or the City and permitted by the PID Act: (i) the identification of each Parcel (ii) the Assessment for each Parcel of Assessed Property, including any adjustments authorized by this Service and Assessment Plan and in the PID Act; (iii) the Annual Installment for the Assessed Property for the year (if the Assessment is payable in installments); and (iv) payments of the Assessment, if any, as provided by Section VI(E) of this Service and Assessment Plan.

The Assessment Roll shall be updated, which update may be done in the next Annual Service Plan Update, to reflect the issuance of Bonds, if any, and any additional obligations owed pursuant to the PID Reimbursement Agreement.

Section VIII MISCELLANEOUS PROVISIONS

A. Administrative Review

The City may elect to designate a third party to serve as Administrator. The City shall notify Developer in writing at least thirty (30) days in advance before appointing a third-party Administrator.

To the extent consistent with the PID Act, an owner of an Assessed Parcel claiming that a calculation error has been made in the Assessment Roll, including the calculation of the Annual Installment, shall send a written notice describing the error to the City not later than thirty (30) days after the date any amount which is alleged to be incorrect is due prior to seeking any other remedy. The Administrator shall promptly review the notice, and if necessary, meet with the Assessed Parcel owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred.

If the Administrator determines that a calculation error has been made and the Assessment Roll should be modified or changed in favor of the Assessed Parcel owner, such change or modification shall be presented to the City Council for approval to the extent permitted by the PID Act. A cash refund may not be made for any amount previously paid by the Assessed Parcel owner (except for the final year during which the Annual Installment shall be collected or if it is determined there are sufficient funds to meet the expenses of the PID for the current year), but an adjustment may be made in the amount of the Annual Installment to be paid in the following year. The decision of the Administrator regarding a calculation error relating to the Assessment Roll may be appealed to the City Council. Any amendments made to the Assessment Roll pursuant to calculation errors shall be made pursuant to the PID Act.

The decision of the Administrator, or, if such decision is appealed to the City Council, the decision of the City Council, shall be conclusive as long as there is a reasonable basis for such determination. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to any other appeal or legal action by such owner.

B. Termination of Assessments

Each Assessment shall be extinguished on the date the Assessment is paid in full, including unpaid Annual Installments and Delinquent Collection Costs, if any. After the extinguishment of an Assessment and the collection of any delinquent Annual Installments and Delinquent Collection Costs, the City shall provide the owner of the affected Parcel a recordable "Notice of the PID Assessment Termination".

C. Amendments

Amendments to the Service and Assessment Plan can be made as permitted or required by the PID Act and under Texas law.

To the extent permitted by the PID Act, the City Council reserves the right to amend this Service and Assessment Plan without notice under the PID Act and without notice to property owners of

Parcels:

(i) to correct mistakes and clerical errors; (ii) to clarify ambiguities; (iii) to provide procedures for the collection and enforcement of Assessments, Prepayment Costs, Collection Costs, and other charges imposed by the Service and Assessment Plan, and (iv) as may be required by the Attorney General of Texas in connection with the issuance of any series of Bonds.

D. Administration and Interpretation of Provisions

The City Council shall administer the PID, this Service and Assessment Plan, and all Annual Service Plan Updates consistent with the PID Act and shall make all interpretations and determinations related to the application of this Service and Assessment Plan unless stated otherwise herein; such interpretations and determinations shall be conclusive.

E. Severability

If any provision, section, subsection, sentence, clause or phrase of this Service and Assessment Plan or the application of same to an Assessed Parcel or any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Service and Assessment Plan or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Service and Assessment Plan that no part hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other part hereof, and all provisions of this Service and Assessment Plan are declared to be severable for that purpose.

If any provision of this Service and Assessment Plan is determined by a court to be unenforceable, the unenforceable provision shall be deleted from this Service and Assessment Plan and the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the City.

[Remainder of page intentionally left blank.]

APPENDIX A

THE PID MAP

APPENDIX B
AUTHORIZED IMPROVEMENT COSTS

Attachment: 2019.002.007a - LEGAL-#81093-v1-Celina Glen Crossing West PID 2019 -

APPENDIX C

DIAGRAMS OF THE AUTHORIZED IMPROVEMENTS

APPENDIX D

LOT TYPES AND EQUIVALENT UNITS

Appendix E
ASSESSMENT ROLL

Attachment: 2019.002.007a - LEGAL-#81093-v1-Celina Glen Crossing West PID 2019 -

EXHIBIT B**CITY OF CELINA, TEXAS
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN THAT a public hearing will be conducted by the City Council of Celina, Texas on July 9, 2019 at or after 5:00 p.m. at the meeting place of the City Council in the Celina Independent School District Administration Building located at 205 S. Colorado Street, Celina, Texas 75009. The public hearing will be held to consider proposed assessments to be levied against the assessable property within the Glen Crossing West Public Improvement District (the "District") pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended (the "Act").

The proposed Authorized Improvements to be undertaken at this time include (i) water and wastewater system improvements, drainage improvements, roadway improvements, right-of-way acquisition, park and open space improvements, and other 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 total costs of the Authorized Improvements, including costs associated with the creation of the District, is \$1,035,663.

The boundaries of the District include approximately 29.306 acres of land generally located in the area encompassed directly south of CR 55, north of CR 53, east of Private Road 5281, west of Glen Crossing Drive, directly adjacent to the east side of Doe Branch creek and, as more particularly described by a metes and bounds description available at Celina City Hall located at 142 N. Ohio Street, Celina, Texas 75009 and available for public inspection during regular business hours.

All written or oral objections on the proposed assessment within the District will be considered at the public hearing.

A copy of the proposed Assessment Roll, which includes the assessments proposed to be levied against each parcel within the District that benefits from the Authorized Improvements, is available for public inspection at the office of the City Secretary, 142 N. Ohio Drive, Celina, Texas 75009.

Attachment: 2019.002.007a - LEGAL-#81093-v1-Celina_Glen_Crossing_West_PID_2019 -



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: June 11, 2019
Re: Cottages Development Agreement Assignment and Amendment

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and James Land & Development, LLC formerly known as Trico Development and Land Company, and Celina 50, LLC for the purpose of the reinstatement of, assignment of, and amendment to an existing development agreement. (The Cottages Development Agreement) (Laumer)

Background Information:

This agreement extends the timeline on The Cottages development agreement and assigns the agreement to another party.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this Development Agreement amendment.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

REINSTATEMENT OF, ASSIGNMENT OF AND AMENDMENT TO THE COTTAGES DEVELOPMENT AGREEMENT

This Reinstatement of, Assignment of and Amendment to Development Agreement ("**Agreement**") is entered into by and among **James Land & Development, LLC**, a Texas limited liability company f/k/a Trico Development and Land Company ("**JLD**"), **Celina 50, LLC**, a Texas limited liability company ("**Assignee**"), and **City of Celina** (the "**City**"), and is effective as of June _____, 2019 ("**Effective Date**").

R E C I T A L S

WHEREAS, JLD and the City entered into that certain document known as The Cottages Development Agreement with an Effective Date of December 20, 2018, recorded on May 23, 2019 in the Official Public Records of Collin County, Texas ("**Development Agreement**"), a copy of which is attached hereto as **Exhibit A**.

WHEREAS, the Development Agreement was automatically terminated on May 31, 2019 in accordance with the terms of the Development Agreement and the parties desire to reinstate the Development Agreement, as hereinafter set forth.

WHEREAS, JLD and the City desire to modify the Development Agreement, as hereinafter set forth.

WHEREAS, JLD desires to Assign its rights as Developer (as defined in the Development Agreement) to Assignee as hereinafter set forth.

A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties herein contained and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **RECITALS.** The above recitals are true and correct and incorporated herein by this reference.
2. **REINSTATEMENT OF AGREEMENT.** Notwithstanding the prior termination of the Development Agreement, the termination of the Development Agreement is hereby revoked and, except as expressly modified by this Agreement, the Development Agreement shall be, and hereby is, reinstated in its entirety and shall be in full force and effect as if the same had never been terminated.
3. **AMENDMENT OF DEVELOPMENT AGREEMENT.** JLD and the City agree that Article VI is hereby amended to extend the date on which the Developer must

purchase the Property (as defined in the Development Agreement) to that certain date which is on or before June 30, 2019.

4. ASSIGNMENT OF DEVELOPMENT AGREEMENT. JLD assigns and transfers to Assignee, as of and from the Effective Date: (i) all of JLD's right, title, and interest in Development Agreement between JLD and the City of Celina (ii) all privileges, appurtenances, benefits, and advantages to be derived from the Development Agreement to have and to hold for the duration of the Development Agreement.
5. ASSUMPTION BY ASSIGNEE. Assignee accepts the assignment herein and covenants with Assignor that as of and from the Effective Date, Assignee will duly and punctually will assume, observe, and perform all of the terms, conditions, covenants, obligations, and provisions on the part of the purchaser/buyer under the Development Agreement as if Assignee had been the original party under the Development Agreement. Assignee agrees to perform and discharge, and release JLD from all payments and all obligations and liabilities of Assignor pursuant to the Development Agreement.
6. OTHER.
 - (a) Neither JLD nor Assignee makes any representation or warranty with respect to the Development Agreement except as expressly set forth herein.
 - (b) This Agreement will inure to the benefit of and be binding upon JLD and Assignee and their respective successors, assigns, and legal representatives.
 - (c) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument, which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Agreement.

EXECUTED AND EFFECTIVE as of the date first above written.

JLD:

**James Land & Development, LLC, a
Texas limited liability company**

Assignee:

**Celina 50, LLC, a Texas limited liability
company**

**BY: James Land & Development,
LLC, as Manager**

By: _____
Adam James, Manager

By: _____
Adam James, Manager

City of Celina:

By: _____
 Sean Terry, Mayor

Attest:

 Vicki Faulkner, Secretary

Approved as to form:

 Lance Vanzant, Attorney for City

THE STATE OF TEXAS §
 §
 COUNTY OF _____ §

The foregoing instrument was acknowledged before me on this ____ day of _____,
 _____, by Adam James, as Manager of James Land & Development, LLC, as Manager of Celina
 50, LLC, a Texas limited liability, on behalf of said limited liability company.

 Notary Public, in and for the State of Texas

 (Typed/Printed Name of Notary)

My Commission Expires: _____

THE STATE OF TEXAS §
 §
 COUNTY OF _____ §

The foregoing instrument was acknowledged before me on this ____ day of _____,
 _____, by Adam James, Manager of James Land & Development, LLC, a Texas limited liability
 company, on behalf of said limited liability company.

 Notary Public, in and for the State of Texas

 (Typed/Printed Name of Notary)

My Commission Expires: _____

THE STATE OF TEXAS §
 §
 COUNTY OF _____ §

The foregoing instrument was acknowledged before me on this ____ day of _____,
 _____, by _____, as Mayor of the City of Celina on behalf of said City.

 Notary Public, in and for the State of Texas

 (Typed/Printed Name of Notary)

My Commission Expires: _____

Notice for Assignee:

Celina 50, LLC
 Attn: Adam James
 102 E. Broadway Street, Suite 940
 Prosper, Tx 75078
 972.806.2554
 adam@jamesld.com

EXHIBIT A



Administration
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Paul DeBuff, Assistant to the City Manager
CC: Jason Laumer, City Manager
Date: June 11, 2019
Re: Creeks of Legacy Development Agreement Amendment

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina, Texas, the Board of Directors of Tax Increment Reinvestment Zone Number Two, City of Celina, CTMGT Frontier 80, LLC, CADG Creeks of Legacy West, LLC, and CADG Creeks of Legacy Stonegate, LLC for the purpose of an amendment to an existing development agreement. (Creeks of Legacy Development Agreement Amendment) (Laumer)

Background Information:

This amendment adds aesthetic changes to infrastructure, bike lanes, pavement striping, and replaces impact fees with various recovery fees.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this Development Agreement.

Supporting Documents:

- Proposed development agreement as amended

Staff Recommendation:

Staff recommends approval.

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment (this “First Amendment”) to the **Development Agreement** (the “Agreement”) is made by and between the **CITY OF CELINA, TEXAS**, (the “City”), the **BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE NUMBER TWO, CITY OF CELINA** (the “Board”) **CTMGT FRONTIER 80, LLC**, a Texas limited liability company (“CTMGT”), **CADG CREEKS OF LEGACY WEST, LLC**, a Texas limited liability company (“CADG West”), and **CADG CREEKS OF LEGACY STONEGATE, LLC**, a Texas limited liability company (“CADG Stonegate,” and collectively with CTMGT and CADG West, the “Developer”) to be effective _____, 2019 (the “Effective Date”). Capitalized terms not defined herein shall have the respective meanings given to them in the Agreement.

RECITALS

WHEREAS, the City, the Board, CTMGT, CADG West, and CADG Stonegate are individually referred to as a “Party” and collectively as the “Parties”; and

WHEREAS, the recitals contained in this First Amendment: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this First Amendment; and (c) reflect the final intent of the Parties with regard to the subject matter of this First Amendment; and

WHEREAS, the Parties acknowledge and agree that, except to the extent amended herein, all provisions and terms contained in the Agreement remain in full force and effect; and

WHEREAS, the City, the Board, and CTMGT entered into the Agreement effective on June 18, 2014; and

WHEREAS, CADG West purchased approximately 46.050 acres of property within the PID from CTMGT and CADG Stonegate purchased approximately 56.448 acres of property within the PID from CTMGT; and

WHEREAS, pursuant to that certain Partial Assignment and Assumption of Contracts, dated July 13, 2017, CTMGT assigned to CADG West, all of its rights, title, and interests in and to the Agreement for development of the approximately 46.050 acres of property within the PID; and

WHEREAS, pursuant to that certain Partial Assignment and Assumption of Contracts, dated July 13, 2017, CTMGT assigned to CADG Stonegate, all of its rights, title, and interest in and to the Agreement for development of the approximately 56.448 acres of property within the PID; and

WHEREAS, the City and the Developer desire to amend the Agreement in order to revise certain obligations and fees related to the development of the Property; and

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

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

1. **The Agreement Remains in Full Force and Effect.** The City and Developer acknowledge and agree that, except to the extent amended herein, all provisions and terms contained in the Development Agreement remain in full force and effect.

2. **Specific provisions contained in the Agreement shall be amended as follows:**

I. Section 4.3 shall be deleted and replaced in its entirety with the following:

4.3 **Road Construction.** The roads listed in **Exhibit C** and **Exhibit D** shall be constructed in accordance with and in the timeframe as provided for the TIRZ Documents the Service and Assessment Plan, the Bond Ordinance and the Road Construction Plan. The Parties agree that the Developer has completed its obligations relating to the construction of Legacy Parkway and Frontier Parkway as shown on **Exhibit D**. The Road Construction Plan may be amended by agreement of the City and the Developer, in which case the amended Road Construction Plan shall replace the current plan, and will serve as an amendment to **Exhibit D**.

II. Article VI shall be deleted and replaced in its entirety with the following:

ARTICLE VI **INSPECTION AND PERMITTING; ADDITIONAL OBLIGATIONS**

6.1 **Inspection and Permitting.** The City shall inspect, as required by City policies and ordinances, the construction of all structures, Authorized Improvements, and any infrastructure improvements necessary to support the proposed development within the Property, including water, sanitary sewer, drainage, streets, park facilities, electrical, and street lights and signs. The City's inspections shall not release the Developer from its responsibility to construct, or ensure the construction of, adequate Authorized Improvements and infrastructure in accordance with approved engineering plans, construction plans, and other approved plans related to development of the Property. The City shall be the beneficiary of the required two (2) year maintenance bond the Developer shall provide for all Public Infrastructure and Authorized Improvements.

6.2 **Additional Obligations.**

(a) The Developer and/or CTMGT shall construct an amenity center (the "Amenity Center") on the west side of Legacy Drive and generally shown on **Exhibit F** attached to this First Amendment. Prior to the issuance of any single-family building permit for Phase #3, construction of the Amenity Center shall be completed and open to an End Buyer prior to May 1, 2020. The Amenity Center shall include a pool.

(b) The Developer and/or CTMGT agrees to paint black powder coating on the bridge railings along Frontier Parkway in the areas shown on **Exhibit G** attached to this First Amendment. In the alternative, the Developer may request the City to paint black powder coating on such bridge railings, provided however, the Developer shall reimburse the City an amount not to exceed \$25,000.00. within thirty (30) days after receiving a written request from the City to provide such reimbursement.

(c) The City and CTMGT and/or Developer intends for the City and the homeowner's association governing the Property (the "HOA") to enter into a lease and maintenance agreement to require the HOA to irrigate and maintain the medians on Clear Creek Parkway and Doe Branch Boulevard and the roundabout shown on **Exhibit H** attached to this First Amendment.

(d) The Developer and/or CTMGT agrees to provide lighting for the entrance monument signs identified on **Exhibit I** attached to this First Amendment, which lighting shall be consistent with and similar to the lighting for entrance monument signs in Phase #1. Electricity for such lighting shall be provided by the City.

(e) With ninety (90) days from the Effective Date of this First Amendment, the Developer and/or CTMGT agrees to escrow the costs shown on **Exhibit J** attached to this First Amendment, which costs are necessary to provide (1) street lighting for the portions of Clear Creek Parkway and Doe Branch Boulevard adjacent to the Property, (2) street lighting in medians on Clear Creek Parkway and Doe Branch Boulevard, and (3) one stop sign on Clear Creek Parkway, all as shown on **Exhibit H** attached to this First Amendment.

(f) The Developer and/or CTMGT agrees to reimburse the City, in an amount not to exceed \$21,180.00, within thirty (30) days after receiving a written request from the City to provide such reimbursement, for the costs of new bike lane and parking stripping, and new pavement stripping, for Clear Creek Parkway as shown on **Exhibit K** attached to this First Amendment.

(g) The Developer and/or CTMGT agrees to take portion of right-of-way on western future Frontier Parkway in Phase #3, shown on **Exhibit L** attached to this First Amendment, to create open space that will be landscaped and irrigated, and agrees to construct or cause to construct a six foot (6') brick screening wall along the approximately southern twelve (12) lots in Phase #3.

(h) Prior to approval of the final plat for Phase #3, the Developer and/or CTMGT shall pay escrows for paving and drainage agreed upon in **Exhibit M** attached to this First Amendment.

III. The title of Article VII shall be amended as follows:

ARTICLE VII
PAYMENT OF AUTHORIZED IMPROVEMENTS AND FEES

IV. Article VII is amended to add the following as Sections 7.5, 7.6, and 7.7 to the Agreement:

7.5 Capital Recovery Fees.

(a) The Developer is responsible for the construction of all on-site and off-site Authorized Improvements for water and wastewater facilities as well as Public Infrastructure, to the extent such improvements are necessitated by and attributable to the development of the Property. The Parties agree that such improvements will include all of the capital improvements and facility expansions necessitated by and attributable to the Property; therefore, pursuant to Section 395.001(4) of the Texas Local Government Code, **no Impact Fees levied by the City will apply to the Property.** Instead, the City and Developer agree to (a) set roadway capital recovery fees at \$2,500.00 per single-family residential lot, (b) set water capital recovery fees at \$3,000.00 per single-family residential lot, and (c) set wastewater capital recovery fees at \$3,000.00 per single-family residential lot. All capital recovery fees applicable to individual lots will be due and collected upon the issuance of the single-family residential lot's building permit.

(b) Upon payment of each water capital recovery fee as provided in Section 7.5(a) above, the City agrees to provide the Developer \$1,000.00 in the form of a Chapter 380 grant, within thirty (30) days after collection, to reimburse the Developer for a portion of the costs of Public Infrastructure. The Upon payment of each wastewater capital recovery fee as provided in Section 7.5(a) above, the City agrees to provide the Developer \$1,000.00 in the form of a Chapter 380 grant, within thirty (30) days after collection, to reimburse the Developer for a portion of the costs of Public Infrastructure.

7.6 Technology Fees. The Parties agree upon a fixed payment for technology fees, to be collected upon the issuance of a single-family residential lot's building permit, in the amount of \$500.00 per lot.

7.7 Park Fees. The Parties agree upon a fixed payment for park fees, which includes recreation and open space, in lieu of a dedication of land, to be collected upon the issuance of a single-family residential lot's building permit, in the amount of \$1,500.00 per lot.

V. Section 13.10 shall be deleted and replaced in its entirety with the following:

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

Exhibit A	Metes and Bounds of the Property
Exhibit B	Depiction of the Property
Exhibit C	Authorized Improvements with their Estimated Costs
Exhibit D	Road Construction Plan
Exhibit E	Map with location and detail of Authorized Improvements
Exhibit F	Phase Plan
Exhibit G	Frontier Parkway – Location of Bridge Railings
Exhibit H	Location of Irrigation and Maintenance of Medians

Exhibit I	Location of Monuments Signs
Exhibit J	Estimated Costs of Street Lighting
Exhibit K	Estimated Costs – Clear Creek Parkway Road Improvements
Exhibit L	Depiction of Right-of-Way
Exhibit M	Paving and Drainage - Escrows

3. Recitals. In the event it becomes necessary to interpret any provision of this First Amendment, 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 First Amendment and, but for the intent of the Parties reflected by the recitals, would not have entered into this First Amendment.

4. Notices. Notwithstanding anything contained in the Agreement to the contrary, any notice, submittal, payment or instrument required or permitted by the Agreement or this First Amendment to be given or delivered to any party shall be deemed to have been received when personally delivered 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, Texas 142 N. Ohio Celina, Texas 75009
With a copy to:	Attn: Julie Fort Messer, Rockefeller, & Fort, PLLC 6351 Preston Road, Suite 350 Frisco, Texas 75034
And to:	Attn: Bond Counsel Robert Dransfield Norton Rose Fulbright US LLP 2200 Ross Avenue, Suite 3600 Dallas, Texas 75201-7932
To the Developer:	Attn: Mehrdad Moayed CTMGT Frontier 80, LLC 1800 Valley View Lane, Suite 300 Farmers Branch, Texas 75234
To the Developer:	Attn: Mehrdad Moayed CADG Creeks of Legacy Stonegate, LLC 1800 Valley View Lane, Suite 300 Farmers Branch, Texas 75234
To the Developer:	Attn: Mehrdad Moayed CADG Creeks of Legacy West, LLC 1800 Valley View Lane, Suite 300

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

Farmers Branch, Texas 75234

And a copy to: Attn: J. Prabha Cinclair
Miklos Cinclair, PLLC
1800 Valley View Lane, Suite 360
Farmers Branch, Texas 75234

To the TIRZ: Attn: City Manager
City of Celina, Texas
142 N. Ohio
Celina, Texas 75009

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.

5. Entire Agreement. This First Amendment together with the Agreement shall constitute the entire agreement between the Parties and supersedes all prior agreements and understandings, whether oral or written, concerning the subject matter of this First Amendment and the Agreement. This First Amendment shall not be modified or amended except in writing signed by the Parties. Exhibits F, G, H, I, J, K, L, and M to this First Amendment are hereby also attached as Exhibits F, G, H, I, J, K, L, and M to the Agreement.

6. Covenant Running with the Land. This First Amendment shall be a covenant running with the land and shall be binding upon the Parties, their assigns and future owners of all or any portion of the Property.

7. Recordation. This First Amendment shall be recorded in the real property records of Denton County, Texas and Collin County, Texas.

8. 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 First Amendment; (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 First Amendment shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

9. Applicable Law; Venue. This First Amendment 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 related to, arising out of, or brought in connection with this First Amendment shall be in the Collin County District Court.

10. Non Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this First Amendment 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 First Amendment. No provision of this First Amendment 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 First

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

12. Authority and Enforceability. The City represents and warrants that this First Amendment 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 the individual executing this First Amendment on behalf of the City has been duly authorized to do so. Developer represents and warrants that this First Amendment has been approved by appropriate action of the Developer, and that each individual executing this First Amendment on behalf of Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this First Amendment 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.

[SIGNATURE PAGES FOLLOW, REMAINDER OF THIS PAGE LEFT
INTENTIONALLY BLANK]

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

EXECUTED BY THE PARTIES TO BE EFFECTIVE ON THE EFFECTIVE DATE:

CITY OF CELINA

By: _____
 Name: Chad Anderson
 Title: Mayor Pro-Tem

APPROVED AS TO FORM

 Name: Julie Fort, Messer, Rockefeller & Fort, PLLC
 Title: Attorney for the City

STATE OF TEXAS §
 §
 COUNTY OF COLLIN §

 This instrument was acknowledged before me on the ____ day of _____, 2019 by
 _____ of the City of Celina, Texas on behalf of said City.

(SEAL)

 Notary Public, State of Texas

 Name printed or typed

Commission Expires: _____

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

**Tax Increment Reinvestment Zone Number
Two, City of Celina**

By: _____
 Name: _____
 Title: TIRZ #2 Board Chairperson
 Date: _____

STATE OF TEXAS §
 §
 COUNTY OF COLLIN §

This instrument was acknowledged before me on the __ day of _____, 2019 by _____ of the Tax Increment Reinvestment Zone Number Two, City of Celina, on behalf of the Tax Increment Reinvestment Zone Number Two, City of Celina.

(SEAL)

 Notary Public, State of Texas

 Name printed or typed

Commission Expires: _____

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

DEVELOPER:

CTMGT Frontier 80 LLC,
a Texas limited liability company

By: Centamtar Terras, LLC,
a Texas limited liability company
Its Manager

By: CTMGT, LLC,
a Texas limited liability company
Its Sole Member

By: _____
Name: Mehrdad Moayed
Its: Sole Manager and Member

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2019
by Mehrdad Moayed, the Sole Manager and Member of CTMGT, LLC, as the Sole Member of
Centamtar Terras, LLC, as the Manager of CTMGT Frontier 80, LLC, a Texas limited liability
company on behalf of said company.

Notary Public, State of Texas

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

DEVELOPER:

CADG Creeks of Legacy Stonegate, LLC,
a Texas limited liability company

By: CADG Holdings, LLC,
a Texas limited liability company
Its Sole Member

By: MMM Ventures, LLC,
a Texas limited liability company
Its Manager

By: 2M Ventures, LLC,
a Delaware limited liability company
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of _____, 2019 by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of CADG Holdings, LLC, as Sole Member of CADG Creeks of Legacy Stonegate, LLC, a Texas limited liability company on behalf of said company.

Notary Public, State of Texas

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

DEVELOPER:

CADG Creeks of Legacy West, LLC,
a Texas limited liability company

By: CADG Holdings, LLC,
a Texas limited liability company
Its Sole Member

By: MMM Ventures, LLC,
a Texas limited liability company
Its Manager

By: 2M Ventures, LLC,
a Delaware limited liability company
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2019 by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of CADG Holdings, LLC, as Sole Member of CADG Creeks of Legacy West, LLC, a Texas limited liability company on behalf of said company.

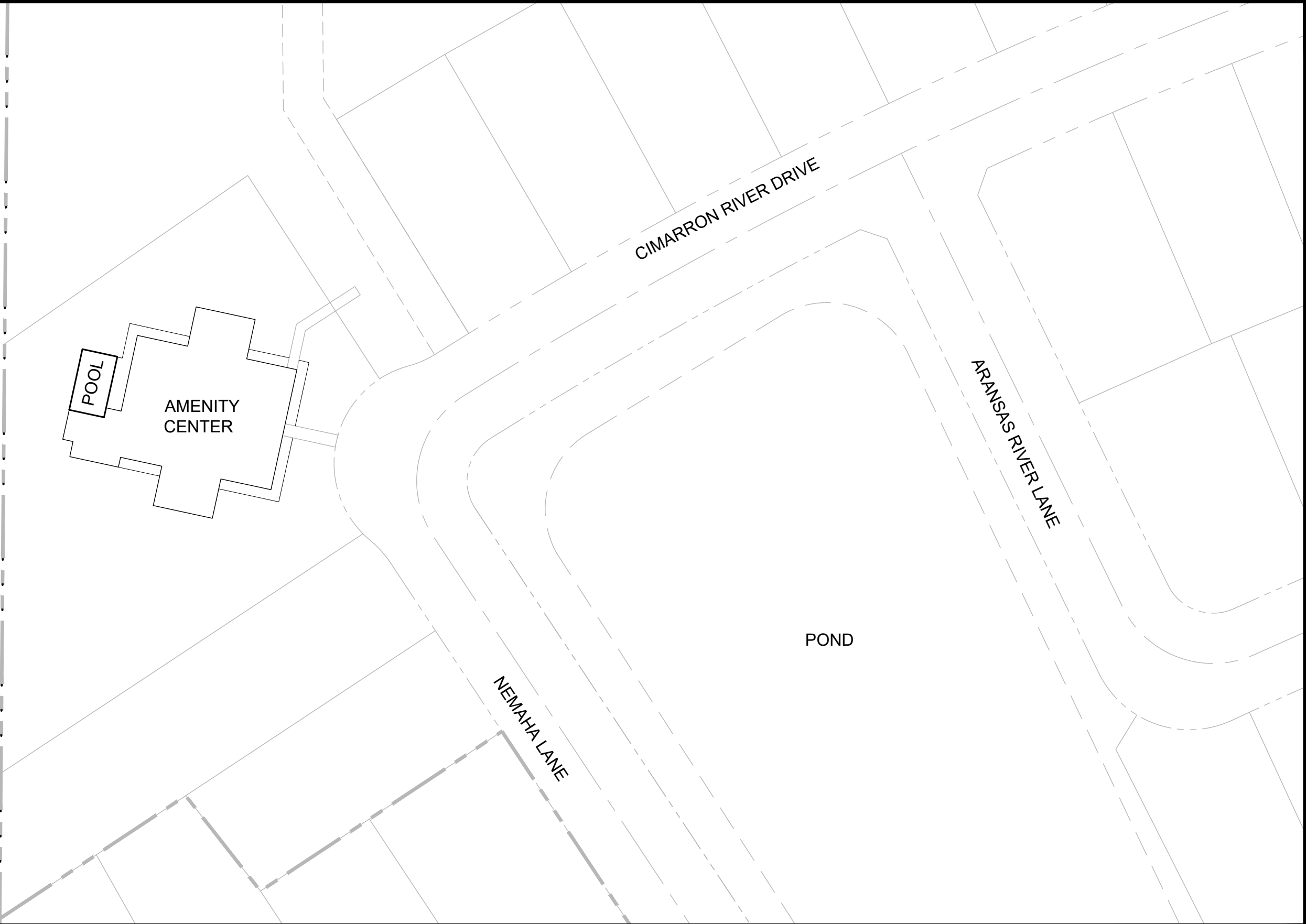
Notary Public, State of Texas

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

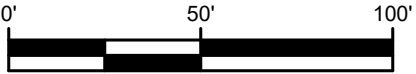
EXHIBIT F
Phase Plan

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

Plot Date/Time: 5/15/2019 10:57 AM



CREEKS OF LEGACY
EXHIBIT F
CELINA, TEXAS
MAY 2019



Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

J:\Lot

EXHIBIT G

Frontier Parkway – Location of Bridge Railings

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)



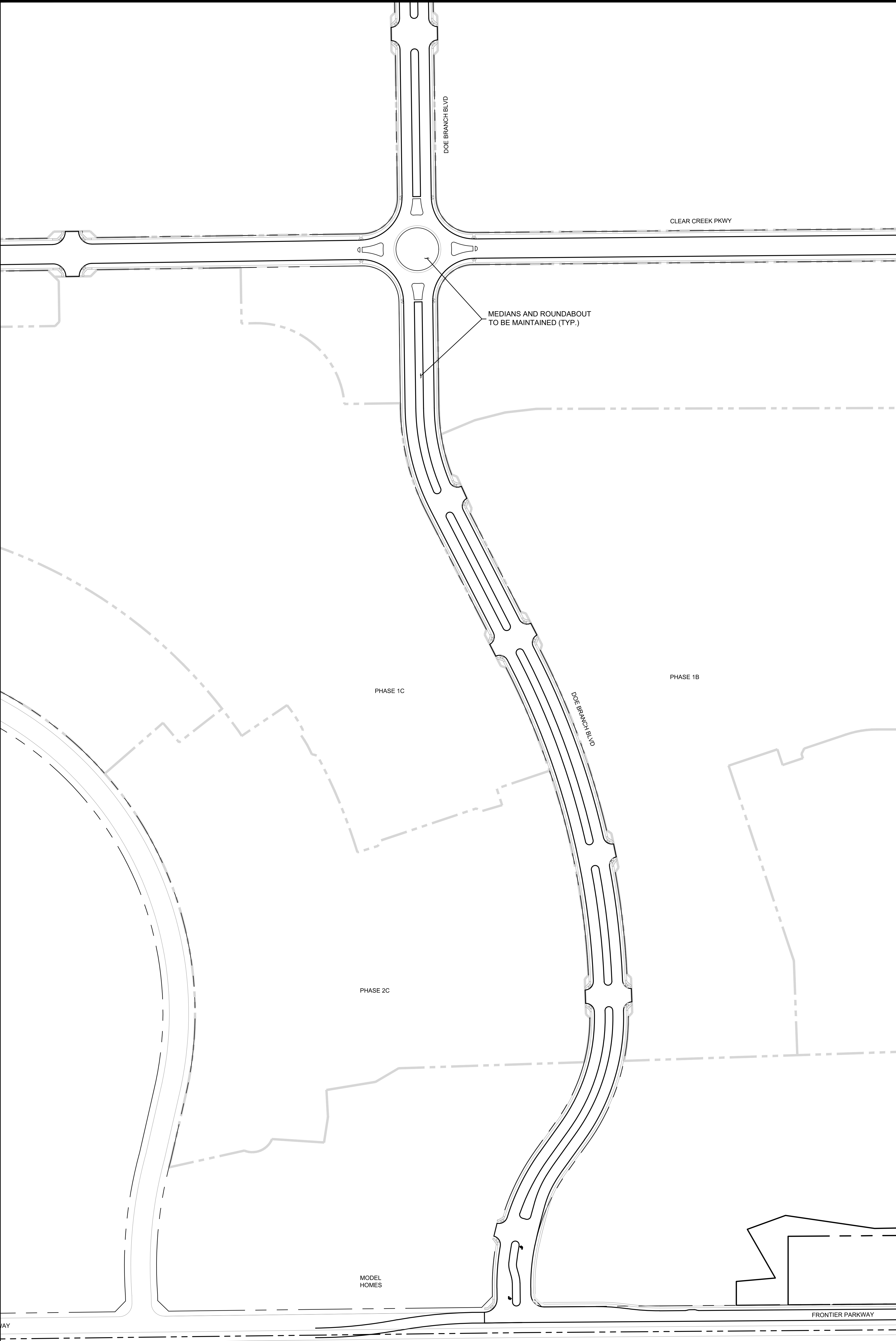
Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)



EXHIBIT H

Location of Irrigation and Maintenance of Medians

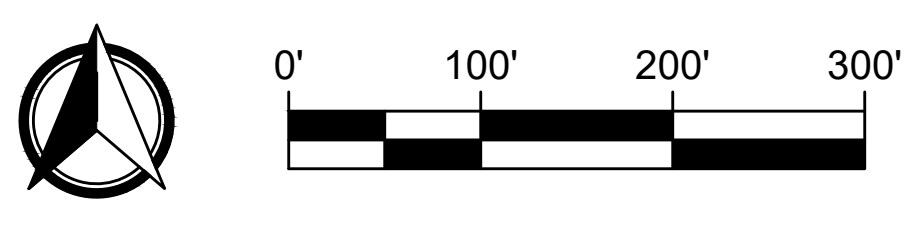
Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)



Plot Date/Time: 5/15/2019 4:37 PM



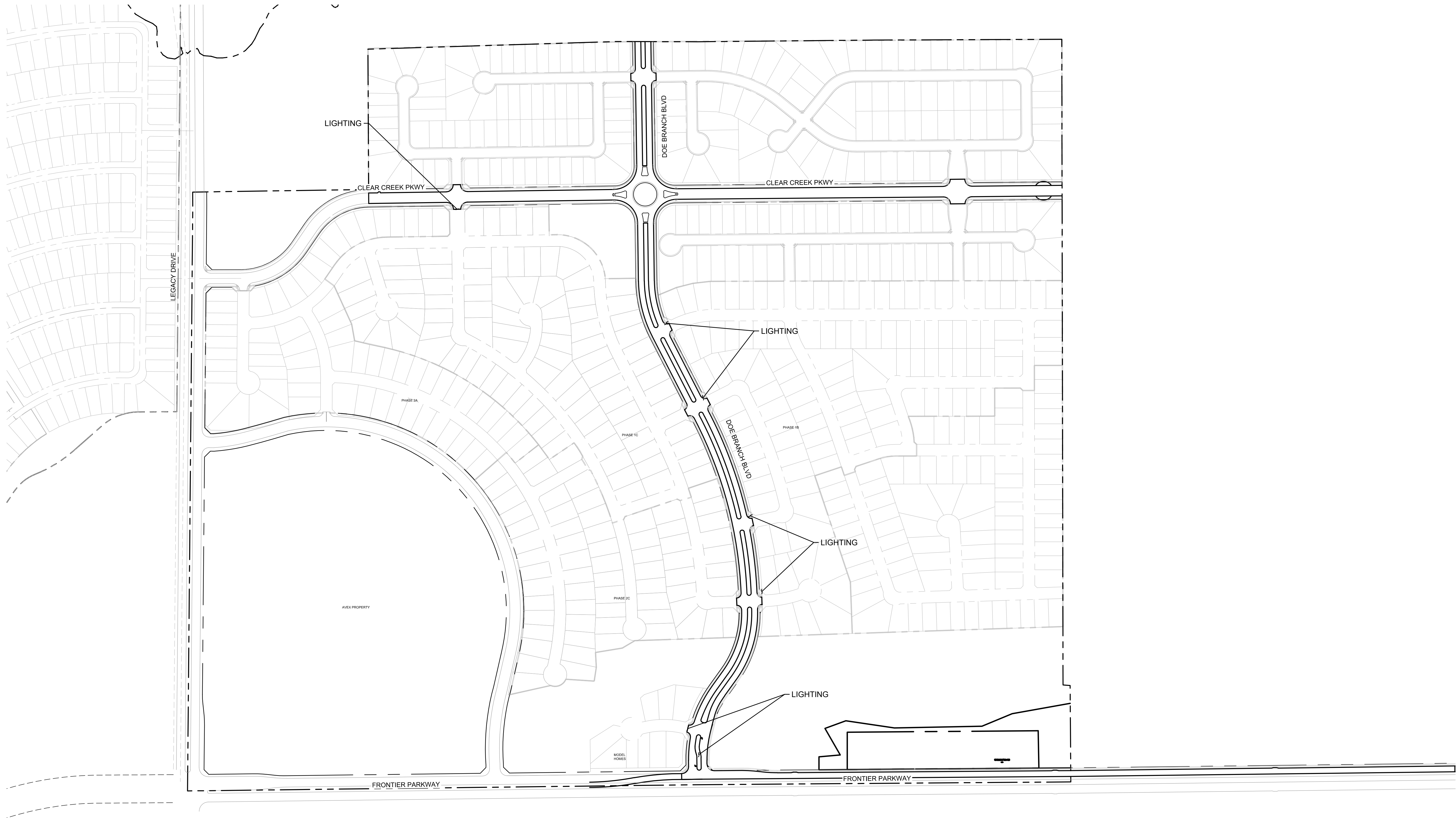
CREEKS OF LEGACY
EXHIBIT H
CELINA, TEXAS
MAY 2019



Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

EXHIBIT I
Location of Monument Signs

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)



CREEKS OF LEGACY
EXHIBIT I

CELINA, TEXAS
MAY 2019

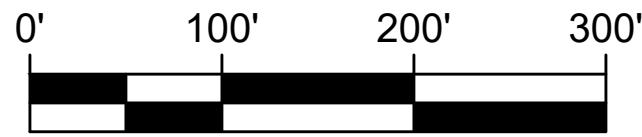


EXHIBIT J
Estimated Costs of Street Lighting

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)



- LEGEND**
- STREET LIGHT
 - PROPOSED STOP SIGN
 - EXISTING STOP SIGN

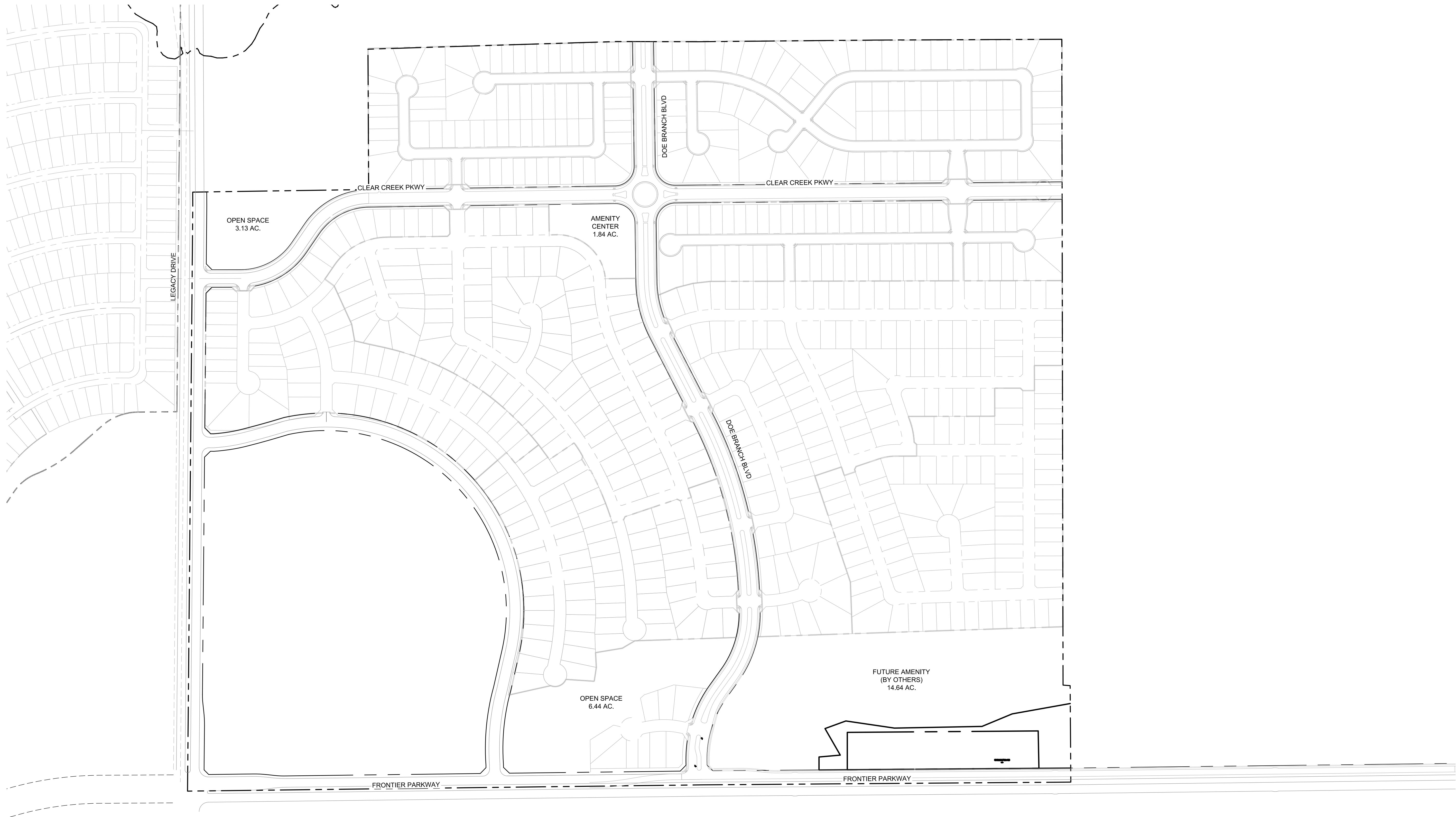
EXHIBIT K

Estimated Costs – Clear Creek Parkway Road Improvements

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

EXHIBIT L
Depiction of Right-of-Way

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)



CREEKS OF LEGACY
EXHIBIT L

CELINA, TEXAS
MAY 2019



EXHIBIT M
Paving and Drainage - Escrows

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)



ESCROW ESTIMATE
Creeks of Legacy, Legacy North- Paving
 City of Celina, Collin County, Texas

Project Number: CEN13006
Prepared For: Centurion American
Date: February 15, 2019
File Name: Creeks of Legacy - North Paving Escrow Estimate
Prepared by: AMO
Checked by: ESH

CONSTRUCTION COSTS - LEGACY NORTH PAVING

DESCRIPTION	AMOUNT
Earthwork	\$6,162.00
Paving	\$78,213.60
Miscellaneous	\$3,555.00
TOTAL CONSTRUCTION COSTS	\$87,930.60

MISCELLANEOUS COSTS

DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
Engineering & Surveying	12%	%	\$87,931	\$10,552
SWPPP (plan preparation & inspections)	1	LS	\$3,000	\$3,000
P,P & M Bond (2% of Pvg & Util Contracts)	2.0%	%	\$87,931	\$1,759
Eng. Review & Inspection Fee (3% of Pvg & Util)	3.0%	%	\$87,931	\$2,638
Geotechnical Testing	3.0%	%	\$87,931	\$2,640
TOTAL MISC. COSTS				\$20,588

SUMMARY

Construction Costs	\$87,930.60
Miscellaneous Costs	\$20,588.20
NET PROJECT COSTS	\$108,519.00
ESTIMATED ESCROW COSTS	\$108,519.00

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)

Offsite Paving - 60' ROW, 25' B-B Section				460 LF
Earthwork				
DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
Clear, Strip, & Grub	0.80	AC	930.00	744.00
Excavation	2,580	CY	2.10	5,418.00
			Subtotal:	\$ 6,162.00
Paving				
DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
6" Conc Pavement w/ 25' B-B	1,300	SY	45.00	58,500.00
6" Lime Stabilized Subgrade	1,430	SY	3.00	4,290.00
*Hydrated Lime (36#/SY)	26	TONS	140.00	3,603.60
5', 4" Conc. Sidewalk	460	LF	25.00	11,500.00
Concrete Butt Joint	40	LF	8.00	320.00
			Subtotal:	\$ 78,213.60
Misc.				
DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
Silt Fence	980	LF	1.50	1,470.00
Construction Entrance	1	EA	2,085.00	2,085.00
			Subtotal:	\$ 3,555.00
Total				\$ 87,930.60



ESCROW ESTIMATE
Creeks of Legacy, West Phase 2- Drainage

City of Celina, Collin County, Texas

Project Number: CEN13006
Prepared For: Centurion American
Date: July 25, 2018
File Name: Creeks of Legacy, West- Phase 2 Drainage Escrow Estimate
Prepared by: AMO
Checked by: ESH

CONSTRUCTION COSTS - WEST PHASE 2 DRAINAGE

DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
Drop Inlet	1	EA	\$4,500.00	\$4,500.00
42" RCP	50	LF	\$138.00	\$6,900.00
TOTAL CONSTRUCTION COSTS				\$11,400.00

ESTIMATED ESCROW COSTS	\$11,400.00
-------------------------------	--------------------

Attachment: Creeks of Legacy DA amendment (Creeks of Legacy Development Agreement Amendment)



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Madhuri Mohan AICP, Planning Manager
 CC: Jason Laumer, City Manager
 Date: June 11, 2019
 Re: Collin County Community College Annexation Resolution

Action Requested:

Consider and act upon a resolution accepting a petition from Collin County Community College for the voluntary annexation of an approximately 75 acre tract of land, Collin County, Texas, and setting two public hearing dates for July 9, 2019 at 5:00 p.m. and August 13, 2019 at 5:00 p.m. The property is generally located south of Choate Parkway and approximately 2,500 feet east of Preston Road. (CCCC Annexation Resolution) (Mohan)

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:

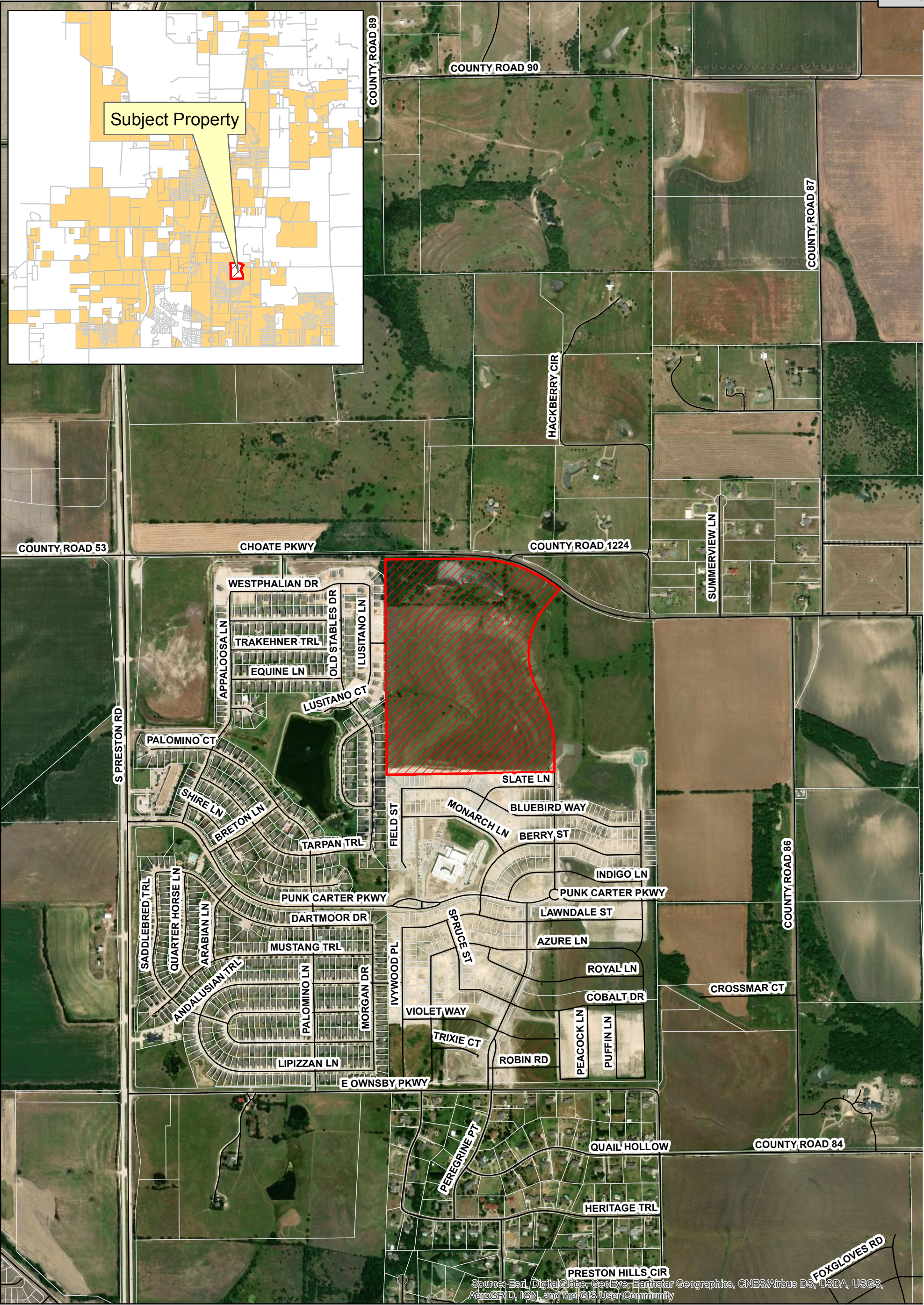
- June 11, 2019 - City Council acts on a resolution to set the public hearing dates.
- July 9, 2019 - First Public Hearing to be held.
- August 13, 2019 - Second Public Hearing to be held.
- August 13, 2019 - City Council acts on an ordinance annexing the property.

Supporting Documents:

- Location Map
- Annexation Resolution

Staff Recommendation:

Staff recommends approval of the Resolution.



Attachment: Location Map (Collin County Community College Annexation Resolution)



Collin College Location Map

Date: 4/30/2019

Legend

- Roads
-  Collin College
-  Parcels

0 800 1,600 Feet

Packet Pg. 157

**CITY OF CELINA
RESOLUTION NO. 2019 - ____**

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

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

WHEREAS, the City of Celina is provided the power to annex land under its Home Rule Charter and Section 43.003 of the Texas Local Government Code pursuant to the requirements and limitations set forth in state law; and

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

WHEREAS, Collin County Community College has initiated the process that will enable the City, should it so desire, in compliance with the Development Agreement approved by Collin County Community College and the City of Celina in August 2009, to annex the properties referenced in Exhibit “A”, and more fully depicted in the attached Exhibit “B” into the City of Celina, call two public hearings, and set a proposed annexation proceedings schedule.

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

- I.** That on Tuesday, the 9th day of July, 2019 at 5:00 p.m. and on Tuesday, the 13th day of August, 2019 at 5:00 p.m., at the CISD Administration Board Room located at 205 S. Colorado, Celina, Texas 75009, the City Council will hold public hearings giving all interested persons the right to appear and be heard on the proposed annexations by the City of Celina of the properties more particularly described in the attached Exhibit “A,” and more fully depicted in the attached Exhibit “B”. Services are to be provided to the property as outlined by the service plan in the attached Exhibit “C.”
- II.** That City Staff is hereby authorized and directed to cause notice of each public hearing to be published once in a newspaper having general circulation in the City and in the territories described in attached Exhibit “A,” and more fully depicted in the attached Exhibit “B” not more than twenty (20) days, nor less than ten (10) days prior to the date of such public hearing, in accordance with the Municipal Annexation Act.

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

SEAN TERRY, MAYOR

VICKI FAULKNER, CITY SECRETARY

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.

4



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: Madhuri Mohan AICP, Planning Manager
 CC: Jason Laumer, City Manager
 Date: June 11, 2019
 Re: NTTA ROW Annexation - Ordinance Adoption

Action Requested:

Consider and act upon an ordinance on the City initiated annexation of an approximately 81.3 acre tract of land, generally located on the Dallas North Tollway, in between Light Farms Way and County Road 51. (NTTA ROW Annexation) (Mohan)

Applicant:

City of Celina
 142 N. Ohio
 Celina, TX 75009

Background Information:

Below is the anticipated annexation schedule for the property:

~~March 19, 2019 – City Council acts on a resolution to set the public hearing dates.~~

~~April 9, 2019 – First Public Hearing to be held.~~

~~May 14, 2019 – Second Public Hearing to be held.~~

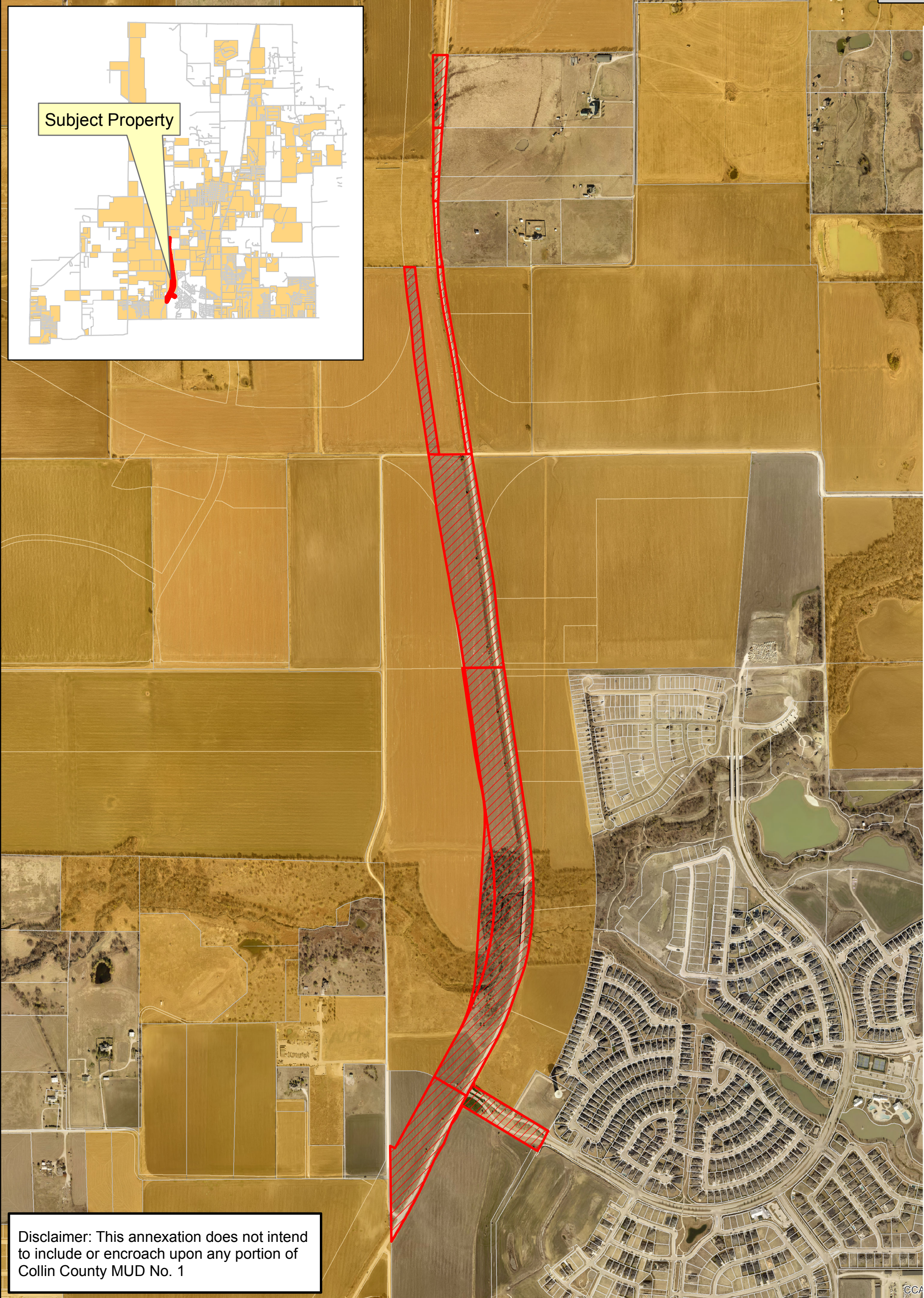
June 11, 2019 - City Council acts on an ordinance annexing the property.

Supporting Documents:

- Location Map
- Draft Ordinance

Staff Recommendation:

Staff recommends approval.



Attachment: Location Map (NTTA ROW Annexation Ordinance Adoption)

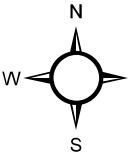


NTTA Potential Annexation

Date: 3/25/2019

Legend

-  ROW
-  City Limits
-  Parcels



0 625 1,250 Feet

Packet Pg. 168

**CITY OF CELINA, TEXAS
ORDINANCE NO. 2019-_____
NTTA ROW 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 81.3 ACRE TRACT OF LAND, COLLIN COUNTY, TEXAS, AND BEING MORE PARTICULARLY GRAPHICALLY DEPICTED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN, SUCH TRACT IS GENERALLY LOCATED ON THE DALLAS NORTH TOLLWAY, IN BETWEEN LIGHT FARMS WAY AND COUNTY ROAD 51; 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 April, 2019, and the second hearing being held on the 14th day of May, 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 being more particularly depicted in Exhibit "A", 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 29th day of March, 2019 and on the 3rd day of May, 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 - that surrounding the area is in the public interest; and

WHEREAS, the graphic description of the property to be annexed is attached hereto as Exhibit

Attachment: Draft Ordinance (NTTA ROW Annexation Ordinance Adoption)

“A” and incorporated herein for all purposes; and

WHEREAS, the service plan for such territory is attached hereto as Exhibit “B” 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 depicted in Exhibit “A”, 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 “B”, 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 depicted in Exhibit “A”, 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 11th day of June, 2019.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

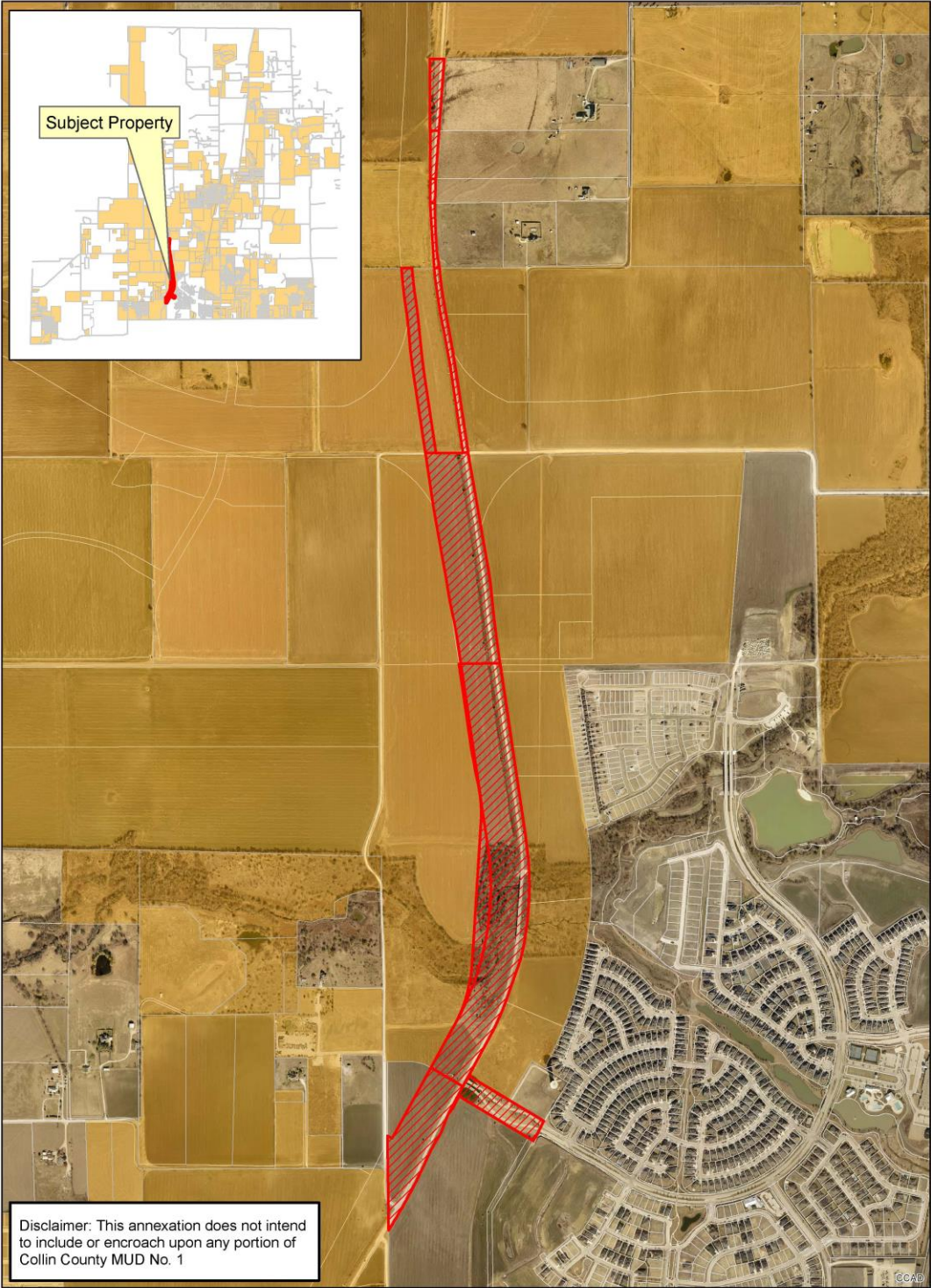
APPROVED AS TO FORM:

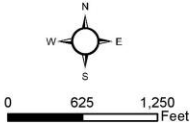
Vicki Faulkner, City Secretary
City of Celina, Texas

City Attorney
City of Celina, Texas

Attachment: Draft Ordinance (NTTA ROW Annexation Ordinance Adoption)

Exhibit "A"
Property Exhibit



	NTTA Potential Annexation Date: 3/25/2019	Legend  ROW  City Limits  Parcels	
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Attachment: Draft Ordinance (NTTA ROW Annexation Ordinance Adoption)

**Exhibit “B”
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: Madhuri Mohan AICP, Planning Manager
CC: Jason Laumer, City Manager
Date: June 11, 2019
Re: Iglesia Bautista El Calvario Development Agreement

Action Requested:

Consider and act upon a Development Agreement with First Baptist Church of Celina on an approximately 0.75 acre tract of land, located at 604 N. Ohio Street in the City Limits. (Iglesia Bautista El Calvario Development Agreement) (McAfee)

Owner:

The First Baptist Church of Celina
Po Box 218
Celina, TX 75009-0218

Background Information:

The proposed development agreement is for the Iglesia Bautista El Calvario, located at 604 N. Ohio Street. The City's Code of Ordinances allows temporary parking for non-profit organizations (such as this one) for a maximum of three years. This agreement is to extend the three year period to five years. At the end of the time period, a concrete parking lot must be constructed, and adhere to City standards.

Supporting Documents:

- Location Map
- Development Agreement

Staff Recommendation:

Staff recommends approval.

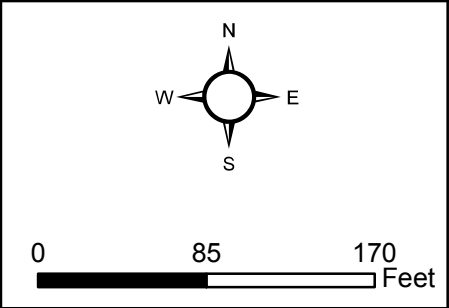


Attachment: Location Map (Iglesia Bautista El Calvario Development Agreement)



Iglesia El Calvario Location Map

Date: 5/31/2019



Legend

Roads

Iglesia

Parcels

Packet Pg. 179

DEVELOPMENT AGREEMENT

An Agreement of the City of Celina, Texas (hereinafter the "City") and the First Baptist Church of Celina (hereinafter the "Church") for the installation of certain private improvements and facilities within the corporate limits of the City on a tract of land consisting of approximately 0.25 acres of land, and being more particularly described in the attached Exhibit A ("Boundary Survey") and depicted in Exhibit B ("Site Plan"), attached hereto and incorporated herein.

RECITALS:

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

WHEREAS, the Church is the owner of a certain tract of real property, more particularly described in the attached Exhibit A (the "Property") and depicted in Exhibit B; and

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

WHEREAS, the Church is a not for profit organization as defined by the Internal Revenue Code; and

WHEREAS, the Church has an existing structure used for meetings and worship services located at 604 N. Ohio Drive; and

WHEREAS, to safely accommodate visitors and comply with City ordinances the Church is required to provide a fixed number of parking spaces; and

WHEREAS, the Celina City of Celina Code of Ordinances provides for the allowance of temporary parking lots up to a maximum of three (3) years; and

WHEREAS, the Church has requested that the three (3) year maximum be extended to five (5) years; and

WHEREAS, the Celina City Council may consider and grant meritorious exceptions to its subdivision standards on a case by case basis; and

WHEREAS, the City desires to facilitate the construction of the Church's temporary parking lot in a manner consistent with the public interest and the safety of visitors to the Church and residents of the neighborhood; and

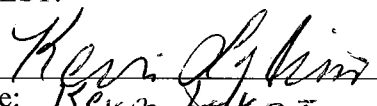
WHEREAS, the timely and efficient development of the Property and the construction of a temporary parking lot will best be effectuated by the above-referenced extension of time.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

1. The City agrees to permit a temporary parking facility to be constructed on the Property as referenced in Exhibit A and depicted in Exhibit B. Such temporary parking shall be allowed to remain until the Church constructs a concrete parking lot in accordance with City standards. Such concrete parking lot must be completed within five (5) years from the date of the Certificate of Occupancy for the primary Church structure. The construction of the temporary parking lot will be subject to those rules, standards, schedules and guidelines set forth by Celina's Department of Development Services.
2. Failure by the Church to adhere to any rules, standards, schedules or guidelines set forth by Celina's Department of Development Services shall render this Agreement null and void. The City Council hereby delegates to the Director of Development Services the authority to make such declaration in the event the Church fails to comply with any terms of the Agreement.

IN WITNESS WHEREOF, the Parties enter into this Agreement on the 11th day of June, 2019.

ATTEST:


 Name: Kevin Lyons
 Title: Pastor
 First Baptist Church of Celina

 Jason W. Laumer
 City Manager
 Celina, Texas

EXHIBIT A **BOUNDARY SURVEY**

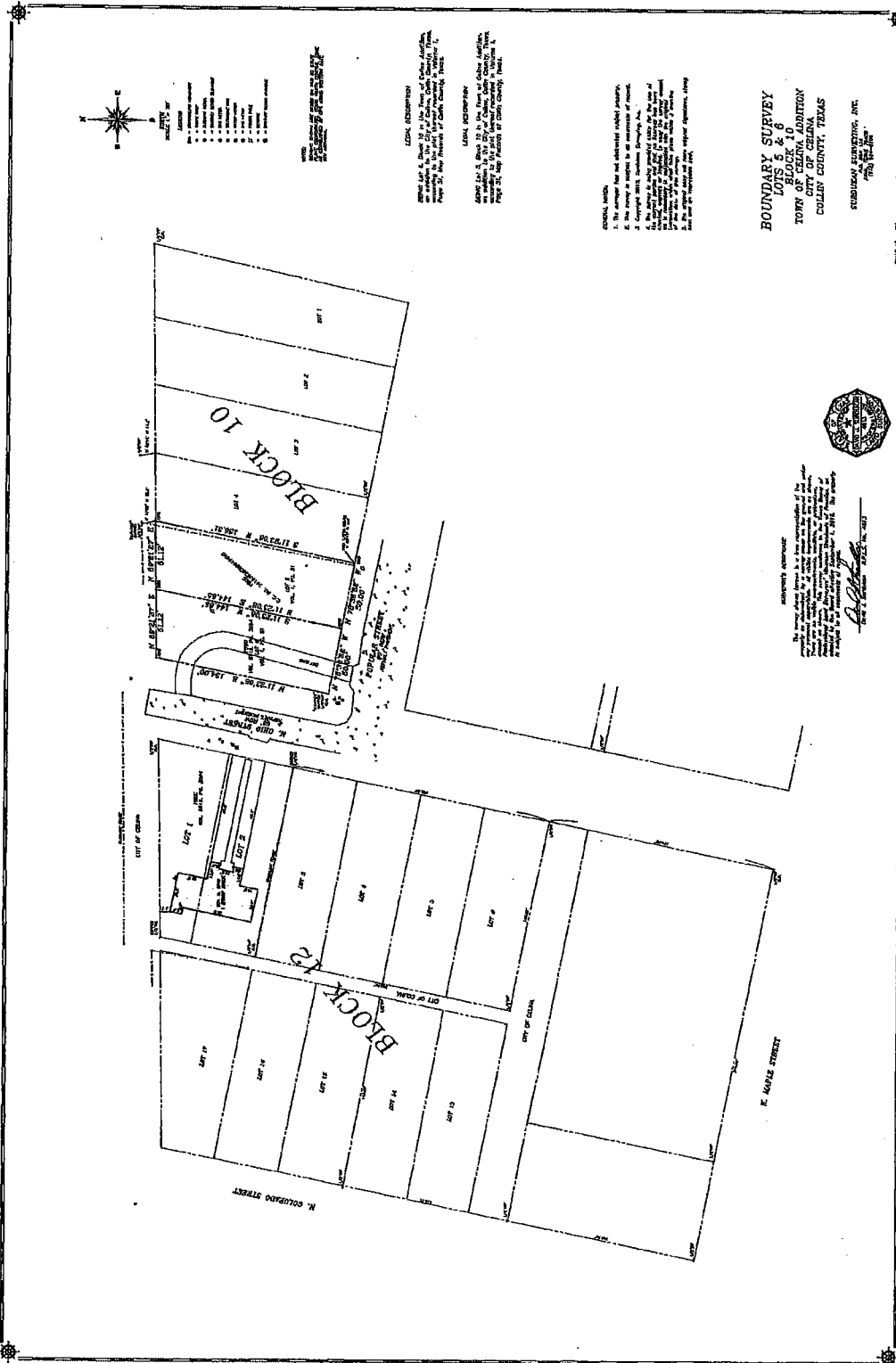
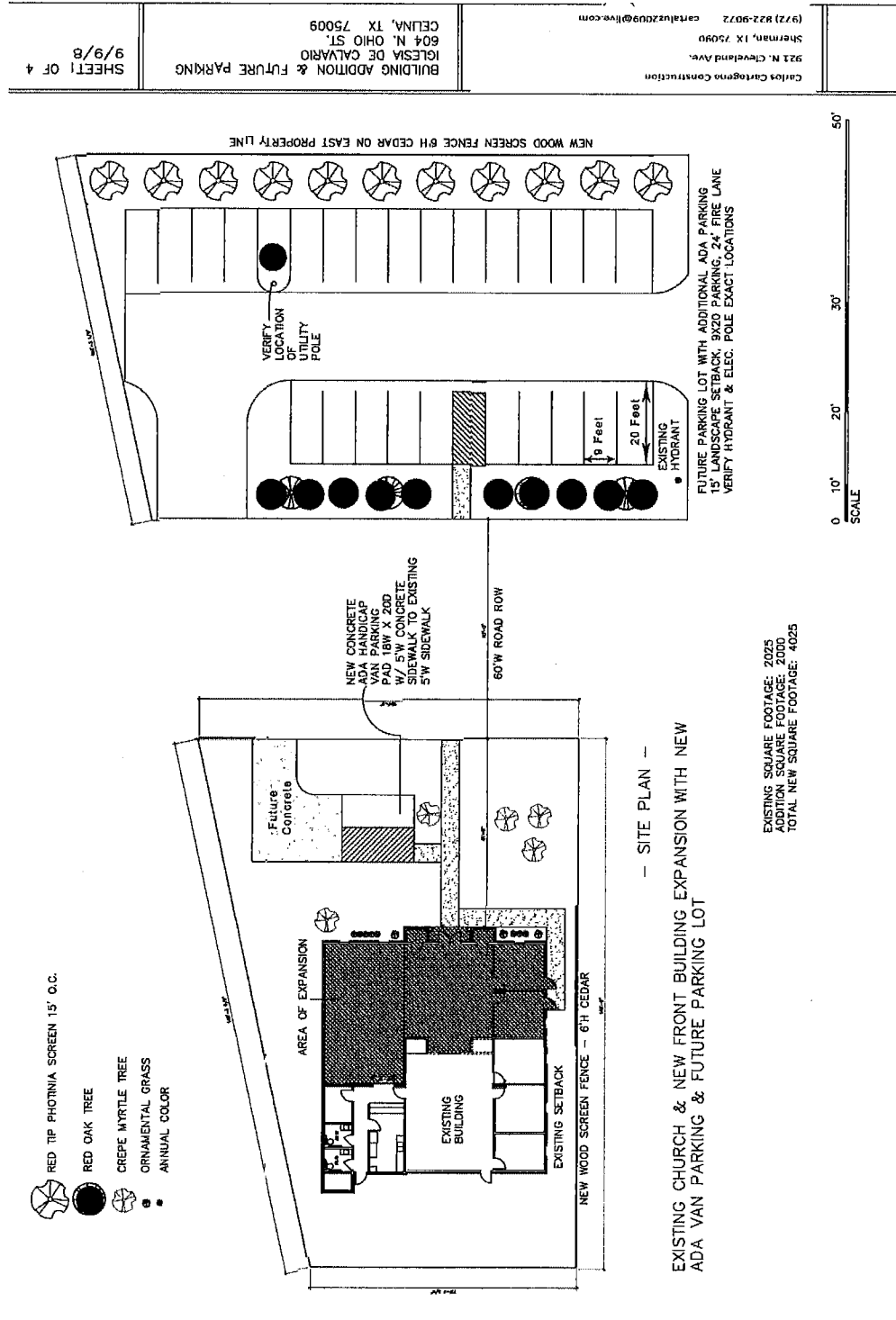


EXHIBIT B
SITE PLAN





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: June 11, 2019
Re: Master Fee Chart

Action Requested:

Consider and act upon an ordinance amending the City's Code of Ordinances, Appendix A: Fee Schedule to provide a comprehensive fee update and on the adoption of a master fee chart. (Master Fee Chart) (McAfee)

Background:

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

Supporting Documents:

- Revised Ordinance

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

ORDINANCE 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES, APPENDIX A: FEE SCHEDULE; ARTICLE A3.000 BUILDING RELATED FEES; ARTICLE A6.000 SUBDIVISION, ZONING AND LAND USAGE FEES; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENT TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY, PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the City Council is legally empowered to recover its costs for permitting and in house review of permitting services; and

WHEREAS, the City Council desires to amend the fees charged for residential building permits; and

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

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

SECTION 1 **INCORPORATION OF PREMISES**

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

SECTION 2 **FINDINGS**

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

SECTION 3 **AMENDMENTS**

3.1 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (a)(1) is hereby amended to read:

“Residential, new construction building permit fee: \$.92 per square foot under roof.”

3.2 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (b)(1) is hereby amended to read:

“Building Permit Fee: the greater of either (1) \$75.00 or (2) \$.92 per square foot under roof.”

3.3 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (c)(11) is hereby amended to read:

“Patio Cover/Deck/Outdoor Kitchen/Garage/Shade Structure: \$200.00 + required trade permits + application fee + \$75.00 review fee.”

3.4 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (c)(12) is hereby amended to read:

“Pool/Spa: \$200.00 + required trade permits + application fee + \$75.00 review fee.

3.5 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (e)(6) is hereby amended to read:

“Commercial Building Permit Fee: Current ICC square foot construction costs table fee for appropriate construction type: (gross area X square foot construction cost) X .0075.”

3.6 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (e)(13) is hereby inserted and shall read:

“Multi-Family Building Permit Fee: \$0.85 per square foot under roof.”

3.7 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (f)(5) is hereby amended to read:

“Commercial Building Permit Fee: \$6.50 per \$1000 in value (\$100.00 minimum).”

3.8 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (f)(10) is hereby amended to read:

“Commercial Pool Fee: \$250.00 + Application Fee + Required Trade Permits.”

3.9 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (f)(12) is hereby amended to read:

“Retaining Wall/Screen Wall/Fence Fee: \$250.00 + Application Fee.

3.10 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A3.000 Building Related Fees; Section A3.001 Building Permits and Inspections; Contractor Registration: Subsection (f)(20) is hereby inserted and shall read:

“Multi-Family Building Permit Fee: \$.37 per square foot under roof.”

3.11 That the Celina Code of Ordinances, Appendix A: Fee Schedule; Article A6.000 Subdivision, Zoning and Land Usage Fees; Section A6.023 Tree Mitigation Permit Fee is hereby inserted and shall read:

“Tree Removal Application Fee: \$150.00 + Required Mitigation.”

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

SECTION 4 **CUMULATIVE REPEALER CLAUSE**

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

Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5 **SAVINGS CLAUSE**

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

SECTION 6 **SEVERABILITY**

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

SECTION 7 **PENALTY**

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

Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Celina, and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.

SECTION 8 **PUBLICATION CLAUSE**

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

SECTION 9
ENGROSSMENT AND ENROLLMENT

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

SECTION 10
EFFECTIVE DATE

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

AND IT IS SO ORDAINED.

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

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

APPROVED AS TO FORM:

Lance Vanzant, City Attorney
City of Celina, Texas

Attachment: Revised Ordinance (Master Fee Chart Revision)



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Dusty McAfee AICP, Director of Development Services
CC: Jason Laumer, City Manager
Date: June 11, 2019
Re: SafeBUILT Building Inspections Contract

Action Requested:

Consider and act upon a Professional Service Agreement with SAFEbuilt Texas, LLC, and authorize and empower the City Manager to execute same. (SAFEbuilt Building Inspections Contract) (McAfee)

Background Information:

The Professional Service Agreement between the City of Celina and SAFEbuilt Texas, LLC, is for the Development Services Department to have the option of a third party consultant to provide services with building inspections.

Supporting Documents:

- Professional Service Agreement

Staff Recommendation:

Staff recommends approval.

PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF CELINA, TEXAS AND SAFEbuilt TEXAS, LLC

This Professional Services Agreement ("Agreement") is made and entered into by and between City of Celina, Texas, ("Municipality") and SAFEbuilt Texas, LLC, a whole subsidiary of SAFEbuilt, LLC, ("Consultant"). Municipality and Consultant shall be jointly referred to as "Parties".

RECITALS

WHEREAS, Municipality is seeking a consultant to perform the services listed in Exhibit A – List of Services and Fee Schedule, ("Services"); and

WHEREAS, Consultant is ready, willing, and able to perform Services.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, Municipality and Consultant agree as follows:

1. SCOPE OF SERVICES

Consultant will perform Services in accordance with codes, amendments and ordinances adopted by the elected body of Municipality. The qualified professionals employed by Consultant will maintain current certifications, certificates, licenses as required for Services that they provide to Municipality. Consultant is not obligated to perform services beyond what is contemplated by this Agreement.

Unless otherwise provided in Exhibit B, Consultant shall provide the Services using hardware and Consultant's standard software package. In the event that Municipality requires that consultant utilize hardware or software specified by or provided by Municipality, Municipality shall provide the information specified in Exhibit B. Consultant shall use reasonable commercial efforts to comply with the requirements of Exhibit B and Municipality, at its sole expense, shall provide such technical support, equipment or other facilities as Consultant may reasonably request to permit Consultant to comply with the requirements of Exhibit B.

2. CHANGES TO SCOPE OF SERVICES

Any changes to Services between Municipality and Consultant shall be made in writing that shall specifically designate changes in Service levels and compensation for Services. Both Parties shall determine a mutually agreed upon solution to alter services levels and a transitional timeframe that is mutually beneficial to both Parties. No changes shall be binding absent a written Agreement or Amendment executed by both Parties.

3. FEE STRUCTURE

In consideration of Consultant providing services, Municipality shall pay Consultant for Services performed in accordance with Exhibit A – List of Services and Fee Schedule.

4. INVOICE & PAYMENT STRUCTURE

Consultant will invoice Municipality as SAFEbuilt, LLC, on a monthly basis and provide all necessary supporting documentation. All payments are due to Consultant within 30 days of Consultant's invoice date. Payments owed to Consultant but not made within sixty (60) days of invoice date shall bear simple interest at the rate of one and one-half percent (1.5%) per month. If payment is not received within ninety (90) days of invoice date, Services will be discontinued until all invoices and interest are paid in full. Municipality may request, and Consultant shall provide, additional information before approving the invoice. When additional information is requested Municipality will identify specific disputed item(s) and give specific reasons for any request. Undisputed portions of any invoice shall be due within 30 days of Consultants invoice date, if additional information is requested, Municipality will submit payment within thirty (30) days of resolution of the dispute.

5. TERM

This Agreement shall be effective on the latest date on which this Agreement is fully executed by both Parties. The initial term of this Agreement shall be twenty-four (24) months, subsequently, Agreement shall automatically renew for twelve (12) month terms; unless prior notification is delivered to either Party thirty (30) days in advance of the renewal date of this Agreement. In the absence of written documentation, this Agreement will continue in force until such time as either Party notifies the other of their desire to terminate this Agreement.

6. TERMINATION

Either Party may terminate this Agreement, or any part of this Agreement upon ninety (90) days written notice, with or without cause and with no penalty or additional cost beyond the rates stated in this Agreement. In case of such termination, Consultant shall be entitled to receive payment for work completed up to and including the date of termination within thirty (30) days of the termination.

All structures that have been permitted, a fee collected, and not yet expired at the time of termination may be completed through final inspection by Consultant if approved by Municipality. Consultant's obligation is met upon completion of final inspection or permit expiration, provided that the time period to reach such completion and finalization does not exceed ninety (90) days. Alternately, Municipality may exercise the option to negotiate a refund for permits where a fee has been collected but inspections have not been completed. The refund will be prorated according to percent of completed construction as determined by Consultant and mutually agreed upon by all Parties. No refund will be given for completed work.

7. FISCAL NON-APPROPRIATION CLAUSE

Financial obligations of Municipality payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of Municipality, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.

8. MUNICIPALITY OBLIGATIONS

Municipality shall timely provide all data information, plans, specifications and other documentation reasonably required by Consultant to perform Services. Municipality grants Consultant full privilege, non-exclusive, non-transferable license to use all such materials as reasonably required to perform Service.

9. PERFORMANCE STANDARDS

Consultant shall perform the Services using that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services. Consultant represents to Municipality that Consultant retains employees that possess the skills, knowledge, and abilities to competently, timely, and professionally perform Services in accordance with this Agreement. Municipality's sole remedy and Consultant's sole obligation in the event of failure to perform Services in accordance with the terms of this Section shall be re-performance of the services by Consultant.

10. INDEPENDENT CONTRACTOR

Consultant is an independent contractor, and neither Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of Municipality. As Consultant is an independent contractor, Municipality shall have no liability or responsibility for any direct payment of any salaries, wages, payroll taxes, or any and all other forms or types of compensation or benefits to any personnel performing services for Municipality under this Agreement. Consultant shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with Consultant, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment.

11. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend, indemnify, and hold harmless Municipality, its elected and appointed officials, employees and volunteers and others working on behalf of Municipality, from and against any and all third-party claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities ("Claims") alleging personal injury, including bodily injury or death, and/or property damage, but only to the extent that any such Claims are caused by the negligence of Consultant or any officer, employee, representative, or agent of Consultant. Consultant shall have no obligations under this Section to the extent that any Claim arises as a result of Consultants compliance with Municipal law, ordinances, rules, regulations, resolution, executive orders or other instructions received from Municipality.

To the fullest extent permitted by law and without waiver of sovereign immunity, Municipality shall defend, indemnify, and hold harmless Consultant, its officers, employees, representatives, and agents, from and against any and all Claims alleging personal injury, including bodily injury or death, and/or property damage, but only to the extent that such Claims are caused by (a) the negligence of, or material breach of any obligation under this Agreement by, Municipality or any officer, employee, representative, or agent of Municipality or (b) Consultant's compliance with Municipal law, ordinances, rules, regulations, resolutions, executive orders or other instructions received from Municipality. If either Party becomes aware of any incident likely to give rise to a Claim under the above indemnities, it shall notify the other and both Parties shall cooperate fully in investigating the incident.

12. ASSIGNMENT

Neither party shall assign all or part of its rights, duties, obligations, responsibilities, nor benefits set forth in this Agreement to another entity without the written approval of both Parties; consent shall not be unreasonably withheld. Notwithstanding the preceding, Consultant may assign this Agreement to its parent, subsidiaries or sister companies (Affiliates) without notice to Municipality. Consultant may subcontract any or all of the services to its Affiliates without notice to Municipality. Consultant may subcontract any or all of the services to other third parties provided that Consultant gives Municipality prior written notice of the persons or entities with which Consultant has subcontracted. Consultant remains responsible for any Affiliate's or subcontractor's performance or failure to perform. Affiliates and subcontractors will be subject to the same performance criteria expected of Consultant. Performances clauses will be included in agreements with all subcontractors to assure quality levels and agreed upon schedules are met.

13. INSURANCE

- A. Consultant agrees during the term of this Agreement to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Consultant pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law.
- B. At a minimum, Consultant shall procure and maintain, and shall cause any subcontractor of Consultant to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to Municipality. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
- C. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one million dollars (\$1,000,000) bodily injury each accident, one million dollars (\$1,000,000) bodily injury by disease – policy limit, and one million dollars (\$1,000,000) bodily injury by disease – each employee.
- D. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, independent Consultant's, and products. The policy shall contain a

severability of interest provision and shall be endorsed to include Municipality and Municipality's officers, employees, and consultants as additional insureds.

- E. Professional liability insurance with minimum limits of five million dollars (\$5,000,000) each claim and five million dollars (\$5,000,000) general aggregate.
- F. Automobile Liability: If performance of this Agreement requires use of motor vehicles licensed for highway use, Automobile Liability Coverage is required that shall cover all owned, non-owned, and hired automobiles with a limit of not less than \$1,000,000 combined single limit each accident.
- G. Municipality shall be named as an additional insured on Consultant's insurance coverage.
- H. Prior to commencement of Services, Consultant shall submit certificates of insurance acceptable to Municipality.

14. THIRD PARTY RELIANCE

This Agreement is intended for the mutual benefit of Parties hereto and no third-party rights are intended or implied.

15. OWNERSHIP OF DOCUMENTS

Except as expressly provided in this Agreement, Municipality shall retain ownership of all work product and deliverables created by Consultant pursuant to this Agreement and all records, documents, notes, data and other materials required for or resulting from the performance of Services hereunder shall not be used by Consultant for any purpose other than the performance of Services hereunder without the express prior written consent of Municipality. All such records, documents, notes, data and other materials shall become the exclusive property of Municipality when Consultant has been compensated for the same as set forth herein, and Municipality shall thereafter retain sole and exclusive rights to receive and use such materials in such manner and for such purposes as determined by it. Notwithstanding the preceding, Consultant may use the work product, deliverables, applications, records, documents and other materials required for or resulting from the Services, all solely in an anonymized form, for purposes of (i) benchmarking of Municipality's and others performance relative to that of other groups of customers served by Consultant; (ii) sales and marketing of existing and future Consultant services; (iii) monitoring Service performance and making improvements to the Services. For the avoidance of doubt, Municipality Data will be provided to third parties only on an anonymized basis and only as part of a larger body of anonymized data. If this Agreement expires or is terminated for any reason, all records, documents, notes, data and other materials maintained or stored in Consultant's secure proprietary software pertaining to Municipality will be exported into a CSV file and become property of Municipality. Notwithstanding the preceding, Consultant shall own all rights and title to any Consultant provided software and any improvements or derivative works thereof.

Upon reasonable prior written notice, Municipality and its duly authorized representatives shall have access to any books, documents, papers and records of Consultant that are related to this Agreement for the purposes of audit or examination, other than Consultant's financial records, and may make excerpts and transcriptions of the same at the cost and expense of Municipality.

16. CONSULTANT ACCESS TO RECORDS

Parties acknowledge that Consultant requires access to Records in order for Consultant to perform its obligations under this Agreement. Accordingly, Municipality will either provide to Consultant on a daily basis such data from the Records as Consultant may reasonably request (in an agreed electronic format) or grant Consultant access to its Records and Record management systems so that Consultant may download such data. Data provided to or downloaded by Consultant pursuant to this Section shall be used by Consultant solely in accordance with the terms of this Agreement.

17. CONFIDENTIALITY

Consultant shall not disclose, directly or indirectly, any confidential information or trade secrets of Municipality without the prior written consent of Municipality or pursuant to a lawful court order directing such disclosure.

18. CONSULTANT PERSONNEL

Consultant shall employ a sufficient number of experienced and knowledgeable employees to perform Services in a timely, polite, courteous and prompt manner. Consultant shall determine appropriate staffing levels and shall promptly inform Municipality of any reasonably anticipated or known employment-related actions which may affect the performance of Services. Additional staffing resources shall be made available to Municipality when assigned employee(s) is unavailable. Municipality may be provided advance opportunity to make recommendation to Consultant regarding any proposed hiring, retention, or selection of any new employee that will provide Services to Municipality. Such recommendation by Municipality concerning an employment-related action shall not be binding on Consultant.

19. DISCRIMINATION & ADA COMPLIANCE

Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin or any other category protected by applicable federal or state law. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of Equal Opportunity laws.

Consultant shall comply with the appropriate provisions of the Americans with Disabilities Act (the "ADA"), as enacted and as from time to time amended, and any other applicable federal regulations. A signed certificate confirming compliance with the ADA may be requested by Municipality at any time during the term of this Agreement.

20. PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

Consultant is registered with and is authorized to use and uses the federal work authorization program commonly known as E-Verify. Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Agreement and will verify immigration status to confirm employment eligibility. Consultant shall not enter into an agreement with a subcontractor that fails to certify to Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Consultant is prohibited from using the E-Verify program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

21. SOLICITATION/HIRING OF CONSULTANT'S EMPLOYEES

During the term of this Agreement and for one year thereafter, Municipality shall not solicit, recruit or hire, or attempt to solicit, recruit or hire, any employee or former employee of Consultant who provided services to Municipality pursuant to this Agreement ("Service Providers"), or who interacted with Municipality in connection with the provision of such services (including but not limited to supervisors or managers of Service Providers, customer relations personnel, accounting personnel, and other support personnel of Consultant). Parties agree that this provision is reasonable and necessary in order to preserve and protect Consultant's trade secrets and other confidential information, its investment in the training of its employees, the stability of its workforce, and its ability to provide competitive building department programs in this market. If any provision of this section is found by a court or arbitrator to be overly broad, unreasonable in scope or otherwise unenforceable, Parties agree that such court or arbitrator shall modify such provision to the minimum extent necessary to render this section enforceable. In the event that Municipality hires any such employee during the specified period, Municipality shall pay to Consultant a placement fee equal to 25% of the employee's annual salary including bonus.

22. NOTICES

Any notice under this Agreement shall be in writing and shall be deemed sufficient when presented in person, or sent, pre-paid, first class United States Mail, or delivered by electronic mail to the following addresses:

If to Municipality:	If to Consultant:
Jason Laumer, City Manager City of Celina 142 North Ohio Street Celina, Texas 75009	Tom T. Klein, CRO SAFEbuilt, LLC 3755 Precision Drive, Suite 140 Loveland, CO 80538 Email: tklein@safebuilt.com

23. FORCE MAJEURE

Any delay or nonperformance of any provision of this Agreement by either Party (with the exception of payment obligations) which is caused by events beyond the reasonable control of such party, shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing such performance.

24. DISPUTE RESOLUTION

In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, Parties agree first to try in good faith to settle the dispute by mediation, before resorting to arbitration, litigation, or some other dispute resolution procedure. The cost thereof shall be borne equally by each Party.

25. ATTORNEY'S FEES

In the event of dispute resolution or litigation to enforce any of the terms herein, each Party shall pay all its own costs and attorney's fees.

26. AUTHORITY TO EXECUTE

The person or persons executing this Agreement represent and warrant that they are fully authorized to sign and so execute this Agreement and to bind their respective entities to the performance of its obligations hereunder.

27. TEXAS GOVERNMENT CODE/PROHIBITION OF BOYCOTT ISRAEL

Consultant verifies that it does not Boycott Israel and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001/2270.001, as amended.

28. GOVERNING LAW AND VENUE

This Agreement shall be construed under and governed by the laws of the State of Texas and all services to be provided will be provided in accordance with applicable federal, state and local law, without regard to its conflict of laws provisions.

29. COUNTERPARTS

This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For purposes of executing this Agreement, scanned signatures shall be as valid as the original.

30. ELECTRONIC REPRESENTATIONS AND RECORDS

Parties hereby agree to regard electronic representations of original signatures as legally sufficient for executing this Agreement and scanned signatures emailed by PDF or otherwise shall be as valid as the original. Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. Parties agree not to object to the admissibility

of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

31. WAIVER

Failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision. Waiver of any right or power arising out of this Agreement shall not be deemed waiver of any other right or power.

32. ENTIRE AGREEMENT

This Agreement, along with attached exhibits, constitutes the complete, entire and final agreement of the Parties hereto with respect to the subject matter hereof, and shall supersede any and all previous communications, representations, whether oral or written, with respect to the subject matter hereof. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

Thomas P. Wilkas, CFO
SAFEbuilt Texas, LLC

Date

Signature

Date

Name and Title
City of Celina, Texas

EXHIBIT A – LIST OF SERVICES AND FEE SCHEDULE

1. LIST OF SERVICES

As-Requested Residential and Roofing Inspections

- ✓ Service includes Building, Electrical, Plumbing, Mechanical and Roof
- ✓ Consultant utilizes an educational, informative approach to improve the customer's experience.
- ✓ Perform code compliant inspections to determine that construction complies with approved plans
- ✓ Meet or exceed agreed upon performance metrics regarding inspections
- ✓ Provide onsite inspection consultations to citizens and contractors while performing inspections
- ✓ Return calls and emails from permit holders in reference to code and inspection concerns
- ✓ Identify and document any areas of non-compliance
- ✓ Leave a copy of the inspection ticket and discuss inspection results with site personnel

Reporting Services

- ✓ Consultant will work with Municipality to develop a mutually agreeable reporting schedule and format

2. MUNICIPAL OBLIGATIONS

- ✓ Municipality will issue permits and collect all fees
- ✓ Municipality will provide Consultant with a list of requested inspections and supporting documents

3. TIME OF PERFORMANCE

Services will be performed during normal business hours excluding Municipal holidays.

- ✓ Inspectors will be dispatched on an as-needed basis
- ✓ Consultants representative(s) will be available by cell phone and email

Deliverables	
INSPECTION SERVICES	Forty-eight (48) business hours lead time is required to guarantee availability
MOBILE RESULTING	Provide our inspectors with field devices to enter results immediately

4. FEE SCHEDULE

- ✓ Beginning January 01, 2020 and annually thereafter, the hourly rates listed shall be increased based upon the annual increase in the Department of Labor, Bureau of Labor Statistics or successor thereof, Consumer Price Index (United States City Average, All Items (CPI-U), Not Seasonally adjusted, All Urban Consumers, referred to herein as the "CPI") for the Municipality or, if not reported for the Municipality the CPI for cities of a similar size within the applicable region from the previous calendar year, such increase, however, not to exceed 4% per annum. The increase will become effective upon publication of the applicable CPI data. If the index decreases, the rates listed shall remain unchanged
- ✓ Consultant fees for Services provided pursuant to this Agreement will be as follows:

Service Fee Schedule:	
Residential Inspection Services	\$111.50 per hour – two (2) hour minimum
Residential Roof Inspection Services	\$106.00 per hour – two (2) hour minimum
Time tracked will start when Consultant checks in at Municipality or first inspection site.	

EXHIBIT B – MUNICIPAL SPECIFIED OR PROVIDED SOFTWARE

Municipality to provide applicable information in accordance with the provisions of Section 1. Scope of Services.



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: June 11, 2019
Re: Downtown Celina Zoning Professional Service Agreement

Action Requested:

Consider and act to authorize the City Manager to execute a contract between the City of Celina and Ideation Planning for the preparation of the Downtown Code. (Downtown Celina Zoning Professional Service Agreement) (McAfee)

Background Information:

The Professional Service Agreement between the City of Celina and Ideation Planning, LLC, in the amount of \$75,000.00, is for the implementation of the downtown zoning, following the Downtown Master Plan approved in January 2019.

This is a continuation of the Downtown Master Plan, which identified the correction of the regulatory framework as an immediate priority. The current regulations for downtown do not align with the adopted vision as outlined in the Downtown Master Plan. This effort ensures that the vision within the plan is supported by the City's regulations.

Supporting Documents:

- Professional Service Agreement

Staff Recommendation:

Staff recommends approval.



Office Address: Southlake Town Square, 180 State Street, Suite 225, 76092
 Mailing Address: PO Box 93211, Southlake, Texas 76092
 Phone: 682.738.IDEA⁽⁴³³²⁾
 Email: info@ideationplanning.com
www.IdeationPlanning.com

February 5, 2019

City of Celina
 ATTN: Jason Laumer
 City Manager
 142 North Ohio Street
 Celina, Texas 75009
 Via Email Delivery to Dusty McAfee: dmcafee@celina-tx.gov

Subject: Scope of Services – Downtown Code

Mr. Laumer:

I am pleased to submit this proposal to the City of Celina for professional planning services. Ideation Planning, LLC, provides professional and strategic planning and development consulting, and we are interested in preparing Celina's Downtown Code.

I have provided the following for your review:

- Ex. A: Scope of Services
- Ex. B: Standard Terms and Conditions

The Scope of Services to be performed by Ideation Planning, LLC, under this letter agreement is described in Exhibit "A" below. **Project costs for this Scope will be based on a lump sum fee of \$75,000 as reflected in Exhibit "A" below.**

All work will be performed in accordance with Ideation Planning, LLC's attached Standard Terms and Conditions (Exhibit "B" below). To accept this proposal, please sign, date, scan, and email back to me once the contract has been authorized. The work defined herein shall begin after Ideation Planning, LLC receives the signed copy of this letter agreement. This Agreement may be extended upon prior written/emailed approval from the City of Celina.

Please review the enclosed exhibits, and do not hesitate to contact me with any questions or comments at 972-339-8186 or abra@ideationplanning.com. I look forward to the opportunity to work with you and your team on this important project.

The undersigned agrees to the Terms and Conditions of this Letter Agreement attached hereto.

Regards,

Abra R. Nusser, AICP
 President & CEO
 Ideation Planning, LLC

City of Celina
 c/o Jason Laumer, City Manager

Signature: _____

Title: _____

Date: _____



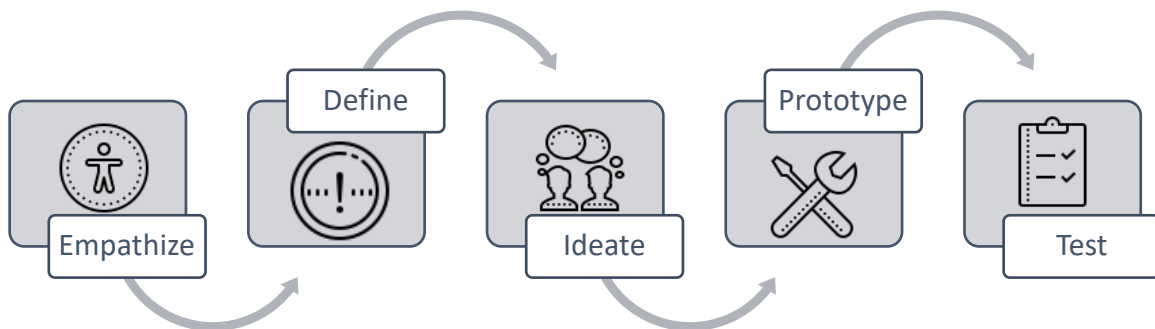
Exhibit A

Ideation Planning, LLC ARTICLE 1: SCOPE OF SERVICES

The purpose of this Scope of Services is to prepare a Downtown Code for the City of Celina's Downtown as planned for in the Downtown Master Plan adopted in January of 2019. The Downtown Code will be based on community feedback, first and foremost, technical information, and Planning Team analysis. The parties of this contract are specified with the following terms: Consultant/Ideation Planning/Ideation Planning, LLC and Client/City/City Staff.

The Downtown Code will create a people-focused, hybrid form-based code for Celina's biggest physical asset: Downtown. Among the approaches we intend to deploy are design thinking, user centricity, and involving a wide range of stakeholders in different formats. Core to our Coding Process is to create a regulatory framework in collaboration with the community and stakeholders that is useful, relevant, smooth, and pleasant for the people who will be using it and to ensure that it meets the goals of the community members who established the Vision contained in the Downtown Master Plan.

To accomplish this, Ideation Planning will utilize an approach that puts users of the Code at the center of the Coding Process instead of buildings and archaic regulations. We intend to identify the users of the new Code, employ a formal process to empathize with them, define problems and opportunities for the Code with them, brainstorm ideas, create simple and streamlined solutions, and then test those solutions to ensure they truly work as intended and can implement the Vision set forth in the Downtown Master Plan. The design thinking process can be summarized as follows:



Objectives/Tasks to be achieved with this proposal:

Task 1. Project Initiation

1.1 Kickoff Meeting. The Consultant will meet with City Staff to confirm all goals, expectations, and timetables for the project, as well as identify data and information needs. The Consultant will provide a written recap of the kickoff meeting.

1.2 Initial Direction. The Consultant shall coordinate with City Staff to attend a work session with both P&Z and City Council to introduce the Project, the process, and receive initial direction.



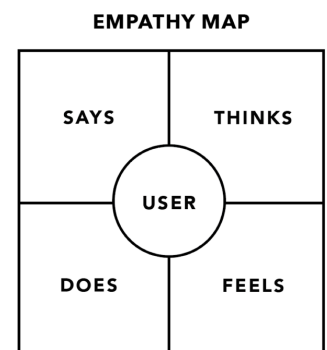
- 1.3 Site Analysis.** The Consultant will become familiar with the physical details of Downtown Celina and the historic patterns of urbanism and architecture in the surrounding region.
- 1.4 Downtown Zoning Review.** The Consultant will determine what parts of the existing code function well and should remain; what parts of the existing code should remain but be modified; and what parts of the existing code should be removed altogether to better suit the needs of the City.
- 1.5 Downtown Master Plan.** The Consultant will review the adopted Downtown Master Plan for structure and content relevance for the Downtown Code.
- 1.6 Media Coverage.** The Consultant will participate in a press conference with local officials and draft a press release to inform the local citizenry about the planning efforts to be undertaken.
- 1.7 Project Website.** The Consultant will provide information for a project website on the City's website. As City leadership deems appropriate, the Consultant will provide materials including text, photographs, maps, renderings, and other images for the website. This material will describe the Consultant's credentials and help explain the project's process.
- 1.8 Feedback Collection.** The Consultant will work with the City to collect all relevant feedback sources to date, since January 2018, which are relevant to the Downtown Code effort. Feedback will be reviewed and analyzed for applicability to the Downtown Code.

Task 2. Design Process

- 2.1 Generate necessary background maps.** The City of Celina will provide all necessary base map information as needed by the Consultant. These documents will be used to produce the maps that will be used during the preparation of the Downtown Code.
- 2.2 Implementation Focus Groups.** The Consultant will organize and lead four End-User Focus Group Discussions with people and groups who will utilize the new regulations and potentially be affected by them: Staff & Partners, Developers & Builders, Downtown Property Owners, and the Main Street Advisory Board. The Discussions will be designed to engage the community and Staff, gather ideas and goals, and formulate implementation strategies.

The Consultant, with the assistance of City Staff, will tailor the focus groups to obtain maximum input to produce the best possible regulations. The focus groups will take into consideration the feedback gathered in the 2018 Community Survey, the Downtown Master Plan, and the Comprehensive Plan (in progress). While the end result will be new land development regulations, the design process will include discussions of connectivity, aesthetics, design, and city planning strategies that create and encourage a vital town center, corridors, and livable neighborhoods.

Potential users of the regulations will be identified, and an empathy map will be created for each type. Visualizing user attitudes and behaviors in an empathy map will allow the Project Team to have a deep understanding of end users and align the regulations with a streamlined and pleasant user experience. Empathy maps are collaborative visualizations used to articulate what we know about a particular type of





user. They illustrate knowledge about users in order to 1) create a shared understanding of user needs, and 2) inform potential code design and content.

2.3 Feedback Recap Presentation. At the conclusion of the Implementation Focus Groups, the Consultant will present the work generated and feedback gathered to-date to the community and Staff. Initial concepts, empathy maps, illustrations, and coding ideas that reflect ideas articulated in the workshops will be publicly presented and further feedback solicited from the community. It is essential that local government officials attend this presentation along with community members, developers, stakeholders, and Staff.

Task 3. Drafting the Downtown Code

3.1 Design Parameters for the Downtown Code. The new code will regulate development to ensure high-quality public spaces defined by a variety of building types and uses including housing, retail, and office space. The new Code will incorporate a regulating plan, building form standards, street standards (plan and section), use regulations as needed, descriptive building or lot types, and other elements needed to implement the principles of functional and vital urbanism and practical management of growth. Sections of this document will include the following:

- Overview including definitions, principles, and intent; and explanation of the regulations and process in clear user-friendly language.
- Regulating Plan (a schematic representation of the master plan) illustrating the location of streets, blocks, public spaces (such as greens, squares, and parks), and other special features. The regulating plan may also include aspects of Building Form Standards such as “build-to-lines” or “required building lines” and building type or form designations, depending on feedback gathered in the engagement and design process.
- Building Form Standards governing basic building form, placement, and fundamental urban elements to ensure that all buildings complement neighboring structures and the street. These standards will be based upon study of building types appropriate for the city, region, climate, and neighborhood vitality.
- Public Space/Street Standards defining design attributes and geometries that balance the needs of motorists, pedestrians, bicyclists, and transit riders while promoting a vital public realm. These standards will include design specifications for items such as sidewalks, travel lane widths, parking, trees, and lighting.
- Architectural Standards (Exterior Materials and Quality) detailing the architectural styles, elements, exterior building materials, color palette, and other standards required to further the “Historic Texan” look and feel as called for in the Downtown Master Plan.
- Landscape Standards governing plant types (ex. drought tolerant), plant colors, and other design elements that will contribute to the “Historic Texan” look and feel as called for in the Downtown Master Plan.
- Parking Management defining parking requirements for Downtown projects.
- Administration Standards detailing project application and review procedures to generate a streamlined development process with predictable outcomes.

3.2 Code Testing Scenarios. The Consultant shall test the draft Downtown Code on a minimum of three development scenarios and share the results with City Staff upon Presentation of the First Draft.

3.3 Integration of the Downtown Code. The Downtown Code must be integrated into Celina’s existing regulatory framework (zoning and land development regulations) in a manner that insures procedural consistency, meshes with state and local legal requirements, provides clarity as to applicability of existing regulations, and maximizes the effectiveness of the Code.



Task 4. Refining the Downtown Code

- 4.1 Presentation of First Draft.** Consultant shall present highlights of the draft Downtown Code to Staff and provide the first draft for review in hardcopy and digitally. The presentation shall include the results of the Code Testing Scenarios detailed above. City Staff will review the first draft of the Downtown Code for purposes of consistency with expectations and community feedback. Consultant will make revisions as applicable.
- 4.2 Final Meeting with Stakeholders.** The Consultant will facilitate and participate in a review meeting with key stakeholders to explain the details of the new draft Downtown Code and obtain further input and comments. Attendees will be invited through the Project website, a press release, social media, and the email list from previous interviews and discussions of individuals who wished to keep involved in Celina's planning efforts.
- 4.3 Presentation of the Draft Code Highlights.** After making any revisions in response to comments on the first draft, the Consultant will prepare and present the highlights of the Downtown Code at a City Council Work Session or Joint P&Z/City Council Meeting, to be determined by City Staff. The presentation will include a summary of the feedback gathered, the process to-date, and the highlights of the draft Downtown Code.
- 4.4 Second Draft Review.** The second draft, which will incorporate any direction and comments received from the first draft, will be provided for public review for at least two weeks in hardcopy at City Hall/the Library and digital form, posted on the Project website.

Task 5. Approval Process

- 5.1 Public Hearing Presentations.** The consultant and City Staff will make formal presentations to the Planning and Zoning Commission and/or the City Council, as determined by City Staff, for adoption of the Downtown Code.
- 5.2 Additional Revisions.** The Consultant will be responsible for two rounds of revisions that may become necessary between presentations. City Staff will be responsible for collecting comments, questions, and suggestions for these refinements from various sources and consolidating them into a series of action items for revision or responses if applicable.

Task 6. Project Closeout

- 6.1 Adopted Downtown Code.** The Consultant shall provide hardcopy and digital versions of the adopted Downtown Code as follows:
- i. Editable electronic files in the software the Code was drafted of the final Downtown Code.
 - ii. PDF electronic file of the final Downtown Code.
 - iii. Five hardcopy versions of the final Downtown Code.



Article 2: Compensation & Payments

The CLIENT agrees to pay the CONSULTANT for the SCOPE OF SERVICES listed in Article 1 as they are performed and invoiced based on a proportionate amount as it relates to the overall lump sum fee of \$75,000.

ADDITIONAL SERVICES shall be provided, upon written consent by the CLIENT, on an hourly basis or lump sum fee based on a negotiated amount, if agreed to via customized email (i.e. not read receipt) by both CLIENT and CONSULTANT, or a supplemental agreement.

Any costs outside of the services outlined in Article 1, such as materials cost or printing, shall be the responsibility of the CLIENT. Additional services to be performed by Ideation Planning, if authorized by the City in writing, which are not included in the above described Scope of Services, are described as follows:

- A. Providing renderings, models, and mock-ups requested by the City.
- B. Making revisions to drawings or other report documents when such revisions are 1) not consistent with approvals or instructions previously given by the City or 2) due to other causes not solely within the control of Ideation Planning.
- C. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the City.
- D. Meetings or trips in excess of the number of meetings included in Article 1 for site visits, visits, coordination meetings, or other activities.
- E. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- F. Preparing data and reports for assistance to the City in preparation for hearings before regulatory agencies, courts, arbitration panels, or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel, or mediator.
- G. Design, contract modifications, studies, or analysis required to comply with local, State, Federal, or other regulatory agencies that become effective after the date of this agreement.
- H. Providing basic or additional services on an accelerated time schedule. These services will include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproductions costs directly attributable to an accelerated time schedule directed by the City.
- I. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services.
- J. Providing document revisions in excess of those outlined in Article 1.

The CONSULTANT shall bill the CLIENT once per month based on services completed during the month prior. **All payments are due to CONSULTANT within 30 days of invoice. Work will stop if payment is not received within 30 days, and the Standard Terms and Conditions of this contract will be applied.**

Article 3: Timing of Completion

Timing. Ideation Planning is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services within 16 months. If Ideation Planning's services are delayed through no fault of Ideation Planning, Ideation Planning shall be entitled to adjust contract schedule consistent with the impact of the delay. These delays may include, but are not limited to, delays in City or regulatory reviews, delays on the flow of information to be provided to Ideation Planning, and delays by the City in scheduling meetings. These delays may also result in an adjustment to compensation as outlined on the face of this Agreement. A timeline will be established with Staff during the Project Initiation task.



Responsibilities of CLIENT. The City shall perform the following in a timely manner so as not to delay the services of Ideation Planning:

- A. Provide meeting space and coordinate equipment needs, room set up, and logistics for meeting outlined in Article 1.
- B. Contact meeting invitees for stakeholders and public meetings. This includes email, mail, newsletter, and other forms of communication.
- C. Designate in writing a person to act as the City's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, disseminate information, interpret and define City policies and decisions with respect to Ideation Planning's services for the Project.
- D. Arrange for access to and make all provisions for Ideation Planning to enter upon public or private property as required for Ideation Planning to perform services under this Agreement.
- E. Examine and provide prompt feedback on all submittals, draft reports, sketches, drawings, and other documents presented by Ideation Planning, within a reasonable time (not to exceed two weeks) so as not to delay the services of Ideation Planning or hinder Project efficiency.
- F. Furnish, or direct Ideation Planning to provide, Additional Services as stipulated in Article 2 or other services as directed or required.
- G. Bear all costs incident to compliance with the requirements of this Article.





Exhibit B

Ideation Planning, LLC STANDARD TERMS AND CONDITIONS

1. SCOPE

Ideation Planning, LLC (hereinafter “Consultant” or Ideation Planning, LLC) agrees to perform the services described in the Scope of Services attached hereto which incorporates these terms and conditions. Unless modified in writing by the parties hereto, the duties of Ideation Planning, LLC shall not be construed to exceed those services specifically set forth in the proposal. These terms and conditions and the proposal, when executed by Client, shall constitute a binding agreement on both parties (hereinafter the “Agreement”).

2. COMPENSATION

Client agrees to pay for the services completed in Article 1 in accordance with the compensation provisions in the proposal. Payment to Ideation Planning, LLC will be made within 30 days after the date of billing. Interest on the unpaid balance will accrue beginning on the 31st day at the maximum interest rate permitted by law.

Time-related charges will be made in accordance with the billing rate referenced in the proposal or Agreement. Otherwise, Ideation Planning, LLC’s standard billing rate of \$175 per hour shall apply. In the event any uncontested portions of any invoice are not paid within 30 days of the date of Consultant’s invoice, Consultant shall have the right to suspend Services per Article 12, Suspension of Services.

3. RESPONSIBILITY

Standard of care. Ideation Planning, LLC is employed to render a professional service only, and any payments made by Client are compensation solely for such services rendered and recommendations made in carrying out the Services. Ideation Planning, LLC does not expressly or impliedly warrant or guarantee its services.

Reliance upon information provided by others. If Ideation Planning, LLC’s performance of services hereunder requires Ideation Planning, LLC to rely on information provided by other parties (excepting Ideation Planning’s Contractors), Ideation Planning, LLC shall not independently verify the validity, completeness or accuracy of such information unless otherwise expressly engaged to do so in writing by the Client.

4. INDEMNIFICATION

Ideation Planning, LLC agrees to indemnify and hold Client harmless from and against any liability to the extent arising out of the negligent acts, errors, or omissions of Ideation Planning, LLC, its agents, employees, or representatives, in the performance of duties under the Agreement. Regardless of any other term of this Agreement, in no event shall Ideation Planning, LLC be responsible or liable to Client for any incidental, consequential, or other indirect damages.

5. INSURANCE

Ideation Planning, LLC shall maintain during the life of the Agreement the following minimum insurance:

- Workers compensation insurance
- Automobile bodily injury and property damage liability insurance covering owned or rented cars. The combined single limit for bodily injury and property damage shall be not less than \$1,000,000.
- Professional liability insurance with limits of not less than \$1,000,000.
- General liability insurance with limits of not less than \$1,000,000.

Certificates of insurance will be provided to Client at the beginning of the contract, and with a 30-day written notice in the event the above policies are cancelled.

6. ASSIGNMENT

If the authorized Scope of Services includes construction activities or the oversight of construction, Ideation Planning, LLC may, at its discretion and upon notice to Client, assign all of its contractual rights and obligations with respect to such activities or services to a registered engineering affiliate.

If the authorized Scope of Services requires professional services to be performed in a jurisdiction in which Ideation Planning, LLC renders professional services solely through a locally registered engineering affiliate for purposes of compliance with professional licensing requirements in that jurisdiction, Ideation Planning, LLC may, in its discretion, upon notice to Client, assign its contractual rights and obligations with respect to such services to such locally registered engineering affiliate.



7. INTEGRATION

These terms and conditions and the proposal to which they are attached represent the entire understanding of Client and Ideation Planning, LLC as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both parties, provided further that any terms and conditions in any client authorization or purchase order issued in connection or under the Agreement which are inconsistent with the Agreement are hereby superseded and shall be of no force and effect.

8. CHOICE OF LAW/JURISDICTION

This Agreement shall be administered and interpreted under the laws of the state in which the Ideation Planning, LLC office responsible for the project is located. Jurisdiction of litigation arising from the Agreement shall be in that state.

9. SEVERABILITY

If any part of the Agreement is found unenforceable under applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall be in full force and effect.

10. FORCE MAJEURE

Ideation Planning, LLC shall not be responsible for delays in performing the Scope of Services that may result from causes beyond the reasonable control or contemplation of Ideation Planning, LLC. Ideation Planning, LLC will take reasonable steps to mitigate the impact of any force majeure.

11. NO BENEFIT FOR THIRD PARTIES

The services to be performed by Ideation Planning, LLC hereunder are intended solely for the benefit of Client, and no right nor benefit is conferred on, nor any contractual relationship intended or established with any person or entity not a party to this Agreement. No such person or entity shall be entitled to rely on Ideation Planning, LLC's performance of its services hereunder.

12. WORK PRODUCT

Ideation Planning, LLC and Client recognize that Ideation Planning, LLC's work product submitted in performance of this Agreement is intended only for the Client's benefit and use. Change, alteration, or reuse on another project by Client shall be at Client's sole risk, and Ideation Planning, LLC shall have no liability for changes, alterations, or reuse on another project. To the extent allowed by law, Client shall hold harmless, release, and indemnify Ideation Planning, LLC against all losses, damages, costs, and expense, including attorneys' fees, arising out of or related to any such unauthorized change, alteration, or reuse.

13. SUSPENSION OF SERVICES

Services under this Agreement may be suspended as follows:

1. By Client. By written notice to Ideation Planning, LLC, Client may suspend all or a portion of the Services under this Agreement if unforeseen circumstances beyond Client's control make normal progress of the Services impracticable. Ideation Planning, LLC shall be compensated for its reasonable expenses resulting from such suspension including mobilization and demobilization. If suspension is greater than 30 days, then Ideation Planning, LLC shall have the right to terminate this Agreement in accordance with Article 14, Termination of Services.
2. By Ideation Planning, LLC. By written notice to Client, Ideation Planning, LLC may suspend the Services if Ideation Planning, LLC reasonably determines that working conditions at the Site or on the Project (outside Ideation Planning, LLC's control) are unsafe, or in violation of applicable laws, or in the event Client has not made timely payment in accordance with Article 2, Compensation, or for other circumstances not caused by Ideation Planning, LLC that are interfering with the normal progress or the Services. Ideation Planning, LLC's suspension of Services hereunder shall be without prejudice to any other remedy of Ideation Planning, LLC at law or equity.

14. TERMINATION OF SERVICES

This Agreement may be terminated as follows:



*Scope of Services
Celina Downtown Code*

1. By Client. (a) for its convenience on 30 days' written notice to Ideation Planning, LLC, or (b) for cause, if Ideation Planning, LLC materially breaches this Agreement through no fault of Client and Ideation Planning, LLC neither cures such material breach nor makes reasonable progress toward cure within 15 days after Client has given written notice of the alleged breach to Ideation Planning, LLC, or (c) by mutual agreement and consent of both Consultant and Client.
2. By Ideation Planning, LLC. (a) for cause, if Client materially breaches this Agreement through no fault of Ideation Planning, LLC and Client neither cures such material breach nor makes reasonable progress toward cure within 15 days after Ideation Planning, LLC has given written notice of the alleged breach to Client, or (b) upon five days' notice if Services under this Agreement have been suspended by either Client or Ideation Planning, LLC in the aggregate for more than 30 days, or (c) by mutual agreement and consent of both Consultant and Client.
3. Payment upon Termination. In the event of termination, Ideation Planning, LLC shall perform such additional Services as is reasonably necessary for the orderly closings of the Services. Ideation Planning, LLC shall be compensated for all Services performed prior to the effective date of termination, plus Services required for the orderly closing of the Services.

15. NOTICES

All notices required under this Agreement shall be by personal delivery, email, or mail to the Ideation Planning, LLC Project Manager and to the person signing the proposal on behalf of the Client, and shall be effective upon delivery to the email address stated in the proposal, when confirmed via custom email (not read receipt) or via Certified Mail. Any notices under this agreement shall be copied to contracts@celina-tx.gov if via email or sent to the following if mailed:

City of Celina City Hall
ATTN: Contracts
142 North Ohio Street
Celina, TX 75009.



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: June 11, 2019
Re: Sutton Fields II PID Construction, Funding & Acquisition Agreement

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and CADG Sutton Fields, LLC for construction, funding and acquisition. (Sutton Fields II) (DeBuff)

Background Information:

This item is the construction, funding and acquisition agreement for the Sutton Fields II Public Improvement District (PID).

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this agreement.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

**SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT NEIGHBORHOOD
IMPROVEMENT AREA #3 CONSTRUCTION, FUNDING, AND ACQUISITION
AGREEMENT**

THIS SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT NEIGHBORHOOD IMPROVEMENT AREA #3 CONSTRUCTION, FUNDING, AND ACQUISITION AGREEMENT (this “Agreement”), dated as of June 11, 2019, is by and among the CITY OF CELINA, TEXAS, *a home rule municipality of the State of Texas* (the “City”), and CADG SUTTON FIELDS, LLC, a Texas limited liability company (“Developer”) (individually referred to as a “Party” and collectively as the “Parties”).

**ARTICLE I
DEFINITIONS**

The following terms shall have the meanings ascribed to them in this Article I for purposes of this Agreement. Unless otherwise indicated, any other terms, capitalized or not, when used herein shall have the meanings ascribed to them in the Service and Assessment Plan (as hereinafter defined).

“**Actual Cost(s)**” means the costs of the Neighborhood Improvement Area #3 Improvements actually paid or incurred for the design, construction and installation of the Neighborhood Improvement Area #3 Improvements.

“**Administrator**” means, initially, Municap, Inc., or any other individual or entity designated by the City to administer the District.

“**Annual Service Plan Update**” means the annual update to the Service and Assessment Plan conducted by the Administrator pursuant to Section VI of the Service and Assessment Plan.

“**Budgeted Cost(s)**” means the costs shown on **Exhibit A** attached hereto.

“**Certification for Payment**” means a certificate, substantially in the form of **Exhibit B** hereto or otherwise agreed to by the Developer, the Administrator, and City Representative, executed by an engineer, construction manager or other person or entity acceptable to the City, as evidenced by the signature of a City Representative, provided to the City Representative and the Administrator, specifying the amount of work performed and the amount charged for that work, including materials and labor costs, presented to the Administrator to request payment for Neighborhood Improvement Area #3 Improvements Cost(s).

“**City Manager**” means the City Manager of the City, or its designee.

“**City Inspector**” means an individual employed by or an agent of the City whose job is, in part or in whole, to inspect infrastructure to be owned by the City for compliance with all rules and regulations applicable to the development and the infrastructure inspected.

“City Representative” means City Manager of the City, or any other official or agent of the City later authorized by the City to undertake the action referenced herein.

“Construction Contracts” means the contracts for the construction of the Neighborhood Improvement Area #3 Improvements. “Construction Contract” means any one of the Construction Contracts.

“Cost(s)” means the Budgeted Cost(s), or the Actual Cost(s) of a Neighborhood Improvement Area #3 Improvement as reflected in a construction contract if greater than the Budgeted Cost(s).

“Cost Overrun” means, with respect to each Neighborhood Improvement Area #3 Improvement, the Cost(s) or Actual Cost(s) as appropriate of such Neighborhood Improvement Area #3 Improvement in excess the Budgeted Cost(s).

“Cost Underrun” means, with respect to each Neighborhood Improvement Area #3 Improvement, the amount by which the Budgeted Cost(s) exceeds the Actual Cost(s), as appropriate, of such Neighborhood Improvement Area #3 Improvement.

“Developer” means CADG Sutton Fields, LLC, a Texas limited liability company.

“Development Agreement” means that certain Amended and Restated Sutton Fields Facilities and Development Agreement executed by and between Developer and the City effective June 13, 2017 as recorded on December 5, 2017 as document 2017148786 in the deed records of Denton County, Texas.

“District” means the Sutton Fields II Public Improvement District created by the City on October 13, 2015.

“Final Completion” means completion of a Neighborhood Improvement Area #3 Improvement (including a section or segment of a Neighborhood Improvement Area #3 Improvement) in compliance with existing City standards for dedication under the City’s ordinances and the Development Agreement.

“Mustang SUD” means Mustang Special Utility District.

“Mustang SUD Inspector” means an individual employed by or an agent of Mustang SUD whose job is, in part or in whole, to inspect infrastructure to be owned by Mustang SUD for compliance with all rules and regulations applicable to the development and the infrastructure inspected.

“Neighborhood Improvement Area #3 Assessed Property” means any property that benefits from the Neighborhood Improvement Area #3 Improvements within the District on which

Assessments have been imposed as shown in the Neighborhood Improvement Area #3 Assessment Roll, as the Neighborhood Improvement Area #3 Assessment Roll is updated each year by the Annual Service Plan Update. Neighborhood Improvement Area #3 Assessed Property includes Parcels within the District other than Non-Benefited Property.

“Neighborhood Improvement Area #3 Assessment Fund” means an interest-bearing fund by such name created under the Neighborhood Improvement Area #3 Reimbursement Agreement where monies from the collection of Assessments shall be deposited and a portion of which shall be used to finance the Neighborhood Improvement Area #3 Improvements.

“Neighborhood Improvement Area #3 Improvements” mean, collectively, the Neighborhood Improvement Area #3 Improvements listed in **Exhibit A** to be constructed in compliance with City ordinances and Mustang SUD regulations when applicable. An individual Neighborhood Improvement Area #3 Improvement, including a completed segment or part, shall be referred to as a **Neighborhood Improvement Area #3 Improvement**.

“Neighborhood Improvement Area #3 Reimbursement Agreement” means the Sutton Fields II Public Improvement District Neighborhood Improvement Area #3 Reimbursement Agreement dated as of June 11, 2019, by and between the City and the Developer providing for the construction and financing of certain Neighborhood Improvement Area #3 Improvements by the Developer for which the Developer will be reimbursed by the City pursuant to the PID Act.

“PID Act” means the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, Improvement Districts in Municipalities and Counties, Subchapter A, Public Improvement Districts, as amended.

“Plans” means the plans, specifications, schedules and related construction contracts for the Neighborhood Improvement Area #3 Improvements, respectively, approved pursuant to the applicable standards and ordinances of the City or Mustang SUD, as applicable, the Development Agreement, and any other applicable governmental entities.

“Service and Assessment Plan” means the Sutton Fields II Public Improvement District Amended and Restated Service and Assessment Plan, adopted by the City Council on August 28, 2018, as the same may be updated, amended, or supplemented, for the purpose of assessing allocated cost(s) against the property located within the boundaries of the District having terms, provisions and findings approved and agreed to by the Developer and the City, as required by this Agreement and in accordance with the PID Act.

“Substantial Completion” means the time at which the construction of a Neighborhood Improvement Area #3 Improvement (or specified part thereof) has progressed to the point where such Neighborhood Improvement Area #3 Improvement (or a specified part thereof) is sufficiently complete in accordance with the Construction Contracts related thereto so that such Neighborhood Improvement Area #3 Improvement (or a specified part thereof) can be utilized for the purposes

for which it is intended.

“Supplement” means a written document agreed upon by the Parties to this Agreement amending, supplementing or otherwise modifying this Agreement and any exhibit hereto, including any amendments to the list of Neighborhood Improvement Area #3 Improvements in **Exhibit A** in a manner consistent with the Service and Assessment Plan, the PID Act and this Agreement.

ARTICLE II RECITALS

Section 2.01. The District and the Neighborhood Improvement Area #3 Improvements.

- (a) The City has created the District under the PID Act for the financing of, among other things, the acquisition, construction and installation of the Neighborhood Improvement Area #3 Improvements.
- (b) The Neighborhood Improvement Area #3 Improvements are eligible to be financed with the collection of Assessments from property within the District to the extent specified in the Service and Assessment Plan and subject to the provisions of the Development Agreement.
- (c) The Developer will undertake the construction and installation of the Neighborhood Improvement Area #3 Improvements for dedication to and acceptance by the City or Mustang SUD, in accordance with the terms and conditions contained in the Development Agreement.

Section 2.02. Agreements. In consideration of the mutual promises and covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer agree that the foregoing recitals, as applicable to each, are true and correct and further make the agreements set forth herein.

ARTICLE III FUNDING

Section 3.01. Reimbursements.

- (a) The City’s obligation with respect to the payment of the Neighborhood Improvement Area #3 Improvements shall be limited to the Budgeted Cost(s), and shall be payable solely from amounts on deposit within the Neighborhood Improvement Area #3 Assessment Fund for the payment of such cost(s) as provided herein and in the Service and Assessment Plan. The Developer agrees and acknowledges that it is responsible for all Actual Costs, Cost Overruns, except to the extent as provided for in Section 4.04 below, and all expenses

related to the Neighborhood Improvement Area #3 Improvements.

- (b) The obligation of owners of Neighborhood Improvement Area #3 Assessed Property within the District, including the Developer to the extent it owns any Neighborhood Improvement Area #3 Assessed Property in the District, to pay Assessments is not in any way dependent on the availability of amounts in the Neighborhood Improvement Area #3 Assessment Fund, or otherwise available from other sources, including bonds issued by the City, that are secured or that are to be paid, in whole or in part, by the funds on deposit in the Neighborhood Improvement Area #3 Assessment Fund, to pay for all or any portion of the Neighborhood Improvement Area #3 Improvement Cost(s) hereunder.
- (c) The Developer acknowledges that any lack of availability of amounts in the Neighborhood Improvement Area #3 Assessment Fund or otherwise available from other sources, including bonds issued by the City, that are secured or that are to be paid, in whole or in part, by the funds on deposit in the Neighborhood Improvement Area #3 Assessment Fund, to pay the costs of the Neighborhood Improvement Area #3 Improvements shall in no way diminish any obligation of the Developer with respect to the construction of or contributions for the Neighborhood Improvement Area #3 Improvements required by this Agreement, the Development Agreement, or any other agreement to which the Developer is a party or any governmental approval to which the Developer or any land within the District is subject.
- (d) The City shall have no responsibility whatsoever to the Developer with respect to the investments of any monies held by a trustee under an indenture, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment.

Section 3.02. Disbursements.

The City and the Developer agree that monies deposited into the Neighborhood Improvement Area #3 Assessment Fund and upon the presentation of evidence satisfactory to the City Representative, the City will, on a monthly basis if a Certification for Payment is approved by the City, cause the payment for cost(s) incurred in the administration, and operation of the District and cost(s) of Neighborhood Improvement Area #3 Improvements up to \$4,450,000.00 plus interest accrued pursuant to the Neighborhood Improvement Area #3 Reimbursement Agreement from the Neighborhood Improvement Area #3 Assessment Fund, subject to the availability of funds in the Neighborhood Improvement Area #3 Assessment Fund, to the Developer or its assignees. These payments will be delivered to the Developer or its assignees pursuant to the submission of a Certification for Payment, in accordance with the Development Agreement, this Agreement, and the Neighborhood Improvement Area #3 Reimbursement Agreement, substantially in the form of **Exhibit B** attached hereto.

Section 3.03. Accounts. All disbursements from the Neighborhood Improvement Area #3 Assessment Fund shall be made by the City in accordance with provisions of the Development

Agreement, the Service and Assessment Plan, and in all respects, the Neighborhood Improvement Area #3 Reimbursement Agreement.

ARTICLE IV CONSTRUCTION OF NEIGHBORHOOD IMPROVEMENT AREA #3 IMPROVEMENTS

Section 4.01. Duty of Developer to Construct.

- (a) All Neighborhood Improvement Area #3 Improvements shall be constructed by or at the direction of the Developer in accordance with the Plans and in accordance with this Agreement and the Development Agreement. The Developer shall perform or cause to be performed all of its obligations and shall conduct all operations with respect to the construction of Neighborhood Improvement Area #3 Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction and installation of the Neighborhood Improvement Area #3 Improvements to be acquired and accepted by the City or Mustang SUD, from the Developer as provided in this Agreement.
- (b) The Developer shall not be relieved of its obligation to construct or cause to be constructed each Neighborhood Improvement Area #3 Improvement and, upon completion, inspection, and acceptance, convey each Neighborhood Improvement Area #3 Improvement to the City or Mustang SUD, where applicable, in accordance with the terms hereof, even if there are insufficient funds in the Neighborhood Improvement Area #3 Assessment Fund to pay the Actual Cost(s) thereof.

Section 4.02. No Competitive Bidding. The Neighborhood Improvement Area #3 Improvements shall not require competitive bidding pursuant to and Section 252.022(9) of the Texas Local Government Code, as amended.

Section 4.03. Independent Contractor. In performing this Agreement, the Developer is an independent contractor and not the agent or employee of the City or Mustang SUD with respect to the Neighborhood Improvement Area #3 Improvements.

Section 4.04. Remaining Funds after Completion of a Neighborhood Improvement Area #3 Improvement. Upon the Final Completion of a Neighborhood Improvement Area #3 Improvement (or its completed segment or phase thereof) and payment of all outstanding invoices for such Neighborhood Improvement Area #3 Improvement, if the Actual Cost(s) of such Neighborhood Improvement Area #3 Improvement (or its completed segment or phase thereof) is

less than the Budgeted Cost(s) (a “Cost Underrun”), any remaining Budgeted Cost(s) will be available to pay Cost Overruns on any other Neighborhood Improvement Area #3 Improvement (or its completed segment or phase thereof). The City shall promptly confirm to the Administrator that such remaining amounts are available to pay such Cost Overruns, and the Developer, the Administrator and the City Representative will agree how to use such moneys to secure the payment and performance of the work for other Neighborhood Improvement Area #3 Improvements. Any Cost Underrun for any Neighborhood Improvement Area #3 Improvement (or its completed segment or phase thereof) is available to pay Cost Overruns on any other Neighborhood Improvement Area #3 Improvement (or its completed segment or phase thereof), and may be added to the amount approved for payment in any Certification for Payment, as agreed to by the Developer, the Administrator, and the City Representative. Upon the completion of the Neighborhood Improvement Area #3 Improvements (or its completed segment or phase thereof) and the payment thereof pursuant to the terms of the Neighborhood Improvement Area #3 Reimbursement Agreement, if there are funds remaining in the Neighborhood Improvement Area #3 Assessment Fund, such funds will be distributed to the City’s general fund and, with respect to such funds, there shall be no remaining obligation to make payment of such funds to the Developer. If bonds are issued by the City that are secured by or that are to be paid, in whole or in part, by funds deposited or to be deposited in the Neighborhood Improvement Area #3 Assessment Fund for the payment of the Neighborhood Improvement Area #3 Improvements, any net balance remaining in the Neighborhood Improvement Area #3 Assessment Fund after a reconciliation of Cost Overruns and Cost Underruns related to Neighborhood Improvement Area #3 Improvements (or its completed segment or phase thereof) will be distributed first to the bond trustee, to the extent prepayment is allowed without penalty under the indenture, for the payment of such bonds, second to the City’s general fund, and in no case to the Developer, and the City agrees that upon such issuance of bonds, funds deposited to the Neighborhood Improvement Area #3 Assessment Fund for the payment of Neighborhood Improvement Area #3 Improvements will be dispersed only as described in the bond indenture.

Section 4.05. Contracts and Change Orders. The Developer shall be responsible for entering into all contracts and any supplemental agreements (herein referred to as “change orders”) required for the construction of the Neighborhood Improvement Area #3 Improvements. The Developer may approve and implement any change orders, even if such change order would increase the Cost of a Neighborhood Improvement Area #3 Improvement, but the Developer shall be solely responsible for payment of any Cost Overruns resulting from such change orders, except for amounts available and approved pursuant to Section 4.04.

ARTICLE V

ACQUISITION, CONSTRUCTION, AND PAYMENT

Section 5.01. Payment Requests for the Neighborhood Improvement Area #3 Improvements.

- (a) No payment hereunder shall be made from the Neighborhood Improvement Area #3 Assessment Fund or pursuant to any bond indenture for bonds issued by the City for a Neighborhood Improvement Area #3 Improvement (or its completed segment or phase thereof), until a Certification for Payment is received from the Developer for work with respect to a Neighborhood Improvement Area #3 Improvement (or its completed segment or phase thereof) and approved for payment by the City. Upon receipt of a Certification for Payment, substantially in the form of **Exhibit B** hereto (along with all accompanying documentation required by the City) from the Developer, the City Inspector (for a City owned Neighborhood Improvement Area #3 Improvement) shall conduct a review in order to confirm that such request is complete, to confirm that the work with respect to such Neighborhood Improvement Area #3 Improvement identified therein for which payment is requested was performed in accordance with all applicable governmental laws, rules and regulations and applicable Plans therefor and with the terms of this Agreement and the Development Agreement, and to verify and approve the Actual Cost of such work specified in such Certification for Payment (collectively, the “Developer Compliance Requirements”), and shall, upon the conclusion of the review, forward the request to the City Representative. The City Inspector and/or City Representative shall also conduct such review as is required in his discretion to confirm the matters certified in the Certification for Payment. The Developer agrees to cooperate with the City Inspector and/or City Representative in conducting each such review and to provide the City Inspector and/or City Representative with such additional information and documentation as is reasonably necessary for the City Inspector and/or City Representative to conclude each such review.
- (b) Within fifteen (15) business days of receipt of any Certification for Payment, the City Inspector shall either (i) approve and execute the Certification for Payment and forward the same to the Administrator for payment (from those funds available in the Neighborhood Improvement Area #3 Assessment Fund) or, if bonds have been issued by the City, forward the Certification for Payment to the bond trustee, or (ii) in the event the City Inspector disapproves the Certification for Payment, give written notification to the Developer of the City Inspector’s disapproval, in whole or in part, of such Certification for Payment, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Certification for Payment. If a Certification for Payment seeking reimbursement is approved only in part, the City Inspector shall specify the extent to which the Certification for Payment is approved and shall deliver such partially approved Certification for Payment to the Administrator for approval in accordance with Section 5.02 hereof or to the bond trustee in accordance with payment provisions applicable to the bonds and delivery to the Developer in accordance with Section 5.01(d) hereof, and any such partial work shall be processed for payment under Section 5.02, notwithstanding such partial denial.

- (c) If the City Inspector fails to act with respect to a Certification for Payment within the time period herein provided, the Developer shall submit the Certification for Payment directly to the City Representative for approval. Within five (5) business days of receipt of any Certification for Payment, the City Representative shall approve or deny the Certification for Payment, and provide notice to the Administrator and Developer. The approval of the Certification for Payment by the City Representative shall constitute a representation by the City Representative of the Developer's compliance therein. Upon approval of a Certification for Payment, the Administrator or the bond trustee, as applicable, shall make payment in accordance with Section 5.02 hereof or the provision applicable to the bonds.
- (d) If the City Representative denies the Certification for Payment, the denial must be in writing, stating the reason(s) for denial. The denial may be appealed to the City Council by the Developer in writing within 30 days of being denied by the City Representative. Denial of the Certification for Payment by the City Council shall be attempted to be resolved by half-day mediation between the parties in the event an agreement is not otherwise reached by the parties, with the mediator's fee being paid by Developer. The Certification for Payment shall not be forwarded to the Administrator or the bond trustee, as applicable, for payment until the dispute is resolved by the City and the Developer.
- (e) The Developer shall deliver the approved or partially approved Certification for Payment by the City Representative as provided in Section 5.01(c), or approved by the City Council, to the Administrator for payment and the Administrator shall make such payment from the Neighborhood Improvement Area #3 Assessment Fund in accordance with Section 5.02 below; provided, however, if bonds have been issued, the Developer shall provide the Certification for Payment to the bond trustee.

Section 5.02. Payment for Neighborhood Improvement Area #3 Improvement.

- (a) If no bonds have been issued by the City, upon receipt of a reviewed and approved Certification for Payment, as evidenced by the signature of the City Representative, the Administrator shall make payment from the Neighborhood Improvement Area #3 Assessment Fund from those funds available, for such approved Certification for Payment pursuant to the terms of the Certification for Payment in an amount not to exceed the Budgeted Cost(s), except as provided for in Section 4.04. Any amount remaining to be paid on a monthly basis after funds have been exhausted in the Neighborhood Improvement Area #3 Assessment Fund, shall remain as an amount outstanding to be paid, and shall be paid in the next monthly disbursement of funds from the Neighborhood Improvement Area #3 Assessment Fund, again subject to availability of funds in the Neighborhood Improvement Area #3 Assessment Fund.

- (b) Notwithstanding any other provisions of this Agreement, the Administrator shall make payment directly to the person or entity specified by the Developer in an approved Certification for Payment, including: (1) a general contractor or supplier of materials or services or jointly to Developer (or any permitted assignee of such Developer) and the general contractor or supplier of materials or services, as indicated in an approved Certification for Payment; (2) to the Developer or any assignee of the Developer if an unconditional lien release is attached to such Certification for Payment; and, (3) to the Developer, or to the third party contractor directly, at Developer's request as specified in the Certification for Payment, in the event the Developer provides a general contractor's or suppliers of materials unconditional lien release for a portion of the work covered by the Developer or any assignee of the Developer to the extent of such lien release. If the request for payment results in ninety percent (90%) or more of the Budgeted Costs for such Neighborhood Improvement Area #3 Improvement identified in such request for payment being paid, then the Administrator or the bond trustee, as applicable, shall hold the payment until work with respect to that Neighborhood Improvement Area #3 Improvement has been completed by the Developer and accepted by the City. Neither the Administrator, nor the City, City Council, City Manager, or City Representative shall have any liability for relying on the accuracy of the payee information in any Certification for Payment as presented by the Developer or its assignees.

(c) Withholding Payments.

Nothing in this Agreement shall be deemed to prohibit the Developer or the City from contesting in good faith the validity or amount of any mechanic's or materialman's lien and/or judgment nor limit the remedies available to the Developer or the City with respect thereto, including the withholding of any payment that may be associated with the exercise of any such remedy, so long as such delay in performance shall not subject the Neighborhood Improvement Area #3 Improvement to foreclosure, forfeiture, or sale. In the event that any such mechanics or materialman's lien and/or judgment with respect to any Neighborhood Improvement Area #3 Improvement is contested, the Developer shall post or cause delivery of a surety bond in the amount determined by the City or City may decline to accept the Neighborhood Improvement Area #3 Improvement until such mechanics or materialman's lien and/or judgment is satisfied.

ARTICLE VI OWNERSHIP AND TRANSFER OF NEIGHBORHOOD IMPROVEMENT AREA #3 IMPROVEMENT

Section 6.01. Neighborhood Improvement Area #3 Improvement to be Owned by the City or Mustang SUD– Title Evidence. The Developer shall furnish to the City a preliminary title report for land with respect to the Neighborhood Improvement Area #3 Improvements, including any related rights-of-way, easements, and open spaces if any, to be acquired and accepted by the City

from the Developer and not previously dedicated or otherwise conveyed to the City, for review and approval at least 30 calendar days prior to the transfer of title of a Neighborhood Improvement Area #3 Improvement to the City. The City shall approve the preliminary title report unless it reveals a matter which, in the reasonable judgment of the City, could materially affect the City's use and enjoyment of any part of the property or easement covered by the preliminary title report. In the event the City does not approve the preliminary title report, the City shall not be obligated to accept title to the Neighborhood Improvement Area #3 Improvement until the Developer has cured such objections to title to the satisfaction of the City.

Section 6.02. Neighborhood Improvement Area #3 Improvement Constructed on City Land or Developer Land. If the Neighborhood Improvement Area #3 Improvement is on land owned by the City, the City hereby grants to the Developer a license to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of the Neighborhood Improvement Area #3 Improvement. If the Neighborhood Improvement Area #3 Improvement is on land owned by the Developer, the Developer hereby grants to the City an easement to enter upon such land for purposes related to inspection and maintenance (pending acquisition and acceptance) of the Neighborhood Improvement Area #3 Improvement. The grant of the permanent easement shall not relieve the Developer of any obligation to grant the City or Mustang SUD title to property and/or easements related to the Neighborhood Improvement Area #3 Improvement as required by the Development Agreement or as should in the City's reasonable judgment be granted to provide for convenient access to and routine and emergency maintenance of such Neighborhood Improvement Area #3 Improvement. The provisions for inspection and acceptance of such Neighborhood Improvement Area #3 Improvement otherwise provided herein shall apply.

ARTICLE VII REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 7.01. Representations, Covenants and Warranties of the Developer. The Developer represents and warrants for the benefit of the City as follows:

- (a) Organization. The Developer consists of one Texas limited liability company duly formed, organized and validly existing under the laws of the State of Texas, is in compliance with the laws of the State of Texas, and has the power and authority to own its properties and assets and to carry on its business in the State of Texas as now being conducted as hereby contemplated.
- (b) Authority. The Developer has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Developer.
- (c) Binding Obligation. This Agreement is a legal, valid and binding obligation of the

Developer, enforceable against the Developer in accordance with its terms, subject to bankruptcy and other equitable principles.

- (d) Compliance with Law. The Developer shall not commit, suffer or permit any act to be done in, upon or to the lands of the Developer in the District or the Neighborhood Improvement Area #3 Improvements in violation of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the lands in the District or the Neighborhood Improvement Area #3 Improvements.
- (e) Requests for Payment. The Developer represents and warrants that (i) it will not request payment from the Neighborhood Improvement Area #3 Assessment Fund for the acquisition or construction of any improvement that is not part of the Neighborhood Improvement Area #3 Improvements, and (ii) it will diligently follow all procedures set forth in this Agreement with respect to the Certification for Payments.
- (f) Financial Records. For a period of two years after completion of the Neighborhood Improvement Area #3 Improvements, the Developer covenants to maintain proper books of record and account for the construction of the Neighborhood Improvement Area #3 Improvements and all Costs related thereto. Such accounting books shall be maintained in accordance with generally accepted accounting principles and shall be available for inspection by the City or its agent at any reasonable time during regular business hours on reasonable notice.
- (g) Plans. The Developer represents that it has obtained or will obtain approval of the Plans from all appropriate departments of the City and from any other public entity or public utility from which such approval must be obtained. The Developer further agrees that, subject to the terms hereof, the Neighborhood Improvement Area #3 Improvements will be constructed in full compliance with such Plans and any change orders thereto consistent with the PID Act and the Development Agreement.
- (h) Additional Information. The Developer agrees to cooperate with all reasonable written requests for nonproprietary information by the City Manager or the City Representative related to the status of construction of the Neighborhood Improvement Area #3 Improvements within the District and the anticipated completion dates for future Neighborhood Improvement Area #3 Improvements.
- (i) Financial Resources. The Developer represents and warrants that it has the financial resources, or the ability to obtain sufficient financial resources, to meet its obligations under this Agreement and the Development Agreement.

Section 7.02. Indemnification and Hold Harmless. THE DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS THE INSPECTOR, 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 NEIGHBORHOOD IMPROVEMENT AREA #3 IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER’S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS IN THE PROVISION OF THE NEIGHBORHOOD IMPROVEMENT AREA #3 IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED BY THE DEVELOPER OR ITS AGENTS TO CONSTRUCT THE NEIGHBORHOOD IMPROVEMENT AREA #3 IMPROVEMENTS; 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 NEIGHBORHOOD IMPROVEMENT AREA #3 IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE NEIGHBORHOOD IMPROVEMENT AREA #3 IMPROVEMENTS, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE OUT OF THE SOLE OR 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 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 (7) 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 ITS OWN BEHALF, AND DEVELOPER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 7.02 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.

Section 7.03. Use of Monies by City. The City agrees not to take any action or direct the Administrator to take any action to expend, disburse or encumber the monies held in the Neighborhood Improvement Area #3 Assessment Fund, and any monies to be transferred thereto for any purpose other than the purposes permitted by the Service and Assessment Plan, including amendments and annual updates, or the Neighborhood Improvement Area #3 Reimbursement Agreement. The City agrees not to modify or supplement the Service and Assessment Plan without the approval of the Developer or its assigns if as a result or as a consequence of such modification or supplement (a) the amount of monies that would otherwise have been (i) available under the Neighborhood Improvement Area #3 Assessment Fund for the Costs of the Neighborhood Improvement Area #3 Improvements is reduced, delayed or deferred, or (ii) available in the Neighborhood Improvement Area #3 Assessment Fund upon the issuance of bonds as described herein, is reduced, delayed or deferred, (b) the obligations or liabilities of the Developer or its assigns are or may be increased or otherwise adversely affected in any manner, or (c) the rights of the Developer or its assigns are or may be modified, limited, restricted or otherwise adversely affected in any manner.

Section 7.04. No Reduction of Assessments. The Developer agrees not to take any action or actions to reduce the total amount of such Assessments to be levied as of the effective date of this Agreement.

ARTICLE VIII TERMINATION

This Agreement may be terminated by the mutual, written consent of the City and the Developer, in which event the City may either execute contracts for or perform any remaining work related to the Neighborhood Improvement Area #3 Improvements not accepted by the City or other appropriate entity and use all or any portion of funds on deposit in the Neighborhood

Improvement Area #3 Assessment Fund to pay for same, and the Developer shall have no claim or right to any further payments for the Cost(s) of a Neighborhood Improvement Area #3 Improvement hereunder, except as otherwise may be provided in such written consent.

Section 8.02. City's Election for Cause.

(a) The City, upon notice to Developer and the passage of the cure period identified in subsection (b) below, may terminate this Agreement without the consent of the Developer if the Developer shall breach any material covenant or default in the performance of any material obligation hereunder.

(b) If any such event described in Section 8.02(a) occurs, the City shall give written notice of its knowledge of such event to the Developer, and the Developer agrees to promptly meet and confer with the City Inspector and other appropriate City staff and consultants as to options available to assure timely completion, subject to the terms of this Agreement, of the Neighborhood Improvement Area #3 Improvements. Such options may include, but not be limited to, the termination of this Agreement by the City. If the City elects to terminate this Agreement, the City shall first notify the Developer (and any mortgagee or trust deed beneficiary specified in writing by the Developer to the City to receive such notice) of the grounds for such termination and allow the Developer a minimum of 45 days to eliminate or to mitigate to the satisfaction of the City the grounds for such termination. Such period may be extended, at the sole discretion of the City, if the Developer, to the reasonable satisfaction of the City, is proceeding with diligence to eliminate or mitigate such grounds for termination. If at the end of such period (and any extension thereof), as determined reasonably by the City, the Developer has not eliminated or completely mitigated such grounds to the satisfaction of the City, the City may then terminate this Agreement. In the event of the termination of this Agreement, the Developer is entitled to payment for work accepted by the City related to a Neighborhood Improvement Area #3 Improvement only as provided for under the terms of an indenture and this Agreement prior to the termination date of this Agreement. Notwithstanding the foregoing, so long as the Developer has breached any material covenant or defaulted in the performance of any material obligation hereunder, notice of which has been given by the City to the Developer, and such event has not been cured or otherwise eliminated by the Developer, the City may in its discretion cause the trustee to cease making payments for the Actual Costs of Neighborhood Improvement Area #3 Improvements, provided that the Developer shall receive payment of the Actual Costs of any Neighborhood Improvement Area #3 Improvements that were accepted by the City at the time of the occurrence of such breach or default by the Developer upon submission of the documents and compliance with the other applicable requirements of this Agreement.

(c) If this Agreement is terminated by the City for cause, the City may either execute contracts for or perform any remaining work related to the Neighborhood Improvement Area #3 Improvements not accepted by the City and use all or any portion of the funds on deposit in the Neighborhood Improvement Area #3 Assessment Fund and the Developer shall have no claim or

right to any further payments for the Neighborhood Improvement Area #3 Improvements hereunder, except as otherwise may be provided upon the mutual written consent of the City and the Developer or as provided for in the Neighborhood Improvement Area #3 Reimbursement Agreement. The City shall have no obligation to perform any work related to a Neighborhood Improvement Area #3 Improvement or to incur any expense or cost in excess of the remaining balance of the Neighborhood Improvement Area #3 Assessment Fund.

Section 8.03. Construction of the Neighborhood Improvement Area #3 Improvements Upon Termination of this Agreement. Notwithstanding anything to the contrary contained herein, upon the termination of this Agreement pursuant to this Article VIII, the Developer shall perform its obligations with respect to the Neighborhood Improvement Area #3 Improvements in accordance with this Agreement and the Development Agreement.

Section 8.04. Force Majeure. Whenever performance is required of a party hereunder, that party shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reasons of floods, earthquakes or other acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, damage to work in progress by casualty or by other cause beyond the reasonable control of the party (financial inability excepted) (“Force Majeure”), then the specified time for performance shall be extended by the amount of the delay actually so caused. The extension of time to perform allowed by this Section 8.04 shall not apply unless, upon the occurrence of an event of Force Majeure, the party needing additional time to perform notifies the other party of the event of Force Majeure and the amount of additional time reasonably required within ten (10) business days of the occurrence of the event of Force Majeure.

ARTICLE IX MISCELLANEOUS

Section 9.01. Limited Liability of City. The Developer agrees that any and all obligations of the City arising out of or related to this Agreement are special obligations of the City, and the City’s obligations to make any payments hereunder are restricted entirely to the monies, if any, in the Neighborhood Improvement Area #3 Assessment Fund and, subject in all respects to Article III hereof, from no other source. Neither the City, the City Inspector, the City Representative, nor any other City employee, officer, official, or agent shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of their actions hereunder or execution hereof.

Section 9.02. Audit. The City Inspector or a finance officer of the City shall have the right, during normal business hours and upon the giving of three business days’ prior written notice to a Developer, to review all books and records of the Developer pertaining to Costs and expenses

incurred by the Developer only with respect to any of the Neighborhood Improvement Area #3 Improvements and any bids taken or received for the construction thereof or materials therefor.

Section 9.03. 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 twenty-four (24) hours after such transmission) or seventy-two (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, Texas 142 N. Ohio Celina, Texas 75009
With a copy to:	Attn: Julie Fort Messer, Fort & McDonald, PLLC 6371 Preston Road, Suite 200 Frisco, Texas 75034
And to:	Attn: Bond Counsel Norton Rose Fullbright US LLP 2200 Ross Avenue, Suite 3600 Dallas, Texas 75201
To the Developer:	Attn: Mehrdad Moayed CADG Sutton Fields, LLC 1800 Valley View Lane, Suite 300 Farmers Branch, Texas 75234
With a copy to:	Attn: J. Prabha Cinclair Miklos Cinclair, PLLC 1800 Valley View Lane, Suite 360 Farmers Branch, Texas 75234

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.

The City shall advise the Developer of the name and address of any person who is to receive any notice or other communication pursuant to this Agreement.

Section 9.04. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent possible.

Section 9.05. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. Any receivables due under this Agreement may be assigned by the Developer without the consent of, but upon written notice to the City pursuant to Section 9.03 of this Agreement. The obligations, requirements, or covenants of this Agreement shall be able to be assigned to an affiliate or related entity of the Developer, or any lien holder on the Property, without prior written consent of the City. The obligations, requirements, or covenants of this Agreement shall not be assigned by the Developer to a non-affiliate or non-related entity of the Developer without prior written consent of the City Manager, except pursuant to a collateral assignment to any person or entity providing construction financing to the Developer for an Authorized Improvement, provided such person or entity expressly agrees to assume all obligations of the Developer hereunder if there is a default under such financing and such person elects to complete the Authorized Improvement. No such assignment shall be made by the Developer or any successor or assignee of the Developer that results in the City being an “obligated person” within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission without the express written consent of the City. In connection with any consent of the City, the City may condition its consent upon the acceptability of the financial condition of the proposed assignee, upon the assignee’s express assumption of all obligations of the Developer hereunder and/or upon any other reasonable factor which the City deems relevant in the circumstances. In any event, any such assignment shall be in writing, shall clearly identify the scope of the rights and/or obligations assigned.

Section 9.06. Other Agreements. The obligations of the Developer hereunder shall be those of a Party hereto and not as an owner of property in the District. Nothing herein shall be construed as affecting the City’s or the Developer’s rights or duties to perform their respective obligations under other agreements, use regulations, ordinances or subdivision requirements relating to the development of the lands in the District, including the applicable Construction Contracts and the Development Agreement. To the extent there is a conflict between this Agreement and the Development Agreement, the Development Agreement shall control. To the extent there is a conflict between this Agreement and the Neighborhood Improvement Area #3 Reimbursement Agreement with respect to any receivables due under this Agreement, the Neighborhood Improvement Area #3 Reimbursement Agreement shall control. If the City issues bonds to finance the Neighborhood Improvement Area #3 Improvements under the terms of a bond indenture and there is a conflict between this Agreement, the Development Agreement, the Neighborhood Improvement Area #3 Reimbursement Agreement, and the bond indenture, the bond indenture shall control.

Section 9.07. Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure by a Party to exercise its rights upon the default of any other Party, shall not constitute a waiver of such Party’s right to insist and demand strict compliance by such other Party with the terms of this Agreement thereafter.

Section 9.08. Merger. No other agreement, statement or promise made by any Party or any employee, officer or agent of any Party with respect to any matters covered hereby that is not in writing and signed by all the Parties to this Agreement shall be binding.

Section 9.09. Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the

Parties hereto any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions or stipulations hereof, and all covenants, conditions, promises and agreements in this Agreement contained by or on behalf of the Parties shall be for the sole and exclusive benefit of the Parties.

Section 9.10. Amendment. This Agreement may be amended upon Agreement of the Parties, from time to time in a manner consistent with the PID Act, in writing hereto and executed in counterparts, each of which shall be deemed an original.

Section 9.11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 9.12. Effective Date. This Agreement shall become effective upon its execution and delivery, by the Parties hereto. All representations and warranties set forth therein shall be deemed to have been made on the Effective Date.

Section 9.13. Term. The term of this Agreement, other than the provisions contained in Section 7.02, which shall survive the termination of this Agreement, shall be thirty (30) years or until all amounts under the Neighborhood Improvement Area #3 Reimbursement Agreement have been paid. If bonds are issued by the City to finance the Neighborhood Improvement Area #3 Improvements, this Agreement will terminate automatically and with no further action by the City or the Developer upon the redemption or defeasance of all outstanding bonds issued under the bond indenture. If the Developer defaults under this Agreement, the Development Agreement or the Neighborhood Improvement Area #3 Reimbursement Agreement, this Agreement, the Development Agreement and the Neighborhood Improvement Area #3 Reimbursement Agreement shall not terminate with respect to the costs of the Neighborhood Improvement Area #3 Improvements that have been approved by the City pursuant to a Certification for Payment prior to the date of default.

Section 9.14. No Waiver of Powers or Immunity. The City does not waive or surrender any of its governmental powers, immunities, or rights except as necessary to allow Developer to enforce its remedies under this Agreement.

Section 9.15. No Boycott of Israel. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

Section 9.16. Not a Listed Company. The Developer hereby 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 Developer 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 Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

[Execution pages follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of this the _____ day of _____, 2019.

CITY OF CELINA

By: _____
Name: Chad Anderson, Mayor Pro-Tem

ATTEST:

Vicki Faulkner, City Secretary

APPROVED AS TO FORM

Julie Fort, Attorney for the City

[Signature Page for Neighborhood Improvement Area #3 CFA]

DEVELOPER:

CADG Sutton Fields, LLC,
a Texas limited liability company

By: CADG Holdings, LLC,
a Texas limited liability company
Its Sole Member

By: MMM Ventures, LLC,
a Texas limited liability company
Its Manager

By: 2M Ventures, LLC,
a Delaware limited liability company
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

[Signature Page for Neighborhood Improvement Area #3 CFA]

Exhibit A**List of Neighborhood Improvement Area #3 Improvements and Budgeted Costs**

Authorized Improvements	Estimated Costs
Roadway improvements	\$2,215,224
Water distribution improvements	\$825,120
Sewer collection improvements	\$679,260
Storm sewer collection improvements	\$1,786,223
Other soft and miscellaneous improvements	\$931,336
Total	\$6,437,163

Exhibit B**FORM OF CERTIFICATION FOR PAYMENT**

The undersigned is an agent for CADG Sutton Fields, LLC, a Texas limited liability company (the “Developer”) and requests payment from the Neighborhood Improvement Area #3 Assessment Fund (as defined in the Neighborhood Improvement Area #3 CFA Agreement) from the City of Celina, Texas (the “City”) in the amount of \$_____ for labor, materials, fees, and/or other general costs related to the construction of certain Neighborhood Improvement Area #3 Improvements related to the Sutton Fields II Public Improvement District (the “Neighborhood Improvement Area #3 Improvements”). Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Sutton Fields II Public Improvement District Neighborhood Improvement Area #3 Construction, Funding, and Acquisition Agreement (the “Neighborhood Improvement Area #3 CFA Agreement”).

In connection to the above referenced payment, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Certification for Payment on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced Neighborhood Improvement Area #3 Improvements have not been the subject of any prior payment request submitted to the City or, if previously requested, no disbursement was made with respect thereto.
3. The amount listed for the Neighborhood Improvement Area #3 Improvements below is a true and accurate representation of the costs associated with the creation, acquisition, or construction of said Neighborhood Improvement Area #3 Improvement, and such costs are in compliance with the Neighborhood Improvement Area #3 CFA Agreement and the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Neighborhood Improvement Area #3 CFA Agreement, the Development Agreement and the Service and Assessment Plan.
5. All conditions set forth in the Neighborhood Improvement Area #3 CFA Agreement, and the Development Agreement for the payment hereby requested have been satisfied.
6. The work with respect to the Neighborhood Improvement Area #3 Improvement referenced below (or its completed segment) has been completed and the City may begin inspection of the Neighborhood Improvement Area #3 Improvement.
7. The Developer agrees to cooperate with the City in conducting its review of the requested

payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

8. As required by Texas Local Government Code, Section 252.051, as amended, the Developer has provided the City with an independent appraisal of any Neighborhood Improvement Area #3 Improvement consisting of any real property, or any interest in real property including easements and rights-of-way and open space if any, to be acquired by the City including specifically monies on deposit in the Neighborhood Improvement Area #3 Assessment Fund.

Payments requested should include the following:

Payee / Description of Neighborhood Improvement Area #3 Improvement	Total Cost of Neighborhood Improvement Area #3 Improvement	Budgeted Cost of Neighborhood Improvement Area #3 Improvement	Amount to be paid from the Neighborhood Improvement Area #3 Assessment Fund

Attached hereto, are receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments.

Pursuant to the Neighborhood Improvement Area #3 CFA Agreement, after receiving this Certification for Payment, the City is authorized to inspect the Neighborhood Improvement Area #3 Improvement (or completed segment or phase) and confirm that said work has been completed in accordance with all applicable governmental laws, rules, and Plans. Afterwards, the City must then accept or deny this Certification for Payment.

Payments requested hereunder shall be made as directed below:

- a. X amount to Person or Account Y for Z goods or services.
- b. Etc.

I hereby declare that the above representations and warranties are true and correct.

CADG SUTTON FIELDS, LLC

By: _____

Name: _____

Title: _____

Date: _____

APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Certification for Payment, acknowledges the Certification for Payment, and finds the Certification for Payment to be in order. After reviewing the Certification for Payment, the City approves the Certification for Payment.

CITY OF CELINA, TEXAS

By: _____

Name: _____

Title: _____

Date: _____



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: June 11, 2019
Re: Sutton Fields II PID Reimbursement Agreement

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and CADG Sutton Fields, LLC for reimbursement for the financing of public improvements. (Sutton Fields II) (DeBuff)

Background Information:

This item is the reimbursement agreement for the Sutton Fields II Public Improvement District (PID).

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this agreement.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

**SUTTON FIELDS II PUBLIC IMPROVEMENT DISTRICT
NEIGHBORHOOD IMPROVEMENT AREA #3 REIMBURSEMENT AGREEMENT**

This Sutton Fields II Public Improvement District Neighborhood Improvement Area #3 Reimbursement Agreement (this “Reimbursement Agreement”) is executed by and among the **City of Celina, Texas** (the “City”) and **CADG Sutton Fields, LLC**, a Texas limited liability company (“Developer”) (individually referred to as a “Party” and collectively as the “Parties”) to be effective June 11, 2019 (the “Effective Date”).

RECITALS

WHEREAS, capitalized terms used in this Reimbursement Agreement shall have the meanings given to them in this Reimbursement Agreement or in the *Sutton Fields II Public Improvement District Amended and Restated Service and Assessment Plan*, dated August 28, 2018, as the same may be further amended, supplemented, and updated from time to time (the “SAP”) approved by Ordinance No. 2018-46 passed and approved by the City Council on August 28, 2018; and

WHEREAS, on October 13, 2015 the City Council passed and approved Resolution No. 2015-51R authorizing the creation of the Sutton Fields II Public Improvement District (the “District”) covering approximately 622 acres of land described by metes and bounds in said Resolution (the “District Property”); and

WHEREAS, the purpose of the District is to finance public improvements (the “Authorized Improvements”) as provided by Chapter 372, Texas Local Government Code, as amended (the “PID Act”) that promote the interests of the City and confer a special benefit on the Assessed Property within the District; and

WHEREAS, the District Property is being developed in accordance with that certain Amended and Restated Sutton Fields Facilities and Development Agreement dated June 13, 2017 between the Developer and the City (the “Development Agreement”); and

WHEREAS, the District Property is being developed in phases, and special assessments for each phase have been or will be levied against the Assessed Property within such phase to pay the costs of Authorized Improvements that confer a special benefit on the Assessed Property within such phase; and

WHEREAS, Neighborhood Improvement Area #3 Improvements (as defined in the SAP) are to be constructed within Neighborhood Improvement Area #3 of the District Property, as described and depicted in the SAP; and

WHEREAS, on May 28, 2019, the City Council passed and approved Resolution No. _____ R determining, among other things, the estimated costs of the Neighborhood Improvement Area #3 Improvements; and

WHEREAS, on June 11, 2019, the City Council passed and approved Ordinance No. 2019-[] (the “Assessment Ordinance”) which, among other things, approved the SAP (including

the Neighborhood Improvement Area #3 Assessment Roll), levied assessments, and established the dates upon which interest on assessments will begin to accrue and collection of assessments will begin; and

WHEREAS, in addition to approving the SAP, the Assessment Ordinance levied assessments against property within Neighborhood Improvement Area #3 (the “Neighborhood Improvement Area #3 Assessed Property”) for the Neighborhood Improvement Area #3 Improvements in accordance with the Neighborhood Improvement Area #3 Assessment Roll attached as Appendix B-3 to the SAP; and

WHEREAS, the Parties have entered into that certain “Sutton Fields II Public Improvement District Neighborhood Improvement Area #3 Construction, Funding, and Acquisition Agreement” dated as of June 11, 2019 (the “Construction Funding Agreement”) for the construction of the Neighborhood Improvement Area #3 Improvements; and

WHEREAS, the SAP established \$6,437,163.00 as the cost of the Neighborhood Improvement Area #3 Improvements to be assessed against Neighborhood Improvement Area #3 of the District Property (the “Neighborhood Improvement Area #3 Improvements Costs”); and

WHEREAS, the SAP allocated the Neighborhood Improvement Area #3 Improvements Costs to Neighborhood Improvement Area #3 of the District Property, and the SAP contemplated the allocation of the Neighborhood Improvement Area #3 Improvements Costs among the single family residential lots to be created from the subdivision of the District Property; and

WHEREAS, assessments against lots within Neighborhood Improvement Area #3 of the District (“Neighborhood Improvement Area #3 Assessments”) will be reflected on the Neighborhood Improvement Area #3 Assessment Roll as approved by the City Council; and

WHEREAS, the SAP and the Assessment Ordinance provide, in part, that an assessment or assessments may be paid in full, and if an assessment is not paid in full, it shall be due and payable in Annual Installments plus interest for a period of 30 years or until the assessment is paid in full; and

WHEREAS, all revenue received and collected by the City from the collection of the Neighborhood Improvement Area #3 Assessments and Annual Installments (excluding Delinquent Collection Costs, and Administrative Expenses) (the “Neighborhood Improvement Area #3 Assessment Revenue”) shall be deposited as required by the PID Act into an assessment fund that is segregated from all other funds of the City (the “Neighborhood Improvement Area #3 Assessment Fund”); and

WHEREAS, the Neighborhood Improvement Area #3 Assessment Revenue deposited into the Neighborhood Improvement Area #3 Assessment Fund shall be used to reimburse Developer and its assigns for the Neighborhood Improvement Area #3 Improvements Costs advanced in an amount not to exceed \$4,450,000.00, plus interest; and

WHEREAS, the Parties agree that this Reimbursement Agreement supersedes and replaces any prior agreements (whether written or oral) including any amendments to those prior agreements between the Parties regarding the subject matter hereof; and

WHEREAS, the obligations of the City to use the Neighborhood Improvement Area #3 Assessments hereunder is authorized by the PID Act;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS OF THE PARTIES SET FORTH IN THIS REIMBURSEMENT AGREEMENT AND FOR VALUABLE CONSIDERATION THE RECEIPT AND ADEQUACY OF WHICH ARE ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. The recitals in the “WHEREAS” clauses of this Reimbursement Agreement are true and correct, create obligations of the Parties, and are incorporated as part of this Reimbursement Agreement for all purposes.
2. Strictly subject to the terms, conditions, and requirements and solely from the revenues as herein provided, the City agrees to pay the Developer and its assigns, and the Developer and its assigns shall be entitled to receive from the City, the amount equal to the actual costs of the Neighborhood Improvement Area #3 Improvements paid by the Developer for the Neighborhood Improvement Area #3 Improvements Costs that were within budgeted costs, or authorized overrun costs, that were paid by the Developer plus interest on the unpaid balance in accordance with the terms of this Reimbursement Agreement until September 1, 2049 (the “Maturity Date”), and which shall be reimbursed to the Developer and its assigns in a principal amount not to exceed \$4,450,000.00 (the “Reimbursement Amount”), plus interest accrued, as hereinafter provided. The City hereby covenants to create, concurrently with the execution of this Reimbursement Agreement, a separate fund to be designated the “Neighborhood Improvement Area #3 Assessment Fund.” The Reimbursement Amount is payable from monies to be deposited in the Neighborhood Improvement Area #3 Assessment Fund as described below:
 - a. The Reimbursement Amount is payable solely from: (i) the Neighborhood Improvement Area #3 Assessment Revenue received and collected by the City and deposited into the Neighborhood Improvement Area #3 Assessment Fund; (ii) the net proceeds (after payment of costs of issuance, including the costs paid or incurred by the City) of one or more series of bonds (the “Future Neighborhood Improvement Area #3 Bonds”) issued by the City and secured by the Neighborhood Improvement Area #3 Assessment Revenue; or (iii) a combination of items (i) and (ii) immediately above. The Neighborhood Improvement Area #3 Assessment Revenue shall be received, collected and deposited into the Neighborhood Improvement Area #3 Assessment Fund subject to the following limitations:

- i. Calculation of the Neighborhood Improvement Area #3 Assessments and the first Annual Installment for a Lot or Parcel shall begin as provided for in the SAP.
 - ii. The Neighborhood Improvement Area #3 Assessments shall accrue interest at the rates set forth in this Section 2. Interest shall continue on the unpaid principal amount of the Neighborhood Improvement Area #3 Assessments for a Lot for the earlier of 30 years or until the Neighborhood Improvement Area #3 Assessments are paid in full.
 - iii. The Developer and its assigns shall be reimbursed in a combined aggregate amount not to exceed \$4,450,000.00 plus interest from the Neighborhood Improvement Area #3 Assessment Fund and as allowed under Section 2(a) above.
 - iv. The unpaid Reimbursement Amount shall bear simple interest per annum at the rate of (x) ____% for years one through five, and (y) ____% for years six through 31. The interest rate has been approved by the City Council and is authorized by the PID Act and was determined based upon *The Bond Buyer*, a daily publication that publishes this interest rate index, which the highest average index rate for tax-exempt bonds reported in the previous month was ____%. The interest rate of ____% and ____% contained herein comply with Subsections 372.023(e)(1) and (e)(2) of the PID Act.
3. The Reimbursement Amount plus the interest as described in Section 2(a)(iv), above, are collectively the “Unpaid Balance.” The Unpaid Balance is secured by and payable solely from the Neighborhood Improvement Area #3 Assessment Revenue received and collected by the City and deposited into the Neighborhood Improvement Area #3 Assessment Fund. No other City funds, revenue, taxes, or income of any kind shall be used to pay the Unpaid Balance, even if the Unpaid Balance is not paid in full by the Maturity Date. This Reimbursement Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source other than Neighborhood Improvement Area #3 Assessment Revenue received, collected and deposited into the Neighborhood Improvement Area #3 Assessment Fund. The City covenants that it will comply with the provisions of this Reimbursement Agreement, the Construction Funding Agreement, the Development Agreement, and the PID Act, including provisions relating to the administration of the District and the enforcement and collection of taxes and assessments, and all other covenants provided therein. Notwithstanding its collection efforts, if the City fails to receive all or any part of the Neighborhood Improvement Area #3 Assessment Revenue and, as a result, is unable to make transfers from the Neighborhood Improvement Area #3 Assessment Revenue Fund for payments to the Developer as required under this

Reimbursement Agreement, such failure and inability shall not constitute a Failure or Default by the City under this Reimbursement Agreement.

4. If Future Neighborhood Improvement Area #3 Bonds are issued, the net proceeds of such Future Neighborhood Improvement Area #3 Bonds shall be used, from time to time, first to pay the Unpaid Balance due to the Developer under this Reimbursement Agreement for the costs of Neighborhood Improvement Area #3 Improvements and then to pay all or any portion of any Neighborhood Improvement Area #3 Improvements Cost. If, after application of the net proceeds of such Future Neighborhood Improvement Area #3 Bonds, any Neighborhood Improvement Area #3 Improvements Cost remains unpaid, then the Developer shall pay such cost. If, after application of the net proceeds of any Future Neighborhood Improvement Area #3 Bonds, the Unpaid Balance due the Developer remains unpaid, all payments toward the Unpaid Balance due the Developer shall be paid from amounts deposited into any funds created for such purpose under any indenture relating to any Future Neighborhood Improvement Area #3 Bonds. Once the principal amount of all Future Neighborhood Improvement Area #3 Bonds plus all payments paid to the Developer under this Reimbursement Agreement equal the Unpaid Balance, this Reimbursement Agreement shall terminate.
5. The Developer has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part without the consent of (but with written notice to) the City, the Developer's right, title, or interest under this Reimbursement Agreement including, but not limited to, any right, title, or interest of the Developer in and to payment of the Unpaid Balance (any of the foregoing, a "Transfer," and the person or entity to whom the Transfer is made, a "Transferee"). Notwithstanding the foregoing, however, no Transfer shall be effective until five days after notice of the Transfer is received by the City, including for each Transferee the information required by Section 9 below. The City may rely on any notice of a Transfer received from the Developer without obligation to investigate or confirm the validity or occurrence of such Transfer. No conveyance, transfer, assignment, mortgage, pledge or other encumbrance shall be made by the Developer or any successor or assignee of the Developer that results in the City being an "obligated person" within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission without the express written consent of the City. The Developer waives all rights or claims against the City for any such funds provided to a third party as a result of a Transfer for which the City has received notice.
6. The obligations of the City under this Reimbursement Agreement are non-recourse and payable only from the Neighborhood Improvement Area #3 Assessment Fund and such obligations do not create a debt or other obligation payable from any other City revenues, taxes, income, or property. None of the City or any of its elected or appointed officials or any of its officers or employees shall incur any liability hereunder to the Developer or any

other party in their individual capacities by reason of this Reimbursement Agreement or their acts or omissions under this Reimbursement Agreement.

7. Nothing in this Reimbursement Agreement is intended to constitute a waiver by the City of any remedy the City may otherwise have outside this Reimbursement Agreement against the Developer, any Transferee, or any other person or entity involved in the design, construction or installation of the Neighborhood Improvement Area #3 Improvements. The obligations of Developer hereunder shall be those as a Party hereto and not solely as an owner of property in the District. Nothing herein shall be constructed, nor is intended, to affect the City's or Developer's rights and duties to perform their respective obligations under other agreements, regulations and ordinances.
8. This Reimbursement Agreement is being executed and delivered, and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Reimbursement Agreement. In the event of a dispute involving this Reimbursement Agreement, venue for such dispute shall lie in any court of competent jurisdiction in Denton County, Texas.
9. Any notice required or contemplated by this Reimbursement Agreement shall be signed by or on behalf of the Party giving the Notice, and shall be deemed effective as follows: (i) when delivered by a national company such as FedEx or UPS with evidence of delivery signed by any person at the delivery address regardless of whether such person was the named addressee; or (ii) 72 hours after the notice was deposited with the United States Postal Service, Certified Mail, Return Receipt Requested. Any Party may change its address by delivering written notice of such change in accordance with this section. All Notices given pursuant to this Section shall be addressed as follows:

To the City:	Attn: City Manager City of Celina, Texas 142 N. Ohio Celina, Texas 75009
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With a copy to: Attn: Julie Fort
 Messer, Fort & McDonald, PLLC
 6371 Preston Road, Suite 200
 Frisco, Texas 75034

And to: Attn: Bond Counsel
 Norton Rose Fullbright US LLP
 2200 Ross Avenue, Suite 3600
 Dallas, Texas 75201

To the Developer: Attn: Mehrdad Moayed
 CADG Sutton Fields, LLC
 1800 Valley View Lane, Suite 300
 Farmers Branch, Texas 75234

With a copy to: Attn: J. Prabha Cinclair
 Miklos Cinclair, PLLC
 1800 Valley View Lane, Suite 360
 Farmers Branch, Texas 75234

10. Notwithstanding anything herein to the contrary, nothing herein shall otherwise authorize or permit the use by the City of the Neighborhood Improvement Area #3 Assessments contrary to the provisions of the PID Act.
11. Remedies:
 - a. If either Party fails to perform an obligation imposed on such Party by this Reimbursement Agreement (a “Failure”) and such Failure is not cured after written notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a “Default.” Upon the occurrence of a Failure by a non-performing Party, the other Party shall notify the non-performing Party and all Transferees of the non-performing Party in writing specifying in reasonable detail the nature of the Failure. The non-performing Party to whom notice of a Failure is given shall have at least 30 days from receipt of the notice within which to cure the Failure; however, if the Failure cannot reasonably be cured within 30 days and the non-performing Party has diligently pursued a cure within such 30-day period and has provided written notice to the other Party that additional time is needed, then the cure period shall be extended for an additional 30 day period so long as the non-performing Party is diligently pursuing a cure. Any Transferee shall have the same rights as the Developer to enforce the obligations of the City under this Reimbursement Agreement and shall also have the right, but not the obligation, to cure any alleged Failure by the Developer within the same time periods that are provided to the Developer. The election by a Transferee to cure a Failure by the Developer shall constitute a cure by the Developer but shall not obligate the

Transferee to be bound by this Reimbursement Agreement with respect to Developer obligations under this Reimbursement Agreement unless the Transferee agrees to be bound.

- b. If the Developer is in Default, the City shall have available all remedies at law or in equity, provided that no Default by the Developer shall: (1) affect the obligations of the City to use the amounts transferred to the Neighborhood Improvement Area #3 Assessment Fund as provided in Sections 2 and 3 of this Reimbursement Agreement; or (2) entitle the City to terminate this Reimbursement Agreement.
 - c. If the City is in Default, the Developer's sole and exclusive remedies shall be to: (1) seek a writ of mandamus to compel performance by the City; or (2) seek specific enforcement of this Reimbursement Agreement.
- 12. To the extent there is a conflict between this Reimbursement Agreement and an indenture securing the Future Neighborhood Improvement Area #3 Bonds, the indenture securing the Future Neighborhood Improvement Area #3 Bonds shall control as the provisions relate to the Neighborhood Improvement Area #3 Assessments. To the extent there is a conflict between this Reimbursement Agreement and the Construction Funding Agreement, the Construction Funding Agreement shall control. To the extent there is a conflict between this Reimbursement Agreement and the Development Agreement, this Reimbursement Agreement shall control.
- 13. The failure by a Party to insist upon the strict performance of any provision of this Reimbursement Agreement by the other Party, or the failure by a Party to exercise its rights upon a Default by the other Party shall not constitute a waiver of such Party's right to insist and demand strict compliance by such other Party with the provisions of this Reimbursement Agreement.
- 14. The City does not waive or surrender any of its governmental powers, immunities, or rights except to the extent permitted by law and necessary to allow the Developer to enforce its remedies under this Reimbursement Agreement.
- 15. Nothing in this Reimbursement Agreement, express or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City and the Developer and its assigns any rights, remedies, or claims under or by reason of this Reimbursement Agreement, and all covenants, conditions, promises, and agreements in this Reimbursement Agreement shall be for the sole and exclusive benefit of the City and the Developer.
- 16. The Parties acknowledge that each has been actively involved in negotiating this Reimbursement Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Reimbursement

Agreement. In the event of any dispute over the meaning or application of any provision of this Reimbursement 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.

17. In this Reimbursement Agreement, time is of the essence and compliance with the times for performance herein is required.
18. The City represents and warrants that this Reimbursement 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 Reimbursement Agreement on behalf of the City has been duly authorized to do so. The Developer represents and warrants that this Reimbursement Agreement has been approved by appropriate action of the Developer, and that the individual executing this Reimbursement Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Reimbursement 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.
19. This Reimbursement Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Reimbursement Agreement. This Reimbursement Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Reimbursement 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 Reimbursement 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 Reimbursement Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.
20. This Reimbursement Agreement may be executed in any number of counterparts, each of which shall be deemed an original.
21. The Parties agree that at any time after execution of this Reimbursement 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 Reimbursement 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 Reimbursement Agreement is executed or any future City Council.
22. The term of this Reimbursement Agreement is thirty (30) years or until the Unpaid Balance is paid in full, whichever occurs first. If the Developer defaults under this Reimbursement

Agreement, the Development Agreement or the Construction Funding Agreement, this Reimbursement Agreement, the Development Agreement and Construction Funding Agreement shall not terminate with respect to the costs of the Neighborhood Improvement Area #3 Improvements that have been approved by the City pursuant to a Certification for Payment prior to the date of default.

23. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Reimbursement 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 Reimbursement 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.
24. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Reimbursement Agreement is a contract for goods or services, will not boycott Israel during the term of this Reimbursement Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.
25. The Developer hereby 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 Developer and each of its parent companies, 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 Developer understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

[SIGNATURE PAGES TO FOLLOW]

Executed by Developer and City to be effective on the Effective Date.

ATTEST:

CITY OF CELINA

Vicki Faulkner, City Secretary

Chad Anderson, Mayor Pro-Tem

APPROVED AS TO FORM

Julie Fort, Attorney for the City

[Signature Page for Sutton Fields II PID NIA #3 Reimbursement Agreement]

Attachment: 2014.015.332a - Sutton Fields II PID NIA #3 Reimbursement Agreement v2 (clean) 5-23-19 (Sutton Fields II PID Reimbursement

DEVELOPER:

CADG Sutton Fields, LLC,
a Texas limited liability company

By: CADG Holdings, LLC,
a Texas limited liability company
Its Sole Member

By: MMM Ventures, LLC,
a Texas limited liability company
Its Manager

By: 2M Ventures, LLC,
a Delaware limited liability company
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

[Signature Page for Sutton Fields II PID NIA #3 Reimbursement 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: June 11, 2019
Re: Sutton Fields II PID Landowner Agreement

Action Requested:

Consider and act to authorize the City Manager to execute a landowner agreement by and between the City of Celina and CADG Sutton Fields, LLC for the financing of public improvements. (Sutton Fields II) (DeBuff)

Background Information:

This item is the landowner agreement for the Sutton Fields II Public Improvement District (PID).

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this agreement.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

LANDOWNER AGREEMENT

This **LANDOWNER AGREEMENT** (the "Agreement"), is entered into as of June 11, 2019, between the City of Celina, Texas (the "City"), a home rule municipality of the State of Texas (the "State"), and CADG Sutton Fields, LLC, a Texas limited liability company (the "Landowner").

RECITALS:

WHEREAS, Landowner owns the Assessed Parcels described by a metes and bounds description attached as **Exhibit I** to this Agreement and which is incorporated herein for all purposes, comprising all of the non-exempt, privately-owned land described in **Exhibit I** (the "Landowner Parcel") which is located within the Sutton Fields II Public Improvement District (the "District") in the City; and

WHEREAS, the City Council has adopted an assessment ordinance for the Neighborhood Improvement Area #3 Improvements (including all exhibits and attachments thereto, the "Neighborhood Improvement Area #3 Assessment Ordinance") and the Service and Assessment Plan included as an exhibit to the Neighborhood Improvement Area #3 Assessment Ordinance (the "Service and Assessment Plan") and which is incorporated herein for all purposes, and has levied an assessment on each Assessed Parcel in Neighborhood Improvement Area #3 of the District (as identified in the Service and Assessment Plan) that will be used to reimburse the Landowner for the costs of constructing the Neighborhood Improvement Area #3 Improvements or pledged as the security for the payment of bonds or other obligations (the "Bonds") to be issued for the purpose of paying the costs of constructing the Neighborhood Improvement Area #3 Improvements that will benefit the Neighborhood Improvement Area #3 Assessed Property (as defined in the Service and Assessment Plan); and

WHEREAS, the Covenants, Conditions and Restrictions attached to this Agreement as **Exhibit II**, and which are incorporated herein for all purposes, include the statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code (the "PID Act"), as amended, to the purchaser.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits hereinafter set forth, the City and the Landowner hereby contract, covenant and agree as follows:

DEFINITIONS; APPROVAL OF AGREEMENTS

Definitions. Capitalized terms used but not defined herein (including each exhibit hereto) shall have the meanings ascribed to them in the Service and Assessment Plan.

Affirmation of Recitals. The findings set forth in the Recitals of this Agreement are hereby incorporated as the official findings of the City Council.

I.

AGREEMENTS OF LANDOWNER

A. Affirmation and Acceptance of Agreements and Findings of Benefit. Landowner hereby ratifies, confirms, accepts, agrees to, and approves:

(i) the creation and boundaries of the District, and the boundaries of the Landowner's Parcel which are within the District, all as shown on **Exhibit I**, and the location and development of the Neighborhood Improvement Area #3 Improvements on the Landowner Parcel and on the property within Neighborhood Improvement Area #3 of the District;

(ii) the determinations and findings as to the benefits by the City Council in the Service and Assessment Plan and the Neighborhood Improvement Area #3 Assessment Ordinance; and

(iii) the Neighborhood Improvement Area #3 Assessment Ordinance and the Service and Assessment Plan.

B. Acceptance and Approval of Assessments and Lien on Property. Landowner consents to, agrees to, acknowledges and accepts the following:

(i) each Assessment levied by the City on the Landowner's Parcel within Neighborhood Improvement Area #3 of the District, as shown on the assessment roll attached as Appendix B-3 to the Service and Assessment Plan (the "Neighborhood Improvement Area #3 Assessment Roll");

(ii) the Neighborhood Improvement Area #3 Improvements specially benefit Neighborhood Improvement Area #3 of the District, and the Landowner's Parcel, in an amount in excess of the Assessment levied on the Landowner's Parcel within Neighborhood Improvement Area #3 of the District, as such Assessment is shown on the Neighborhood Improvement Area #3 Assessment Roll;

(iii) each Assessment is final, conclusive and binding upon Landowner and any subsequent owner of the Landowner's Parcel, regardless of whether such landowner may be required to prepay a portion of, or the entirety of, such Assessment upon the occurrence of a mandatory prepayment event as provided in the Service and Assessment Plan;

(iv) the obligation to pay the Assessment levied on the Landowner's Parcel owned by it when due and in the amount required by and stated in the Service and Assessment Plan and the Neighborhood Improvement Area #3 Assessment Ordinance;

(v) each Assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the Landowner's Parcel, superior to all other liens and monetary claims except liens or monetary claims for state, county, school district, or municipal ad valorem taxes, and is a personal liability of and charge against the owner of the Landowner's Parcel regardless of whether such owner is named;

(vi) the Assessment lien on the Landowner's Parcel is a lien and covenant that runs with the land and is effective from the date of the Neighborhood Improvement Area #3 Assessment Ordinance and continues until the Assessment is paid and may be enforced by the governing body of the City in the same manner that an ad valorem tax lien against real property may be enforced by the City;

(vii) delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act;

(viii) the owner of an Assessed Parcel may pay at any time the entire Assessment, with interest that has accrued on the Assessment, on any parcel in the Landowner's Parcel;

(ix) the Annual Installments of the Assessments (as defined in the Service and Assessment Plan and Neighborhood Improvement Area #3 Assessment Roll) may be adjusted, decreased and extended; and, the assessed parties shall be obligated to pay their respective revised amounts of the annual installments, when due, and without the necessity of further action, assessments or reassessments by the City, the same as though they were expressly set forth herein; and

(x) Landowner has received, or hereby waives, all notices required to be provided to it under State law, including the PID Act, prior to the Effective Date (defined herein).

C. Mandatory Prepayment of Assessments. Landowner agrees and acknowledges that Landowner or subsequent landowners may have an obligation to prepay an Assessment upon the occurrence of a mandatory prepayment event, at the sole discretion of the City and as provided in the Service and Assessment Plan, as amended or updated or upon sale of property in the PID to a party not subject to Assessments.

D. Notice of Assessments. Landowner further agrees as follows:

(i) the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be terms, conditions and provisions running with the Landowner's Parcel and shall be recorded (the contents of which shall be consistent with the Neighborhood Improvement Area #3 Assessment Ordinance and the Service and Assessment Plan as reasonably determined by the City) in the records of the County Clerk of Denton County as a lien and encumbrance against such Landowner's Parcel, and Landowner hereby authorizes the City to so record such documents against the Landowner's Parcel owned by Landowner;

(ii) reference to the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be included on all recordable subdivision plats and such plats shall be recorded in the real property records of Denton County, Texas;

(iii) in the event of any subdivision, sale, transfer or other conveyance by the Landowner of the right, title or interest of the Landowner in the Landowner's Parcel or any part thereof, the Landowner's Parcel, or any such part thereof, shall continue to be bound by all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions and any purchaser, transferee or other subsequent owner shall take such

Landowner's Parcel subject to all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions; and

(iv) Landowner shall comply with, and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the City) any party who purchases any Landowner's Parcel owned by Landowner, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead" designations under State law to comply with, the Homebuyer Education Program described on Exhibit III to this Agreement. Such compliance obligation shall terminate as to each Lot (as defined in the Service and Assessment Plan) if, and when, (i) a final certificate of occupancy for a residential unit on such Lot is issued by the City, and (ii) there is a sale of a Lot to an individual homebuyer, it being the intent of the undersigned that the Homebuyer Education Program shall apply only to a commercial builder who is in the business of constructing and/or selling residences to individual home buyers (a "Builder") but not to subsequent sales of such residence and Lot by an individual home buyer after the initial sale by a Builder.

Notwithstanding the provisions of this Section, upon the Landowner's request and the City's consent, in the City's sole and absolute discretion, the Covenants, Conditions and Restrictions may be included with other written restrictions running with the land on property within the District, provided they contain all the material provisions and provide the same material notice to prospective property owners as does the document attached as Exhibit II.

II. OWNERSHIP AND CONSTRUCTION OF NEIGHBORHOOD IMPROVEMENT AREA #3 IMPROVEMENTS

A. Ownership and Transfer of Neighborhood Improvement Area #3 Improvements. Landowner acknowledges that all of the Neighborhood Improvement Area #3 Improvements and the land (or easements, as applicable) needed therefor shall be owned by the City and/or Mustang Special Utility District, as applicable, once accepted by and conveyed to the City and/or Mustang Special Utility District, as applicable, following construction, and Landowner will execute such conveyances and/or dedications of public rights of way and easements as may be reasonably required to evidence such ownership, as generally described on the current plats of the property within the District.

B. Grant of Easement and License, Construction of Neighborhood Improvement Area #3 Improvements.

(i) Any subsequent owner of the Landowner's Parcel shall, upon the request of the City or Developer, grant and convey to the City or Developer and its contractors, materialmen and workmen a temporary license and/or easement, as appropriate, to construct the Neighborhood Improvement Area #3 Improvements on the property within Neighborhood Improvement Area #3 of the District, to stage on the property within Neighborhood Improvement Area #3 of the District construction trailers, building materials and equipment to be used in connection with such construction of the Neighborhood Improvement Area #3 Improvements and for passage and use over and across parts of the property within Neighborhood Improvement Area #3 of the District as

shall be reasonably necessary during the construction of the Neighborhood Improvement Area #3 Improvements. Any subsequent owner of the Landowner's Parcel may require that each contractor constructing the Neighborhood Improvement Area #3 Improvements cause such owner of the Landowner's Parcel to be indemnified and/or named as an additional insured under liability insurance reasonably acceptable to such owner of the Landowner's Parcel. The right to use and enjoy any easement and license provided above shall continue until the construction of the Neighborhood Improvement Area #3 Improvements is complete; provided, however, any such license or easement shall automatically terminate upon the recording of the final plat for the Landowner's Parcel in the real property records of Denton County, Texas.

(ii) Landowner hereby agrees that any right or condition imposed by the Development Agreement, or other agreement, with respect to the Assessment has been satisfied, and that Landowner shall not have any rights or remedies against the City under the Development Agreement, or under any law or principles of equity concerning the Assessments, with respect to the formation of the District, approval of the Service and Assessment Plan and the City's levy and collection of the Assessments.

III. COVENANTS AND WARRANTIES; MISCELLANEOUS

A. Special Covenants and Warranties of Landowner.

Landowner represents and warrants to the City as follows:

(i) Landowner is duly organized, validly existing and, as applicable, in good standing under the laws of the state of its organization and has the full right, power and authority to enter into this Agreement, and to perform all the obligations required to be performed by Landowner hereunder.

(ii) This Agreement has been duly and validly executed and delivered by, and on behalf of, Landowner and, assuming the due authorization, execution and delivery thereof by and on behalf of the City and the Landowner, constitutes a valid, binding and enforceable obligation of such party enforceable in accordance with its terms. This representation and warranty is qualified to the extent the enforceability of this Agreement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws of general application affecting the rights of creditors in general.

(iii) Neither the execution and delivery hereof, nor the taking of any actions contemplated hereby, will conflict with or result in a breach of any of the provisions of, or constitute a default, event of default or event creating a right of acceleration, termination or cancellation of any obligation under, any instrument, note, mortgage, contract, judgment, order, award, decree or other agreement or restriction to which Landowner is a party, or by which Landowner or Landowner's Parcel is otherwise bound.

(iv) Landowner is, subject to all matters of record in the Denton County, Texas Real Property Records, the sole owner of the Landowner's Parcel.

(v) The Landowner's Parcel owned by Landowner is not subject to, or encumbered by, any covenant, lien, encumbrance or agreement which would prohibit (i) the creation of the District, (ii) the levy of the Assessments and the priority of the lien related to the assessments as described in this Agreement, or (iii) the construction of the Neighborhood Improvement Area #3 Improvements on those portions of the property within Neighborhood Improvement Area #3 of the District which are to be owned by the City, as generally described on the current plats of the property within the District (or, if subject to any such prohibition, the approval or consent of all necessary parties thereto has been obtained).

(vi) Landowner covenants and agrees to execute any and all documents necessary, appropriate or incidental to the purposes of this Agreement, as long as such documents are consistent with this Agreement and do not create additional liability of any type to, or reduce the rights of, such Landowner by virtue of execution thereof.

B. Waiver of Claims Concerning Neighborhood Improvement Area #3 Improvements.
The Landowner, with full knowledge of the provisions, and the rights thereof pursuant to such provisions, of applicable law, waives any claims against the City and its successors, assigns and agents pertaining to the installation of the Neighborhood Improvement Area #3 Improvements.

C. Notices.

Any notice or other communication to be given to the City or Landowner under this Agreement shall be given by delivering the same in writing to:

To the City:	Attn: City Manager City of Celina, Texas 142 N. Ohio Street Celina, Texas 75009
With a copy to:	Attn: Julie Fort Messer, Fort & McDonald, PLLC 6371 Preston Road, Suite 200 Frisco, Texas 75034
To the Developer:	Attn: Mehrdad Moayed CADG Sutton Fields, LLC 1800 Valley View Lane Suite 300 Farmers Branch, Texas 75234
With a copy to:	Attn: J. Prabha Cinclair Miklos Cinclair, PLLC 1800 Valley View Lane, Suite 360 Farmers Branch, Texas 75234

Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the recipient as the address set forth herein.

Each recipient may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this provision shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for, or actually received by, the addressee.

D. Parties in Interest.

This Agreement is made solely for the benefit of the City and the Landowner and is not assignable, except, in the case of Landowner, in connection with the sale or disposition of all or substantially all of the parcels which constitute the Landowner's Parcel. However, the parties expressly agree and acknowledge that the City, the Landowner, each current owner of any parcel which constitutes the Landowner's Parcel, and the holders of bonds issued by the City to finance the costs of the Neighborhood Improvement Area #3 Improvements and which are secured by a pledge of the Assessments or any part thereof, are express beneficiaries of this Agreement and shall be entitled to pursue any and all remedies at law or in equity to enforce the obligations of the parties hereto. This Agreement shall be recorded in the real property records of Denton County, Texas.

E. Amendments.

This Agreement may be amended only by written instrument executed by the City and the Landowner. No termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the then-current owners of the property within the District and recorded in the Real Property Records of Denton County, Texas.

F. Effective Date.

This Agreement shall become and be effective (the "Effective Date") upon the date of final execution by the latter of the City and the Landowner and shall be valid and enforceable on said date and thereafter.

G. Estoppels.

Within 10 business days after written request from a party hereto, the other party shall provide a written certification, indicating whether this Agreement remains in effect as to the Landowner's Parcel.

H. Termination.

This Agreement shall terminate and be of no further force and effect as to the Landowner's Parcel upon payment in full of the Assessment(s) against such Landowner's Parcel.

[Signature pages to follow]

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

Date: _____

CITY OF CELINA, TEXAS

By: _____
Chad Anderson, Mayor Pro-Tem

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the __ day of _____, 2019 by Chad Anderson, the Mayor Pro-Tem of the City of Celina, Texas on behalf of said City.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires: _____

[Signature Page Landowner Agreement]

LANDOWNER

CADG Sutton Fields, LLC,
a Texas limited liability company

By: CADG Holdings, LLC,
a Texas limited liability company
Its Sole Member

By: MMM Ventures, LLC,
a Texas limited liability company
Its Manager

By: 2M Ventures, LLC,
a Delaware limited liability company
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of _____, 2019 by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of CADG Holdings, LLC, as Sole Member of CADG Sutton Fields, LLC, a Texas limited liability company on behalf of said company.

Notary Public, State of Texas

[Signature Page Landowner Agreement]

LANDOWNER AGREEMENT - EXHIBIT I

METES AND BOUNDS DESCRIPTION OF LANDOWNER'S PARCEL

PROPERTY DESCRIPTION:

PHASE 2A

TRACT 1

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE FREEMAN WILKERSON SURVEY, ABSTRACT NUMBER 1411, IN THE CITY OF CELINA, DENTON COUNTY, TEXAS, AND BEING PART OF THAT CERTAIN TRACT OF LAND DESCRIBED AS TRACT 1 IN DEED TO CADG SUTTON FIELDS, LLC RECORDED IN DOCUMENT NO. 2015-15963, OF THE REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS (RPRDCT), AND PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO CADG SUTTON FIELDS, LLC RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE SOUTHWEST CORNER OF LOT 2, BLOCK N, OF SUTTON FIELDS PHASE 1A, AN ADDITION TO THE CITY OF CELINA ACCORDING TO FINAL PLAT RECORDED IN DOCUMENT NUMBER 2017-395, PLAT RECORDS, DENTON COUNTY, TEXAS (PRDCT), SAID IRON ROD ALSO BEING LOCATED IN THE EAST LINE OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO LEE A. BROWN RECORDED IN DOCUMENT NUMBER 2003-122624 RPRDCT, ALSO BEING LOCATED IN THE WEST LINE OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NUMBER 2015-15963 RPRDCT;

THENCE NORTH 89°18'13" EAST WITH THE SOUTH LINE OF SAID SUTTON FIELDS PHASE 1A, A DISTANCE OF 129.75 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD ALSO BEING LOCATED IN THE WEST RIGHT-OF-WAY LINE OF CLEVES AVENUE (CALLED 50-FOOT RIGHT-OF-WAY);

THENCE SOUTH 00°41'47" EAST, CONTINUING WITH THE SOUTH LINE OF SAID SUTTON FIELDS PHASE 1A, AND SAID WEST RIGHT-OF-WAY LINE OF CLEVES AVENUE, A DISTANCE OF 5.00 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER;

THENCE NORTH 89°18'13" EAST, DEPARTING SAID WEST RIGHT-OF-WAY LINE OF CLEVES AVENUE, AND CONTINUING WITH THE SOUTH LINE OF SUTTON FIELDS PHASE 1A, A DISTANCE OF 619.40 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER;

THENCE SOUTH 63°21'49" EAST, CONTINUING WITH SAID SOUTH LINE OF SUTTON FIELDS PHASE 1A, A DISTANCE OF 51.22 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD BEING LOCATED IN THE WESTERLY RIGHT-OF-WAY LINE OF BOTHWELL BOULEVARD, SAID RIGHT-OF-WAY ACCORDING TO THE RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1, AN ADDITION TO THE CITY OF CELINA ACCORDING TO FINAL PLAT RECORDED IN DOCUMENT NUMBER 2017-398, PRDCT, ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE SOUTHWESTERLY, WITH SAID WEST RIGHT-OF-WAY LINE OF BOTHWELL BOULEVARD, AND WITH SAID CURVE TO THE LEFT WHICH HAS A CENTRAL ANGLE OF 21°57'17", A RADIUS OF 1445.00 FEET, A CHORD THAT BEARS SOUTH 15°39'33" WEST, A DISTANCE OF 550.31 FEET, FOR AN ARC DISTANCE OF 553.70 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD ALSO BEING A SOUTHWEST CORNER OF SAID RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1;

THENCE SOUTH 85°19'22" EAST, WITH THE SOUTH LINE OF THE BOTHWELL BOULEVARD DEDICATION ACCORDING TO SAID RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1, A DISTANCE OF 90.00 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD BEING A SOUTHEAST CORNER OF SAID RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1, THE SOUTHWEST CORNER OF SUTTON FIELDS PHASE 1B, AN ADDITION TO THE CITY OF CELINA ACCORDING TO FINAL PLAT RECORDED IN DOCUMENT NUMBER 2017-478, PRDCT, AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE SOUTHWESTERLY, OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, AND WITH SAID CURVE TO THE LEFT WHICH HAS A CENTRAL ANGLE OF 05°22'43", A RADIUS OF 1355.00 FEET, A CHORD THAT BEARS SOUTH 01°59'34" WEST, A DISTANCE OF 127.16 FEET, FOR AN ARC DISTANCE OF 127.20 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER;

THENCE CONTINUING OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, THE FOLLOWING COURSES TO A 5/8-INCH IRON RODS WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER:

SOUTH 00°41'47" EAST, A DISTANCE OF 177.23 FEET;

SOUTH 89°43'30" WEST, A DISTANCE OF 90.00 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 20.00 FEET;

AND SOUTH 89°43'30" WEST, A DISTANCE OF 635.87 FEET, SAID IRON ROD BEING LOCATED IN THE WEST LINE OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, AND THE EAST LINE OF THAT CERTAIN TRACT OF LAND DESCRIBED AS TRACT II IN DEED TO TIMOTHY DAN CHESNEY AND MARGIE BETH CHESNEY RECORDED IN DOCUMENT NUMBER 94-R0036277, RPRDCT;

THENCE NORTH 00°41'47" WEST, WITH THE COMMON LINE OF SAID CADG SUTTON FIELDS, LLC AND SAID CHESNEY TRACT RECORDED IN DOCUMENT NUMBER 94-R0036277 RPRDCT, AND THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO TIM CHESNEY AND MARGIE BETH CHESNEY RECORDED IN VOLUME 1209, PAGE 434, RPRDCT, A DISTANCE OF 344.97 FEET TO AN OLD WOOD CORNER POST FOUND FOR CORNER AT THE NORTHWEST CORNER OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-30387, RPRDCT, A SOUTHWEST CORNER OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-15963, RPRDCT, AND THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO JENNIFER S. DAHL AND RICHARD A. DAHL, RECORDED IN DOCUMENT NUMBER 2006-1961 RPRDCT, FROM WHICH A 5/8 INCH IRON ROD FOUND BEARS SOUTH 16°28'53" WEST, A DISTANCE OF 1.57 FEET;

THENCE NORTH 00°24'23" WEST, WITH A WEST LINE OF SAID CADG SUTTON FIELDS, LLC TRACT RECORDED IN DOCUMENT NO. 2015-15963, RPRDCT, AND THE EAST LINE OF SAID DAHL TRACT, A DISTANCE OF 498.94 TO THE POINT OF BEGINNING, AND CONTAINING 13.792 ACRES OF LAND.

TRACT 2

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE FREEMAN WILKERSON SURVEY, ABSTRACT NUMBER 1411, THE CARROL JACKSON SURVEY, ABSTRACT NUMBER 1546, THE JACOB RUE SURVEY, ABSTRACT NUMBER 1109, AND THE THOMAS B. COX SURVEY, ABSTRACT NUMBER 309, IN THE CITY OF CELINA, DENTON COUNTY, TEXAS, AND BEING PART OF THOSE CERTAIN TRACTS OF LAND DESCRIBED AS TRACT 1, AND TRACT 4, IN DEED TO CADG SUTTON FIELDS, LLC RECORDED IN DOCUMENT NO. 2015-15963, OF THE REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS (RPRDCT), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE NORTHEAST CORNER OF LOT 5, BLOCK R, OF SUTTON FIELDS PHASE 1B, AN ADDITION TO THE CITY OF CELINA RECORDED IN DOCUMENT NUMBER 2017-478, OF THE PLAT RECORDS OF DENTON COUNTY, TEXAS (PRDCT), SAID IRON ROD ALSO BEING LOCATED ON A LINE DESCRIBED IN BOUNDARY LINE AGREEMENT RECORDED IN INSTRUMENT NUMBER 2005-122140, RPRDCT;

THENCE SOUTH 89°18'13" WEST, WITH A NORTH LINE OF SAID SUTTON FIELDS PHASE 1B, A DISTANCE OF 1367.16 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER, SAID IRON ROD BEING THE SOUTHEAST CORNER OF LOT 55, BLOCK R, OF SAID SUTTON FIELDS PHASE 1B;

THENCE NORTH 00°23'16" WEST, WITH THE EAST LINE OF SAID LOT 55, BLOCK R, A DISTANCE OF 121.55 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE NORTHEAST CORNER OF SAID LOT 55, BLOCK R, ALSO BEING LOCATED IN THE SOUTH RIGHT-OF-WAY LINE OF HIGHTOWER STREET (CALLED 50-FOOT RIGHT-OF-WAY);

THENCE NORTH 89°36'44" EAST, WITH SAID SOUTH RIGHT-OF-WAY LINE OF HIGHTOWER STREET, A DISTANCE OF 41.70 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR CORNER;

THENCE NORTH 00°23'16" WEST, DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 165.00 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE NORTHEAST CORNER OF LOT 11, BLOCK SSSS, OF SAID SUTTON FIELDS PHASE 1B, SAID IRON ROD ALSO BEING LOCATED IN THE SOUTH LINE OF LOT 8, BLOCK SSSS, OF SAID SUTTON FIELDS PHASE 1B;

THENCE NORTH 89°36'44" EAST, WITH THE SOUTH LINE OF SAID BLOCK SSSS, PASSING AT A DISTANCE OF 552.07 FEET A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND AT A SOUTHEAST CORNER OF SAID SUTTON FIELDS PHASE 1B, CONTINUING OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT 4, IN ALL, A TOTAL DISTANCE OF 1001.00 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER;

THENCE CONTINUING OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT 4, THE FOLLOWING COURSES TO A 5/8-INCH IRON RODS WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER:

NORTH 84°18'02" EAST, A DISTANCE OF 152.84 FEET;

NORTH 00°23'16" WEST, A DISTANCE OF 41.64 FEET;

AND NORTH 89°36'44" EAST, A DISTANCE OF 178.60 FEET;

THENCE SOUTH 00°41'45" WEST, CONTINUING OVER AND ACROSS SAID CADG SUTTON FIELDS, LLC TRACT 4, PASSING AT A DISTANCE OF 12.21 FEET A 1/2-INCH IRON ROD FOUND AT AN INTERIOR "ELL" CORNER OF SAID TRACT 4, CONTINUING WITH SAID LINE DESCRIBED IN BOUNDARY LINE AGREEMENT, IN ALL, A TOTAL DISTANCE OF 335.04 FEET TO THE POINT OF BEGINNING, AND CONTAINING 8.990 ACRES OF LAND.

CONTAINING IN ALL (TRACT 1 AND TRACT 2), A TOTAL OF 22.782 ACRES OF LAND.

PHASE #2B

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE FREEMAN WILKERSON SURVEY, ABSTRACT NUMBER 1411, THE CARROL JACKSON SURVEY, ABSTRACT NUMBER 1546, AND THE JACOB RUE SURVEY, ABSTRACT NUMBER 1109, IN DENTON COUNTY, TEXAS, AND BEING PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO CADG SUTTON FIELDS, LLC, RECORDED IN DOCUMENT NUMBER 2015-30387, REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS (RPRDCT), AND PART OF TRACT 1 AND TRACT 4 IN DEED TO CADG SUTTON FIELDS, LLC, RECORDED IN DOCUMENT NUMBER 2015-15963, RPRDCT, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" FOUND FOR THE SOUTHWEST CORNER OF SUTTON FIELDS PHASE 1B, AN ADDITION TO THE CITY OF CELINA ACCORDING TO THE PLAT THEREOF RECORDED IN DOCUMENT NUMBER 2017-478, PLAT RECORDS, DENTON COUNTY, TEXAS (PRDCT), SAID IRON ROD ALSO BEING THE SOUTHEAST CORNER OF A RIGHT-OF-WAY DEDICATION FOR BOTHWELL BOULEVARD ACCORDING TO THE RIGHTS-OF-WAY FOR SUTTON FIELDS PHASE 1, AN ADDITION TO THE CITY OF CELINA RECORDED IN DOCUMENT NUMBER 2017-398, PRDCT;

THENCE WITH THE SOUTH LINE OF SAID SUTTON FIELDS PHASE 1B, THE FOLLOWING BEARINGS AND DISTANCES TO 5/8-INCH IRON RODS WITH CAPS MARKED "PETITT-RPLS 4087" FOUND FOR CORNER:

NORTH 89°18'14" EAST, A DISTANCE OF 1596.19 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 280.00 FEET;

NORTH 89°18'13" EAST, A DISTANCE OF 420.00 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 105.00 FEET;

NORTH 44°18'13" EAST, A DISTANCE OF 14.14 FEET;

AND NORTH 89°18'13" EAST, A DISTANCE OF 120.62 FEET, SAID IRON ROD BEING LOCATED ON A LINE DESCRIBED IN BOUNDARY LINE AGREEMENT RECORDED IN INSTRUMENT NUMBER 2005-122140, RPRDCT;

THENCE SOUTH 00°41'45" WEST, WITH SAID BOUNDARY AGREEMENT LINE, A DISTANCE OF 1560.41 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER;

THENCE, DEPARTING THE WEST LINE OF SAID BOUNDARY AGREEMENT LINE, AND OVER AND ACROSS SAID CADG SUTTON FIELDS TRACTS, THE FOLLOWING COURSES AND DISTANCES TO 5/8-INCH IRON RODS WITH CAP MARKED "PETITT-RPLS 4087" SET FOR CORNER:

SOUTH 89°18'13" WEST, A DISTANCE OF 128.64 FEET;

SOUTH 00°41'47" EAST, A DISTANCE OF 25.00 FEET;

SOUTH 89°18'13" WEST, A DISTANCE OF 50.00 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 20.00 FEET;

SOUTH 89°18'13" WEST, A DISTANCE OF 410.00 FEET;

NORTH 00°41'47" WEST, A DISTANCE OF 280.00 FEET;

SOUTH 89°18'13" WEST, A DISTANCE OF 710.00 FEET;
 SOUTH 00°41'47" EAST, A DISTANCE OF 20.00 FEET;
 SOUTH 89°18'13" WEST, A DISTANCE OF 50.00 FEET;
 NORTH 00°41'47" WEST, A DISTANCE OF 20.00 FEET;
 SOUTH 89°18'13" WEST, A DISTANCE OF 570.00 FEET;
 SOUTH 00°41'47" EAST, A DISTANCE OF 115.00 FEET;
 NORTH 89°18'13" EAST, A DISTANCE OF 20.50 FEET;
 SOUTH 00°41'47" EAST, A DISTANCE OF 50.00 FEET;
 SOUTH 89°18'13" WEST, A DISTANCE OF 53.99 FEET;
 SOUTH 00°41'47" EAST, A DISTANCE OF 115.00 FEET;
 SOUTH 89°40'23" WEST, A DISTANCE OF 53.81 FEET;
 NORTH 86°04'38" WEST, A DISTANCE OF 61.02 FEET;
 NORTH 80°36'44" WEST, A DISTANCE OF 61.02 FEET;
 NORTH 76°42'01" WEST, A DISTANCE OF 83.14 FEET;
 NORTH 71°56'34" WEST, A DISTANCE OF 90.00 FEET, SAID IRON ROD ALSO BEING
 THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;
 NORTHEASTERLY, WITH SAID CURVE TO THE LEFT, WHICH HAS A CENTRL ANGLE
 OF 18°45'13", A RADIUS OF 1655.00 FEET, A CHORD THAT BEARS NORTH 08°40'49"
 EAST, A DISTANCE OF 539.29 FEET, AND AN ARC DISTANCE OF 541.70 FEET;
 NORTH 00°41'47" WEST, A DISTANCE OF 77.93 FEET;
 SOUTH 89°18'13" WEST, A DISTANCE OF 28.50 FEET;
 NORTH 00°41'47" WEST, A DISTANCE OF 50.00 FEET;
 NORTH 89°18'13" EAST, A DISTANCE OF 28.50 FEET;
 NORTH 00°41'47" WEST, A DISTANCE OF 141.37 FEET;
 NORTH 89°43'30" EAST, A DISTANCE OF 90.00 FEET;
 NORTH 00°41'47" WEST, A DISTANCE OF 177.23 FEET, SAID IRON ROD ALSO
 BEING THE BEGINNING OF A TANGENT CURVE TO THE RIGHT;
 AND NORTHEASTERLY, WITH SAID CURVE TO THE RIGHT, WHICH HAS A CENTRAL
 ANGLE OF 05°22'42", A RADIUS OF 1355.00 FEET, A CHORD THAT BEARS NORTH
 01°59'34" EAST, A DISTANCE OF 127.15 FEET, AND AN ARC DISTANCE OF 127.20
 FEET TO THE POINT OF BEGINNING, AND CONTAINING 54.573 ACRES OF LAND.

LANDOWNER AGREEMENT - EXHIBIT II

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (as it may be amended from time to time, this “Declaration”) is made as of June 11, 2019 by CADG Sutton Fields, LLC a Texas limited liability company (the “Landowner”).

RECITALS:

- A. The Landowner holds record title to that portion of the real property located in Denton County, Texas, which is described in the attached Exhibit I (the “Landowner’s Parcel”).
- B. The City Council of the City of Celina (the “City Council”) upon a petition requesting the establishment of a public improvement district covering the property within the District to be known as the Sutton Fields II Public Improvement District (the “District”) by the then owners of more than 50% of the appraised value of the taxable real property and owners of more than 50% of the area of all taxable real property within the area requested to be included in the District created such District, in accordance with the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the “PID Act”).
- C. The City Council has adopted an Neighborhood Improvement Area #3 Assessment Ordinance to levy assessments for certain public improvements (including all exhibits and attachments thereto, the “Neighborhood Improvement Area #3 Assessment Ordinance”) and the Service and Assessment Plan included as an exhibit to the Neighborhood Improvement Area #3 Assessment Ordinance (as amended from time to time, the “Service and Assessment Plan”), and has levied the assessments (as amended from time to time, the “Assessments”) on property in Neighborhood Improvement Area #3 of the District.
- D. The statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended, to the purchaser, is incorporated into these Covenants, Conditions and Restrictions.

DECLARATIONS:

NOW, THEREFORE, the Landowner hereby declares that the Landowner’s Parcel is and shall be subject to, and hereby imposes on the Landowner’s Parcel, the following covenants, conditions and restrictions:

1. **Acceptance and Approval of Assessments and Lien on Property:**

- (a) Landowner accepts each Assessment levied on the Landowner’s Parcel owned by such Landowner.
- (b) The Assessment (including any reassessment, the expense of collection, and reasonable attorney’s fees, if incurred) is (a) a first and prior lien (the “Assessment Lien”) against the property assessed, superior to all other liens or claims except for

liens or claims for state, county, school district or municipality ad valorem property taxes whether now or hereafter payable, and (b) a personal liability of and charge against the owners of the property to the extent of their ownership regardless of whether the owners are named. The Assessment Lien is effective from the date of the Neighborhood Improvement Area #3 Assessment Ordinance until the Assessments are paid and may be enforced by the City in the same manner as an ad valorem property tax levied against real property that may be enforced by the City. The owner of any assessed property may pay, at any time, the entire Assessment levied against any such property. Foreclosure of an ad valorem property tax lien on property within Neighborhood Improvement Area #3 of the District will not extinguish the Assessment or any unpaid but not yet due annual installments of the Assessment, and will not accelerate the due date for any unpaid and not yet due annual installments of the Assessment.

It is the clear intention of all parties to these Declarations of Covenants, Conditions and Restrictions, that the Assessments, including any annual installments of the Assessments (as such annual installments may be adjusted, decreased or extended), are covenants that run with the Landowner's Parcel and specifically binds the Landowner, its successors and assigns.

In the event of delinquency in the payment of any annual installment of the Assessment, the City is empowered to order institution of an action in district court to foreclose the related Assessment Lien, to enforce personal liability against the owner of the real property for the Assessment, or both. In such action the real property subject to the delinquent Assessment may be sold at judicial foreclosure sale for the amount of such delinquent property taxes and Assessment, plus penalties, interest and costs of collection.

2. Landowner or any subsequent owner of the Landowner's Parcel waives:

- (a) any and all defects, irregularities, illegalities or deficiencies in the proceedings establishing the District and levying and collecting the Assessments or the annual installments of the Assessments;
- (b) any and all notices and time periods provided by the PID Act including, but not limited to, notice of the establishment of the District and notice of public hearings regarding the levy of Assessments by the City Council concerning the Assessments;
- (c) any and all defects, irregularities, illegalities or deficiencies in, or in the adoption of, the Neighborhood Improvement Area #3 Assessment Ordinance by the City Council;
- (d) any and all actions and defenses against the adoption or amendment of the Service and Assessment Plan, the City's finding of a 'special benefit' pursuant to the PID Act and the Service and Assessment Plan, and the levy of the Assessments; and
- (e) any right to object to the legality of any of the Assessments or the Service and Assessment Plan or to any of the previous proceedings connected therewith which occurred prior to, or upon, the City Council's levy of the Assessments.

3. **Amendments:** This Declaration may be terminated or amended only by a document duly executed and acknowledged by the then-current owner(s) of the Landowner's Parcel and the City. No such termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the parties by whom approval is required as set forth above and recorded in the real Property Records of Denton County, Texas.
4. **Third Party Beneficiary:** The City is a third party beneficiary to this Declaration and may enforce the terms hereof.
5. **Notice to Subsequent Purchasers:** Upon the sale of a dwelling unit within the District, the purchaser of such property shall be provided a written notice that reads substantially similar to the following:

TEXAS PROPERTY CODE SECTION 5.014

NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO THE CITY OF CELINA, COLLIN COUNTY, TEXAS CONCERNING THE PROPERTY AT [Street Address]

As the purchaser of this parcel of real property, you are obligated to pay an assessment to the City of Celina, Texas, for improvement projects undertaken by a public improvement district under Chapter 372 of the Texas Local Government Code, as amended. The assessment may be due in periodic installments.

The amount of the assessment against your property may be paid in full at any time together with interest to the date of payment. If you do not pay the assessment in full, it will be due and payable in annual installments (including interest and collection costs). More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the City of Celina, 142 N. Ohio, Celina, Texas 75009.

Your failure to pay the assessment or the annual installments could result in a lien on and the foreclosure of your property.

Signature of Purchaser(s) _____ Date: _____

The seller shall deliver this notice to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. If the notice is included as part of the executory contract or another notice, the title of the notice prescribed by this section, the references to the street address and date in the notice, and the purchaser's signature on the notice may be omitted.

EXECUTED by the undersigned on the date set forth below to be effective as of the date first above written.

LANDOWNER

CADG Sutton Fields, LLC,
a Texas limited liability company

By: CADG Holdings, LLC,
a Texas limited liability company
Its Sole Member

By: MMM Ventures, LLC,
a Texas limited liability company
Its Manager

By: 2M Ventures, LLC,
a Delaware limited liability company
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of _____, 2019 by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of CADG Holdings, LLC, as Sole Member of CADG Sutton Fields, LLC, a Texas limited liability company on behalf of said company.

Notary Public, State of Texas

My Commission Expires:

LANDOWNER AGREEMENT - EXHIBIT III
HOMEBUYER EDUCATION PROGRAM

As used in this Exhibit III, the recorded Neighborhood Improvement Area #3 Assessment Ordinance and the Covenants, Conditions and Restrictions in **Exhibit II** of this Agreement are referred to as the “Recorded Notices.”

1. Any Landowner who is a Builder shall attach the Recorded Notices and the final Neighborhood Improvement Area #3 Assessment Roll for such Assessed Parcel (or if the Neighborhood Improvement Area #3 Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30 year payment for such Assessed Parcel) as an addendum to any residential homebuyer’s contract.
2. Any Landowner who is a Builder shall provide evidence of compliance with 1 above, signed by such residential homebuyer, to the City.
3. Any Landowner who is a Builder shall prominently display signage in its model homes, if any, substantially in the form of the Recorded Notices.
4. If prepared and provided by the City, any Landowner who is a Builder shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.
5. Any Landowner who is a Builder shall include Assessments in estimated property taxes, if such Builder estimates monthly ownership costs for prospective homebuyers.



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Madhuri Mohan AICP, Planning Manager
 CC: Jason Laumer, City Manager
 Date: June 11, 2019
 Re: Huie Property Annexation 1st Public Hearing

Action Requested:

The Celina City Council will conduct the first of two public hearings regarding the proposed voluntary annexation of 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)

Applicant:

Prosper Land Company
 10394 CR 58
 Celina, TX 75009

Background Information:

Below is the anticipated annexation schedule for the property:

~~May 14, 2019 – City Council acts on a resolution to set the public hearing dates.~~

June 11, 2019 - First Public Hearing to be held.

July 9, 2019 - Second Public Hearing to be held.

July 9, 2019 - City Council acts on an ordinance annexing the property.

Board Review/Citizen Input:

Notice of the first public hearing was published in *The Celina Record* on May 31, 2019.

Supporting Documents:

- Staff Presentation
- Location Map

Staff Recommendation:

No action to be taken tonight.

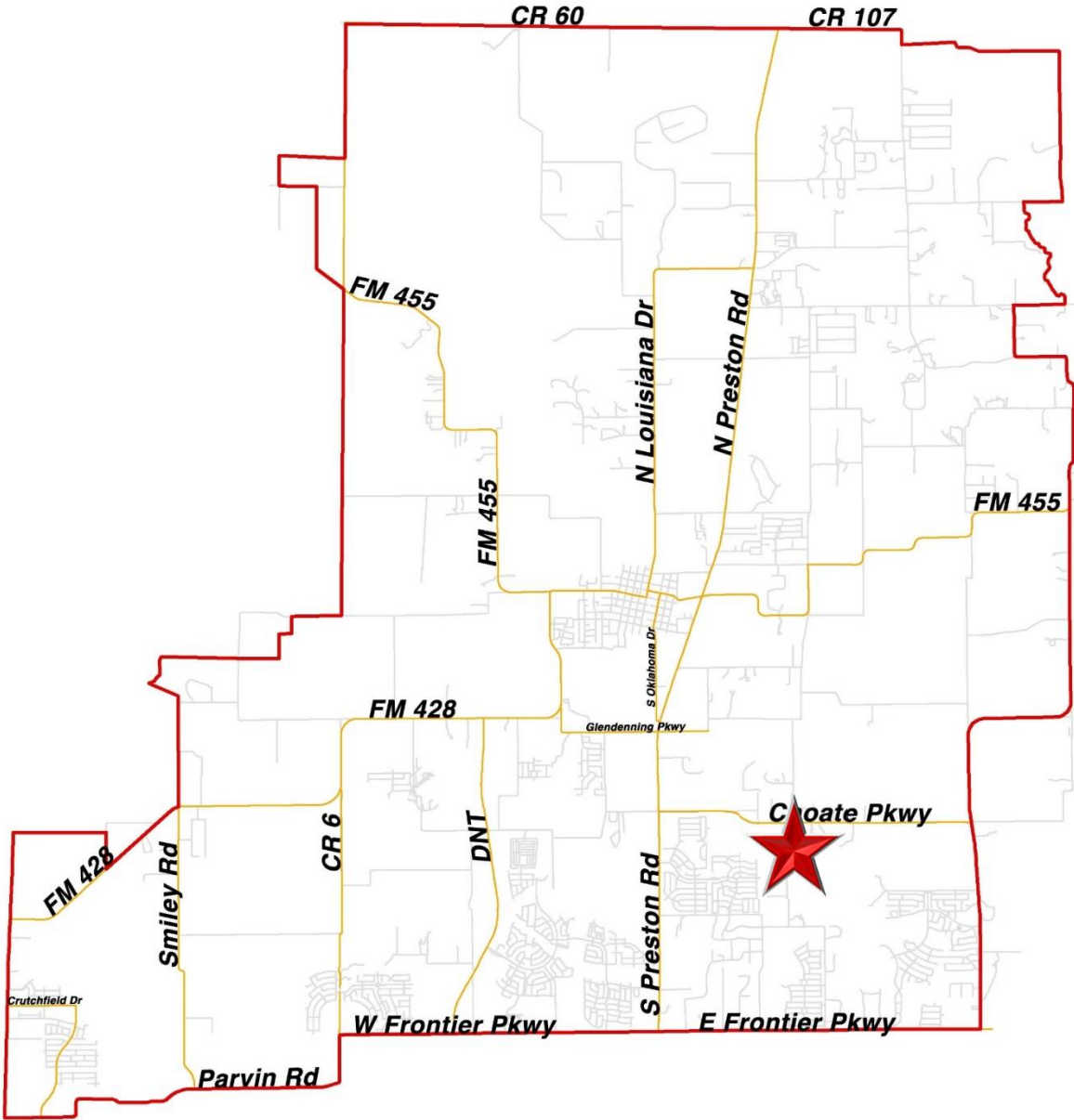
Huie Property

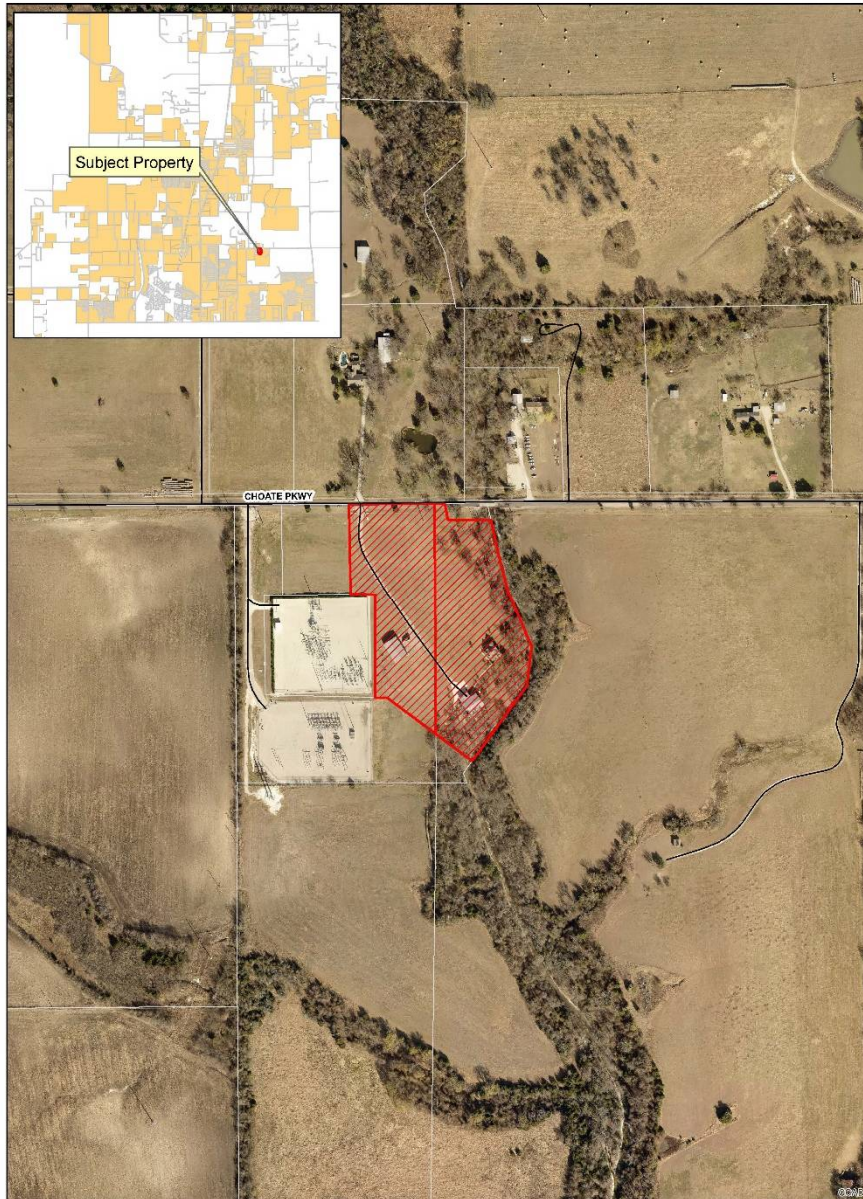
Annexation

City Council

June 11, 2019







Location Map

The subject property is generally located south of Choate Parkway and approximately 1,330 feet east of County Road 87.

Background

- The property is approximately 8.7 acres
- The voluntary annexation would fill in a gap of the existing City Limits
- A City initiated zoning to Agriculture (AG) district will be concurrently considered on the same agenda as the annexation ordinance is considered for adoption



Annexation Schedule

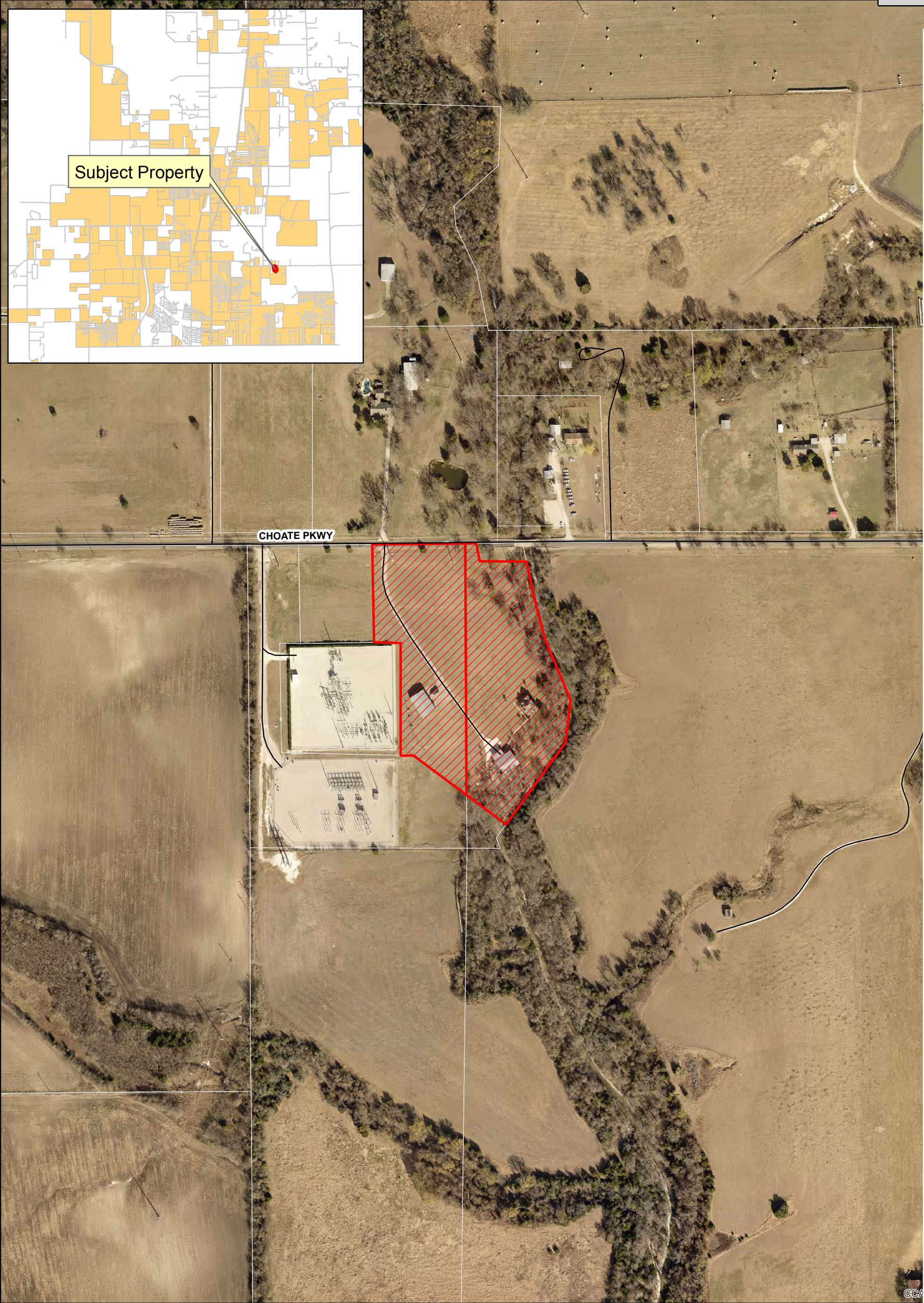
- ~~May 14, 2019 – City Council acted upon the resolution and set the public hearing dates~~
- June 11, 2019 – 1st Public Hearing
- July 9, 2019 – 2nd Public Hearing and adoption of the annexation ordinance



Recommendation

- Notices were published in compliance with State and local law
- Staff recommends approval as presented





Attachment: Location Map (Huie Property Annexation First Public Hearing)



1727 Choate Pkwy Location Map

Date: 4/23/2019

Legend

- Roads
-  ProsperLandCompany
-  Parcels

0 275 550 Feet

Packet Pg. 279



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Madhuri Mohan AICP, Planning Manager
 CC: Jason Laumer, City Manager
 Date: June 11, 2019
 Re: Wilson Creek Meadows Revised Development Agreement

Action Requested:

The Celina City Council will conduct a public hearing to consider testimony and act upon a Development Agreement to modify development standards to allow for a master planned single-family residential development on an approximately 186 acre tract of land, generally located east of CR 86 (future Coit Road) and south of Choate Parkway within both the extraterritorial jurisdiction (ETJ) and the City Limits. (Wilson Creek Meadows Revised 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 revised development agreement outlines the joining of three tracts (one in the City Limits and two in the ETJ, out of which 80 acres are to be annexed) into one cohesive development to facilitate the construction of a single-family residential community, generally located east of CR 86 (future Coit Road) and south of Choate Parkway. The revised development agreement requires additional enhancements and design standards and establishes the responsibilities and obligations of both the developer and City. In addition, the agreement determines the level of City participation on various aspects of the development.

Board Review/Citizen Input:

At the May 21, 2019 Planning & Zoning Commission regular meeting, the Commission unanimously voted to recommend approval of the revisions to the Development Agreement.

A notice of the public hearing was published in *The Celina Record* on May 24, 2019. Notices of the public hearing have been sent to all owners of property residing within the City limits, as indicated by the

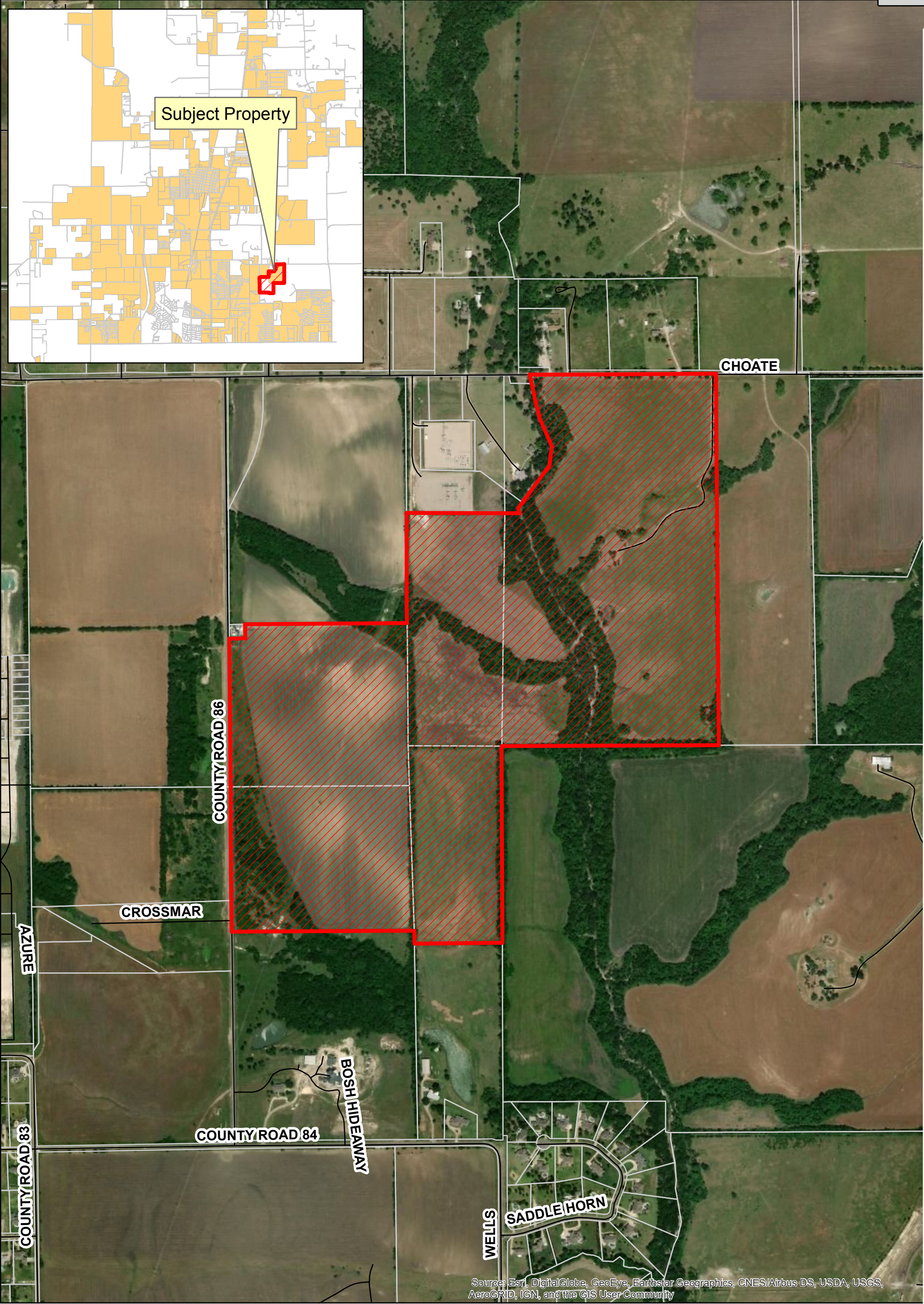
most recently approved Collin County tax rolls, who are located within 200 feet of the subject property. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Supporting Documents:

- Location Map
- Concept Plan
- Revised Development Agreement
- Staff Presentation

Staff Recommendation:

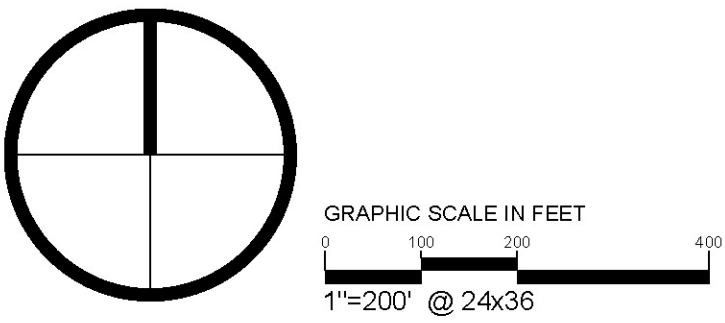
Staff recommends approval.



Attachment: Location Map (Wilson Creek Meadows)

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Plotted By: Hich, CJ Date: March 05, 2019 09:25:09am File Path: K:\DAL_Civil\063222501-Bates Tract\Exhibits\PlanSheets\Zoning Submission_1902\Exhibit F.dwg
This document, together with the concepts and designs presented herein, is an instrument of service, is intended only for the specific purposes and client for which it was prepared. Release of and any subsequent reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



Land Use Acreage Summary	
Thoroughfares Plan Roadway ROW	4.3
Open Space - Meadows	23.4
Open Space - Overlook	12.1
Open Space (Amenity Center - Meadows)	2.0
Open Space (Amenity Center - Overlook)	1.6
Total Open Space	39.0
Residential Lots / Residential Rights of Way	142.5
Total	185.8

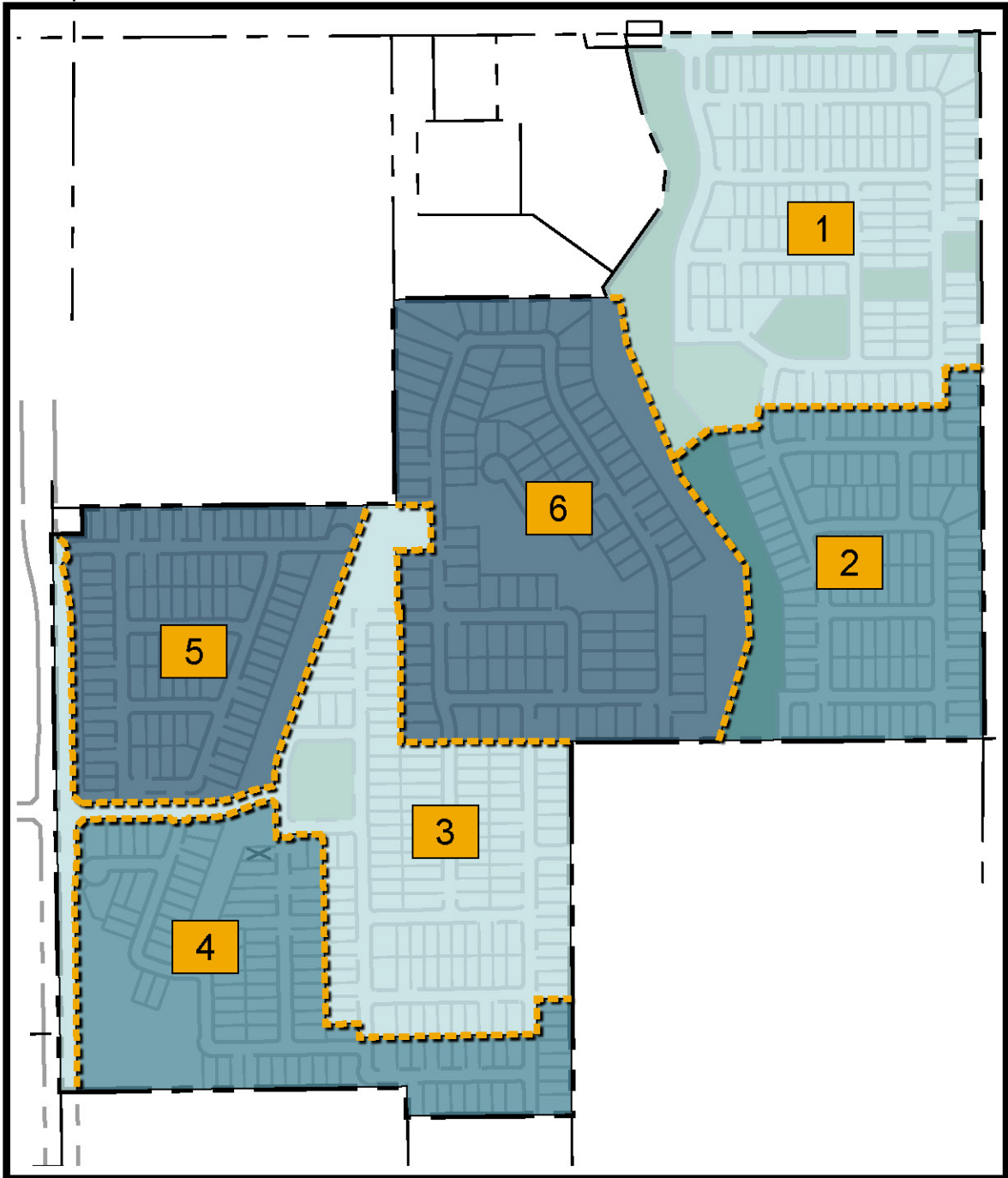
Open Space Acreage Summary	
Open Space & Amenity Centers	39.0
Area (Net of Thoroughfare Plan Roadway ROW)	181.5
Total Percent Open Space	21.5%

SIDEWALK LEGEND

8' SIDEWALK

10' SIDEWALK

* LOCATION OF 2 PARK BENCHES AND TRASH RECEPTACLE



PHASING PLAN
SCALE: 1:600

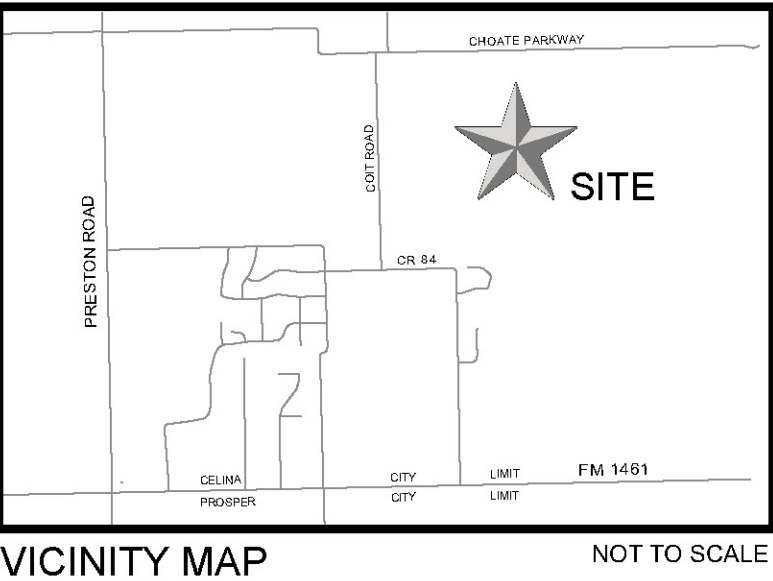


EXHIBIT "F" - CONCEPTUAL SIDEWALK PLAN

Wilson Creek Meadows

±185.8 ACRE TRACT LOCATED IN THE COLEMAN WATSON SURVEY, ABSTRACT #945, JONATHAN WESTOVER SURVEY, ABSTRACT #1030, MCKENZIE WILHITE SURVEYS, ABSTRACT #1008 & #1009, IN THE CITY OF CELINA, COLLIN COUNTY, TEXAS

March 2019

OWNER / APPLICANT:
Celina Owensby Coit, LLC
Celina Titus, LLC
106 Decker Drive, Suite 310
Irving, TX 75062
P (214) 212-6326
E:terry.mitchell@contrastdevelopment.com

ENGINEER / SURVEYOR:
Kimley-Horn and Associates
State of Texas Registration No. F-928
13455 Noel Road
Two Galleria Office Tower, Suite 700
Dallas, Texas 75240
P (972) 770-1300
Contact: Matt Duenwald, PE



DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is made and entered into by and between the City of Celina (the “City”), a home rule municipality located within Collin County, Texas, and Celina Titus, LLC and Celina Ownsby Coit, LLC (each the “Owner” of its respective portion of the Property hereinafter defined) as of _____, 2019 (the “Effective Date”). The City and the Owner are each individually a “Party” and collectively the “Parties.” This Agreement (1) replaces in its entirety that certain Development Agreement between the City and Rene Bates effective March 23, 2018 and recorded in the Real Property Records of Collin County, Texas as Document No. 20180511000580760 for the Overlook at Wilson Creek project (the “Celina Ownsby Coit Development Agreement”), which agreement is hereby terminated and of no further force or effect, and (2) amends that certain Development Agreement between the City and Celina Titus, LLC effective August 8, 2017 and recorded in the Real Property Records of Collin County, Texas as Document No. 20170815001091940 for the Wilson Creek Meadows project (the “Celina Titus Development Agreement”). In the event of a conflict between this Agreement and the Celina Titus Development Agreement, this Agreement shall control.

RECITALS

WHEREAS, the City is a home rule municipal corporation duly organized and validly existing under the laws of the State of Texas located within Collin County, Texas (“Collin County”); and

WHEREAS, Celina Titus, LLC is a Texas limited liability company; and

WHEREAS, Celina Ownsby Coit, LLC is a Texas limited liability company; and

WHEREAS, on February 26, 2019, Rene Bates assigned all rights, title and interest in the Celina Ownsby Coit Development Agreement to Celina Ownsby Coit, LLC; and

WHEREAS, Celina Ownsby Coit, LLC is currently the “Owner” under the Celina Ownsby Coit Development Agreement and has the authority to amend and replace that agreement with this Agreement; and

WHEREAS, Celina Titus, LLC owns the approximately 105.79-acre tract of land described as Tract 1 on **Exhibit A** (the “City Property”), and is the “Owner” for purposes of all provisions of this Agreement pertaining to the City Property; and

WHEREAS, on August 8, 2017, the City annexed the City Property pursuant to the terms of the Celina Titus Development Agreement; and

WHEREAS, Celina Ownsby Coit, LLC owns the approximately 80.019-acre tract of land described as Tract 2 on **Exhibit A** (the “ETJ Property”), and is the “Owner” for purposes of all provisions of this Agreement pertaining to the ETJ Property; and

WHEREAS, as of the Effective Date, the ETJ Property is located entirely within the City’s extraterritorial jurisdiction; and

Attachment: Revised Development Agreement (Wilson Creek Meadows)

WHEREAS, approximately 60.971 acres within the ETJ Property was governed by the Celina Ownsby Coit Development Agreement, and the remaining 19.048 acres within the ETJ Property was not governed by any development agreement prior to this Agreement; and

WHEREAS, the City Property and the ETJ Property are collectively 185.8118 acres, which are described by metes and bounds in Exhibit A and depicted on Exhibit B attached hereto (the "Property"); and

WHEREAS, the Parties have determined that the financing of the Public Infrastructure necessary for the development of the Property can best be achieved by means of Chapter 372, Texas Local Government Code, as amended, entitled the "Public Improvement District Assessment Act" (the "PID Act"); and

WHEREAS, following receipt of a petition requesting a public improvement district from the Owner, the City will hold a public hearing and create a Public Improvement District consisting of the Property (the "PID") for the purpose of financing Public Infrastructure that confer a special benefit on the Property; and

WHEREAS, the Parties have determined that they have the authority to enter into this Agreement, including, but not limited to, the authority granted by Section 212.172, Texas Local Government Code, as amended; and

WHEREAS, it is the intent of this Agreement to establish certain legally binding restrictions and commitments to be imposed upon the Property; and the Parties are proceeding in reliance on the enforceability of this Agreement; and

WHEREAS, Section 212.172(b)(7), Texas Local Government Code, allows the Parties to provide for the terms of annexation for the ETJ Property.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the Parties hereby agree as follows:

ARTICLE I **REPRESENTATIONS**

1.01 Recitals. The recitals contained in this Agreement are true and correct as of the Effective Date and form the basis upon which the Parties negotiated and entered into this Agreement.

1.02 Authority. The City represents and warrants that this Agreement has been approved and duly adopted by the City Council of the City in accordance with all applicable public meeting and 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 authorized to do so. The Owner represents and warrants that this Agreement has been approved by appropriate action of the Owner, and that the individuals executing this Agreement on behalf of the Owner have been authorized to do so.

ARTICLE II

PURPOSES, CONSIDERATION, AND TERM

2.01 Purposes. The Parties desire to enter into this Agreement to provide for the annexation of the Property and to provide for the terms of annexation; specify the uses and development of the Property before and after annexation; and include other lawful terms and consideration.

2.02 Consideration. The covenants of, benefits to, and performances by, the Parties set forth in this Agreement, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by the Parties.

ARTICLE III

REGULATION OF DEVELOPMENT OF THE ETJ PROPERTY

3.01 ETJ Property - Governing Regulations. Development of the ETJ Property shall be governed by the Concept Plan attached as **Exhibit C**, as amended in accordance with this Agreement (the “Concept Plan”) and the development regulations attached as **Exhibit D** (the “Development Regulations”) (together, the “Governing Regulations”). The following information on the Concept Plan is informational only and subject to change by the Owner without City approval provided the changes meet the requirements of this Agreement: the lot layout, the location of different single family product types, the street layout, points of ingress and egress, the location, size, shapes, and configuration of open space, and the phasing (both the size of the phase and the order of phasing may be changed); however, no change shall increase the number of residential lots permitted on **Exhibit D**, no change shall decrease the amount of open space required by **Exhibit D**, and no change shall conflict with an approved final plat. All other revisions to the Concept Plan require City Council approval. Owner shall submit a true and full copy of the revised Concept Plan to the City Manager for the purpose of allowing the City to confirm that the revision does not require the City’s approval. The ETJ Property shall be subject to all City ordinances, as they presently exist or may be amended (the “City Ordinances”), subject to Section 3.03. Nothing herein shall be construed as a waiver of the Owner’s right to challenge the application of an ordinance to the ETJ Property on the basis of vested rights or any other cause of action arising under the law.

3.02 Zoning. Upon annexation of the ETJ Property, the City agrees to consider adopting a planned development zoning district ordinance for the ETJ Property consistent with Section 3.01, the Concept Plan attached as **Exhibit C**, and the Development Regulations attached as **Exhibit D**, although nothing herein shall be construed as a contractual requirement for the City to adopt any particular zoning regulations for the ETJ Property. Notwithstanding any zoning of the ETJ Property to the contrary following annexation, the ETJ Property may be developed and used consistent with Section 3.01, the Concept Plan attached as **Exhibit C**, and the Development Regulations attached as **Exhibit D**.

3.03 Conflicts. In the event of any conflict between this Agreement and the City Ordinances, this Agreement, including the Development Regulations, shall control. If this Agreement is silent on any topic, the City Ordinances shall control.

3.04 Enforcement Rights After Annexation and Zoning. Upon annexation of the ETJ Property, the City shall have all of the same enforcement rights to enforce compliance with the Governing Regulations with respect to the ETJ Property that it otherwise enjoys under the law to enforce development regulations within the City's corporate limits.

3.05 Discontinuation of Land Use. The Parties agree that should the City annex the ETJ Property, the City may pursue the discontinuation of non-conforming land uses without regard to whether and for what length of time a particular land use existed prior to annexation into the City if such use is not permitted by the Concept Plan and Development Regulations.

3.06 Applicability of Article III. This Article III shall not apply to the City Property.

ARTICLE IV **TERM; ANNEXATION**

4.01 Term. This Agreement shall have a 15-year term starting on _____, 2019 (the "Term").

4.02 Annexation. This Agreement constitutes the consent of the Owner of the ETJ Property to the City's full purpose annexation of the ETJ Property. In addition, the Owner petitioned the City for the annexation of the ETJ Property on March 11, 2019, and the Owner shall cooperate in the execution of any document(s) and the taking of any actions necessary to complete the full purposes annexation of the ETJ Property.

ARTICLE V **PUBLIC INFRASTRUCTURE; FEES; PARKLAND DEDICATION; OPEN SPACE**

5.01 Coit Road.

(a) The Owner agrees to dedicate 60 feet of right-of-way for Coit road (generally measured from the centerline of the existing two-lane asphalt road) adjacent to the western boundary of the Property at the time the portion of the Property adjacent to Coit Road is final platted. In addition, the Owner agrees to dedicate an additional ten feet of right-of-way south of each entrance into the Property from Coit Road, including, but not limited to, the intersection with Punk Carter Parkway for a future north bound right turn lane. The landscape setback along Coit Road may be reduced by ten feet in the areas where the additional ten feet of right-of-way has been dedicated.

(b) The Owner shall not be required to make or fund any improvements to Coit Road, including any landscaping, paving, or other improvement in the Coit Road right-of-way. Any requirements to escrow fees for road improvements pursuant to Section 10.03.122(r)(4) of the City Code or other provisions of the City Code shall be waived for Coit Road. The City shall be responsible for making all improvements in the Coit Road right-of-way, and completion of any such improvements shall not be a condition to any plat, permit, or other development approvals.

5.02 Choate Parkway.

(a) The Owner agrees to dedicate 60 feet of right-of-way for Choate Parkway, measured from the centerline of the existing two-lane asphalt road, adjacent to the northern boundary of the Property at the time such portion of the Property is final platted adjacent to Choate Parkway. In addition, the Owner agrees to dedicate an additional ten feet of right-of-way west of each entrance into the Property from Choate Parkway.

(b) The Owner shall not be required to make or fund any improvements to Choate Parkway, including any landscaping, paving, or other improvement in the Choate Parkway right-of-way. Any requirements to escrow fees for road improvements pursuant to Section 10.03.122(r)(4) of the City Code or other provisions of the City Code shall be waived for Choate Parkway. The City shall be responsible for making all improvements in the Choate Parkway right-of-way, and completion of any such improvements shall not be a condition to any plat, permit, or other development approvals.

(c) A landscape buffer with a minimum width of 20 feet will be required adjacent to Choate Parkway, except that it may be reduced to ten feet when a left or right turn lane right-of-way flare occurs. The landscape buffer along Choate Parkway shall contain at least one large canopy tree that is a minimum of three inches in caliper at the time of planting for every 40 linear feet or fraction thereof of street frontage, inclusive of driveways. Trees may be grouped or clustered to facilitate site design, but there shall not be more than 250 linear feet between required trees. For every five large canopy trees or fraction thereof required along the street frontage of Choate Parkway, two small ornamental trees that are a minimum of two inches in caliper at the time of planting shall also be provided. Additionally, 4,440 square feet of ornamental plantings shall be provided in at least three locations along the Choate Parkway frontage. Sidewalks and trails shall have a meandering alignment and may encroach into the landscape buffer.

5.03 Right-of-way Dedications. No dedications of right-of-way for thoroughfares shall be required other than the dedications required by this Article V.

5.04 Water.

(a) Payment of pro rata fees shall not be required in connection with the off-site water line located in Coit Road that will serve the Property shown on **Exhibit E** (the “Coit Water Line”).

(b) In order to serve the Property, a new 12-inch water line (the “12-Inch Water Line”) may need to be constructed along the northern perimeter of the Property and off-site generally along CR 88 (Choate Parkway) to connect to the Coit Water Line, as shown on **Exhibit E**. The City’s engineer may approve an alternative alignment for the 12-Inch Water Line. If the off-site portion of the 12-Inch Water Line is determined to be necessary for the development of the Property, the Owner shall pay for the design, easement acquisition, and construction of the 12-Inch Water Line.

(c) If the City desires to build the 12-Inch Water Line prior to the Owner installing the 12-Inch Water Line, the Owner shall reimburse the City the cost of the 12-Inch Water Line at the time of the first sale of PID Bonds (hereinafter defined).

(d) The Owner notified the City in writing on November 29, 2017 that the Owner had commenced efforts to acquire all necessary easements for the off-site portion of the 12-Inch Line

(the “Water Line Easements”). The Owner is still undergoing acquisition of the Water Line Easements. If the Owner determines that it will not be able to obtain all of the Water Line Easements, the City agrees to consider the use of eminent domain if necessary to acquire the remaining Water Line Easements. If the City uses eminent domain to acquire the Water Line Easements that the Owner is unable to acquire, the Owner shall be responsible for funding all reasonable and necessary legal proceeding/litigation costs, compensation awards of negotiated amounts for the condemned property interest, attorney's fees and related expenses, and appraiser and expert witness fees (collectively, the “Eminent Domain Fees”) paid or incurred by the City in the exercise of its eminent domain powers and shall escrow with a mutually agreed upon escrow agent the City's reasonably estimated Eminent Domain Fees both in advance of the initiations of each eminent domain proceeding and as funds are needed by the City. Provided that the escrow fund remains appropriately funded in accordance with this Agreement, the City will use all reasonable efforts to expedite such condemnation procedures so that the Water Line Easements can be acquired as soon as reasonable practicable. Before paying any negotiated amount to avoid legal proceedings and/or litigation, the City shall present the negotiated amount in writing to the Owner. The Owner shall have two business days (or longer if indicated in writing by the City) to approve the negotiated amount or direct the City to proceed with legal proceedings and litigation. If the City's Eminent Domain Fees exceed the amount of funds escrowed in accordance with this paragraph, the Owner shall deposit additional funds as requested by the City into the escrow account within ten days after written notice from the City. Any unused escrow funds will be refunded to the Owner within 30 days after any condemnation award or settlement becomes final and non-appealable. Nothing in this subsection is intended to constitute a delegation of the police powers or governmental authority of the City, and the City reserves the right, at all times, to control its proceedings in eminent domain.

5.05 Fees. Notwithstanding anything to the contrary in this Agreement, no capital recovery fees including, but not limited to, pro rata fees, impact fees for water, sewer, and roadways, park fees, park maintenance fees, and other capital recovery fees, shall be charged against the Property other than the following fees:

(a) Park fees in the amount of \$1,500 per residential dwelling unit, collected at the time of final plat approval. Other than the amenity center, open space and trail requirements applicable to the Property, no parkland dedication or construction of park improvements shall be required, and no fee related to maintenance of park improvements shall be required.

(b) Water capital recovery fees in the amount of \$2,000 per residential dwelling unit collected at the time of building permit issuance. Water capital recovery fees will increase to \$2,500 per residential dwelling unit five years after City acceptance of the first phase of development of the Property.

(c) Sewer/wastewater capital recovery fees in the amount of \$2,000 per residential dwelling unit collected at the time of building permit issuance. Sewer/wastewater capital recovery fees will increase to \$2,500 per residential dwelling unit five years after City acceptance of the first phase of development of the Property.

(d) Roadway capital recovery fees in the amount of \$2,500 per residential dwelling unit collected at the time of building permit issuance.

(e) Technology capital recovery fees for conduit, fiber optic, and similar improvements in the amount of \$500 per residential lot, collected at the time of building permit issuance, provided, however, if the Owner incurs a charge for installation of fiber optic infrastructure (e.g., conduit, fiber optic cable, manholes, handholds, or similar improvements) in connection with the development of the Property, the City will reimburse the Owner for such charges from the \$500 per residential lot technology capital recovery fee it collects.

5.06 Open Space and Trails.

(a) Development of sidewalks within the Property shall comply with the attached **Exhibit F**. With respect to the City Property, the attached **Exhibit F** shall replace the Conceptual Open Space and Trail Plan attached to the Celina Titus Development Agreement. Minor modifications to the alignment of sidewalks shown on **Exhibit F** are permitted without City approval. In addition, the City Manager may approve modifications to **Exhibit F** that do not materially change the amount of open space shown on **Exhibit F** or the scope of the amenities shown on **Exhibit F**.

(b) As shown on **Exhibit F** attached to this Agreement, the following shall be constructed in phases as the City Property is developed: (i) approximately 2600 linear feet of ten-foot wide sidewalk (the Wilson Creek Trail) shall be constructed along Wilson Creek; (ii) approximately 1,000 linear feet of ten-foot wide sidewalk shall be constructed along Choate Parkway; and (iii) approximately 1,800 linear feet of 8-foot wide sidewalk shall be constructed adjacent to the western tributary to Wilson Creek, including a bridge crossing Wilson Creek that is wide enough to accommodate an eight-foot wide trail as shown on **Exhibit F**. The pedestrian bridge shall be constructed prior to the 50th building permit being issued in Phase 6 of the development of the Property, as shown on **Exhibit F**. Other sidewalks shall be constructed within the ETJ Property as described on **Exhibit D**. Trails shall be located on land dedicated to the homeowners association. The following sections of Exhibit D of the Celina Titus Development Agreement shall no longer apply: Section 8.1.3 and Section 8.1.7.

(c) An amenity center shall be constructed east of Wilson Creek in the City Property prior to the 200th building permit being issued for a home located east of Wilson Creek in the City Property. At a minimum, this amenity center shall contain a large shade structure/patio, swimming pool, children's splash pad, enclosed restrooms with a changing area, and a commercial grade playground with at least eight play elements, associated sidewalks, and at least 14 off-street parking spaces. Undeveloped areas within the lot containing this amenity center shall be fully landscaped and irrigated. The amenity center shall be privately owned and maintained, and shall only be used by residents and their guests. The City will review and certify that the playground is in compliance with the requirements of this section.

ARTICLE VI

INFRASTRUCTURE FINANCING

6.01 PID Financing. The City proposes to create the PID, to fund, in part, the Public Infrastructure that will confer a special benefit upon the Property. As soon as reasonably practicable following a request by Owner, and provided the City's financial advisor confirms the bonds are credit worthy and marketable to third party institutional investors, the City agrees to issue PID Bonds.

(a) The Owner will submit a PID creation petition to the City on or before [REDACTED], 2019.

(b) PID funding of certain Public Infrastructure as authorized by the PID Act and approved by the City will include, to the maximum extent authorized by State law, one or more of the following: (i) annual payments by the City to the Owner of PID assessments not pledged to the repayment of PID Bonds; (ii) the issuance by the City of PID Bonds secured by PID assessments and/or other security; (iii) the issuance by the City or other issuer of other bonds secured by PID assessments and/or other security; or (iv) any other method approved by the Parties.

(c) The Public Infrastructure to be funded by the PID will be the same as those described in the PID Service and Assessment Plan, which Public Infrastructure confer a special benefit on the Property (the "PID Projects").

(d) The total estimated cost of the PID Projects (the "PID Project Costs") will be as stated in the PID Service and Assessment Plan, as amended. The PID Project Costs will include the cost of two-year maintenance bonds for the PID Projects.

(e) The City and the Owner will jointly determine the PID Project Costs (which may include City right-of-way acquisition costs) and prepare a Service and Assessment Plan for the PID. After the City approves the final PID Project Costs, prepares a proposed assessment roll based thereon, and files the Service and Assessment Plan and proposed assessment roll with the Secretary for the City for public inspection, the City will levy special assessments against the Property.

(f) The City shall review and update the Service and Assessment Plan consistent with the requirements of Section 372.013(b) of the PID Act. As needed for consistency with the updated Service and Assessment Plan and consistent with the requirements of Sections 372.019 and 372.020 of the PID Act, the City shall make supplemental assessments, reassessments or new assessments such that assessments reflect the updated PID Project Costs. As needed to implement the Service and Assessment Plan, the City and the Owner will enter into a PID reimbursement agreement that provides for the Owner's construction of certain PID Projects and the City's reimbursement to the Owner of certain PID Project Costs.

(g) The City will use its reasonable efforts to issue one or more series of PID Bonds secured, in whole or in part, by assessments levied against benefited property within the PID. PID Bonds may also be secured by any other revenue authorized by the PID Act or other State law and approved by the City Council of the City. The net proceeds from the sale of PID Bonds (i.e., net of costs and expenses of issuance and amounts for debt service reserves and capitalized interest) will be used to pay PID Project Costs. Notwithstanding the foregoing, the obligation of the City to issue PID Bonds is conditioned upon the adequacy of the bond security and the financial obligation

of the Owner to pay the amount, if any, by which PID Project Costs exceed the net proceeds from the sale of PID Bonds and the amount, if any, of cost overruns. The City may require the Owner to secure its obligation to pay such deficit and cost overruns by providing a performance bond, letter of credit, or other security acceptable to the City prior to the issuance of the PID Bonds. The net proceeds from the sale of the PID Bonds will be deposited in and disbursed from a construction fund created and administered pursuant to the indenture under which the PID Bonds are issued.

6.02 PID Bond Fee. In consideration for the City's assistance and cooperation in connection with the issuance by the City of PID bonds for any part of the development of the Property ("PID Bonds"), the Owner agrees to pay the City, contemporaneously with the funding of the initial offering of PID Bonds and the second offering of PID Bonds, a fee in the amount of \$100,000 for each such offering.

ARTICLE VII **ASSIGNMENT AND ENCUMBRANCE**

7.01 Assignment by Owner to Successor Owners.

(a) The Owner has the right (from time to time) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of the Owner under this Agreement to any person or entity (an "Assignee") that is an affiliate of the Owner or that is or will become an owner of any portion of the Property without City consent. An Assignee is considered the "Owner" and a "Party" under this Agreement for purposes of the obligations, rights, title, and interest assigned to the Assignee.

(b) Notice of each assignment to an Assignee shall be provided to the City not later than 15 days after the effective date of the assignment, which notice shall include a copy of the fully executed assignment document together with the name, address, telephone number, and e-mail address (if available) of a contact person representing the Assignee who the City may contact for additional information regarding the experience and background of the Assignee.

(c) Each assignment shall be in writing executed by the Owner and the Assignee, and the Assignee shall expressly accept the obligations and agree to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. If the assignment contains said express acceptance and agreement by the Assignee and a copy has been provided to the City, then from and after the date the City receives a copy of such assignment, the City agrees to look solely to the Assignee for the performance of all obligations assigned to the Assignee and agrees that the Owner shall be released from subsequently performing the assigned obligations and from any liability that results from the Assignee's failure to perform the assigned obligations.

(d) No assignment by the Owner shall release the Owner from any liability that resulted from an act or omission by the Owner that occurred prior to the effective date of the assignment unless the City approves the release in writing.

7.02 Assignment by the City. The City shall not assign this Agreement.

7.03 Encumbrance by Owner and Assignees. The Owner and Assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise

encumber any of their respective rights, title, or interest under this Agreement for the benefit of their respective lenders without the consent of, but with prompt written notice to, the City. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the City has been given a copy of the documents creating the lender's interest, including notice information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement and shall be given a reasonable time to do so in accordance with the cure periods otherwise provided to the defaulting Party by this Agreement; and the City agrees to accept a cure offered by the lender as if offered by the defaulting Party. A lender is not a Party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial unless otherwise agreed to in writing by lender and the City. Any purchaser from or successor owner through a lender of any portion of the Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the Property until all defaults under this Agreement with respect to the acquired portion of the Property have been cured.

ARTICLE VIII **ADDITIONAL PROVISIONS**

8.01 **Binding Obligations.** Pursuant to the requirements of Section 212.172(f) of the Texas Local Government Code, this Agreement, and all amendments hereto, shall be recorded in the deed records of Collin County. In addition, all assignments of this Agreement shall be recorded in the deed records of Collin County. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns permitted by this Agreement and upon the Property. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns permitted by this Agreement and upon the Property; however, this Agreement, except for Section 7.09 below, shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer of a fully developed and improved lot (“an End-Buyer”) and shall not negate the End-Buyer's obligation to comply with the City Ordinances, including but not limited to zoning ordinances.

8.02 **Releases.** From time to time upon the written request of the Owner, the City shall execute, in recordable form, a release of this Agreement if the Owner's obligations under this Agreement have been satisfied, subject to the continued application of the Governing Regulations. The Owner shall pay the City \$1,000 at the time of the Owner's request for a release for each release in excess of one per calendar year.

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

8.04 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) reflect the final intent of the Parties with regard to the subject matter of this Agreement; and (d) constitute a legislative finding by the City Council. 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.

8.05 Notices. All notices required or contemplated by this Agreement (or otherwise given in connection with this Agreement) shall be in writing, shall be signed by or on behalf of the Party giving the notice, and shall be effective as follows: (a) on or after the 10th business day after being deposited with the United States mail service, Certified Mail, Return Receipt Requested with a confirming copy sent by E-mail, if an E-mail address is provided below; (b) on the day delivered by a private delivery or private messenger service (such as FedEx or UPS) as evidenced by a receipt signed by any person at the delivery address (whether or not such person is the person to whom the notice is addressed); or (c) otherwise on the day actually received by the person to whom the notice is addressed, including, but not limited to, delivery in person and delivery by regular mail or by E-mail. Notices given pursuant to this section shall be addressed as follows:

To the City:

Attn: Jason Laumer
City Manager
City of Celina
142 N. Ohio Street
Celina, Texas 75009
E-mail: jlaumer@celina-tx.gov

With a copy to:

Attn: Lance Vanzant
Hayes, Berry, White & Vanzant, LLP
512 W. Hickory St., Suite 100
Denton, TX 75206
E-mail: lvanzant@hbwvlaw.com

With a copy to:

Attn: Julie Fort
Messer, Rockefeller & Fort, P.L.L.C.
6371 Preston Rd., Suite 200
Frisco, Texas 75034
E-mail: julie@txmunicipallaw.com

To the Owner:

Celina Ownsby Coit, LLC
106 Decker Drive, Suite 310
Irving, TX 75062
E-mail: terry.mitchell@contrastdevelopment.com

Celina Titus, LLC

106 Decker Drive, Suite 310
 Irving, TX 75062
 E-mail: terry.mitchell@contrastdevelopment.com

With a copy to: Attn: Misty Ventura
 Shupe Ventura, PLLC
 9406 Biscayne Blvd.
 Dallas, Texas 75218
 E-mail: misty.ventura@svlandlaw.com

8.06 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than five business days after written notice of the alleged failure has been given in the case of a default of an obligation to make a payment required under this Agreement and 30 days after written notice of the alleged failure in all other cases). In addition, 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. If a Party who has received notice under this section cannot cure an alleged failure to perform within 30 days after receipt of written notice, such Party shall give written notice to the other Party within such 30 day period (a) stating that the Party cannot cure the alleged failure within 30 days after receipt of written notice, and explaining the reason; and (b) providing a date by which such Party can reasonably cure the alleged failure (“Cure Time Notice”). A Party who does not timely provide a Cure Time Notice shall be deemed to be able to cure the alleged failure to perform within 30 days after the initial written notice of the alleged failure has been given.

8.07 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, specific performance, mandamus, and injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL:

- (a) entitle the aggrieved Party to terminate this Agreement; or
- (b) entitle the aggrieved Party to suspend performance under this Agreement unless (i) the portion of the Property for which performance is suspended is the subject of the default, or (ii) the portion of the Property for which performance is suspended is owned or controlled by the owner or developer in default (for example, the City shall not be entitled to suspend its performance with regard to the development of “Tract X” by “Developer A” based on the grounds that any other developer is in default with respect to any other tract but may suspend performance with regard to development of “Tract X” and all tracts owned by “Developer A” if “Developer A” is in default on “Tract Y”); or
- (c) entitle the aggrieved Party to seek or recover monetary damages of any kind; or
- (d) limit the term.

8.08 Limited Waivers of Immunity. The City does not waive or surrender any of its governmental powers, immunities, or rights, except to the extent permitted by law and necessary to allow the Owner to enforce its remedies under this Agreement. THE CITY CONFIRMS ITS IMMUNITY FROM SUIT AND IMMUNITY FROM LIABILITY IS WAIVED WITH RESPECT TO THE ENFORCEMENT OF THIS AGREEMENT BY THE OWNER.

8.09 Reservation of Rights. This Agreement constitutes a “permit” within the meaning of Chapter 245, Texas Local Government Code, as amended. In the event the voluntary annexation as contemplated by this Agreement is not completed, the Parties expressly consent to completion of annexation of the Property by City during the Term and agree: (a) that this Agreement is an agreement required by Section 43.016, as amended, of the Texas Local Government Code; (b) that this Agreement is a written agreement regarding services required by Section 43.0672, as amended, of the Texas Local Government Code; (c) that this Agreement is a voluntary petition by the owners of the Property for annexation in compliance with Section(s) 43.0671 and/or 43.028, as amended, of the Texas Local Government Code, or is a petition satisfying all requirements of Section 43.0685, as amended, of the Texas Local Government Code; and (d) that neither the Owner, Purchaser, any End-Buyer or subsequent owner shall sign a petition authorized by Section 43.0687, as amended, of the Texas Local Government Code. The provisions of this Section 7.09 are considered by the Parties to be terms for annexation authorized by Section 212.172(b)(7) of the Texas Local Government Code.

8.10 THE OWNER'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/OWNER'S WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

(a) THE OWNER ACKNOWLEDGES AND AGREES THAT:

(i) THE PUBLIC IMPROVEMENTS 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 OWNER'S FINANCIAL AND INFRASTRUCTURE CONTRIBUTION FOR THE PUBLIC IMPROVEMENTS UNDER THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT THE OWNER'S ANTICIPATED IMPROVEMENTS AND THE OWNER'S DEVELOPMENT OF THE PROPERTY PLACES ON THE CITY'S INFRASTRUCTURE.

(iii) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE OWNER AGREES TO WAIVE AND RELEASE ALL CLAIMS IT MAY HAVE AGAINST THE CITY WITH RESPECT TO THE IMPROVEMENTS REQUIRED TO BE CONSTRUCTED BY 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 IMPROVEMENTS.

(b) THIS SECTION 8.10 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

8.11 Interpretation. The Parties and the Purchaser acknowledge that each of them 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.

8.12 Enforceability. Each Party acknowledges and agrees that this Agreement is binding upon such Party and enforceable against such Party in accordance with its terms and conditions and that the performance by the Parties under this Agreement is authorized by Section 212.172 of the Texas Local Government Code.

8.13 Entire Agreement; Severability. 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. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, such unenforceable provision shall be deleted from this Agreement, and 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. Without limiting the generality of the foregoing, (a) if it is determined that, as of the Effective Date, the Owner does not own an immaterial portion of the Property, this Agreement shall remain in full force and effect with respect to all of the Property that the Owner does then own, and (b) if it is determined, as of the Effective Date, that any portion of the Property is not within the City's ETJ, this Agreement shall remain in full force and effect with respect to all of the Property that is then within the City's ETJ. If at any time after the Effective Date it is determined that any portion of the Property that is owned by the Owner, or the Owner's successors and assigns, is not within the City's ETJ, then the Owner, or the Owner's successors and assigns, shall petition the City to include such portion of the Property within the City's ETJ and then voluntarily petition for annexation of that portion of the Property into the City's corporate limits.

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

8.15 Non-Waiver. Any failure by a Party to insist upon strict performance by another 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.

8.16 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.

8.17 Exhibits. The following Exhibits are attached to this Agreement and are part of this Agreement:

Exhibit A	Metes and Bounds Description of Property
Exhibit B	Depiction of the Property
Exhibit C	Concept Plan (for the ETJ Property)
Exhibit D	Development Regulations (for the ETJ Property)
Exhibit E	Depiction of Coit Water Line and 12-Inch Water Line
Exhibit F	Conceptual Sidewalk Plan
Exhibit G	Landscape, Trail, Screening and Amenity Center Conceptual Plan

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to be effective as of the Effective Date.

CITY:

CITY OF CELINA, TEXAS

By: _____
Sean Terry, Mayor

ATTEST:

By: _____
Vicki Faulkner, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF COLLIN §

On _____, 2019, before me, the undersigned personally appeared Sean Terry, Mayor, of the City of Celina and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same in his authorized capacity.

[SEAL]

Notary Public in and for the State of TEXAS

My Commission Expires:

Attachment: Revised Development Agreement (Wilson Creek Meadows)

CELINA TITUS, LLC

Terry W. Mitchell
 Manager
 Celina Titus, LLC

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on _____, 2019, by Terry Mitchell, Manager of Celina Titus, LLC, a Texas limited liability company, on behalf of said company.

[SEAL]

Notary Public in and for the State of TEXAS

My Commission Expires:

Attachment: Revised Development Agreement (Wilson Creek Meadows)

CELINA OWNSBY COIT, LLC

Terry W. Mitchell
 Manager
 Celina Ownsby Coit, LLC

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on _____, 2019, by Terry Mitchell, Manager of Celina Ownsby Coit, LLC, a Texas limited liability company, on behalf of said company.

[SEAL]

Notary Public in and for the State of TEXAS

My Commission Expires:

Attachment: Revised Development Agreement (Wilson Creek Meadows)

EXHIBIT A

METES AND BOUNDS DESCRIPTION OF THE PROPERTY

TRACT 1 – IN CITY PROPERTY:

LEGAL DESCRIPTION

BEING a tract of land situated in the Jonathan Westover Survey, Abstract No. 1030 and the Coleman Watson Survey, Abstract No. 945, City of Celina, Collin County, Texas, and being all of a called 105.79 acre tract of land described in a Special Warranty Deed to Celina Titus, LLC, as recorded in Instrument No. 20190401000388930 of the Official Public Records of Collin County, Texas, same being all of a called 0.172 acre tract of land described in a deed to the County of Collin, as recorded in Volume 2489, Page 148 of the Deed Records of Collin County, Texas (described as the southeastern 0.172 acre tract from hereon), and being more particularly described as follows:

BEGINNING at a railroad spike found for the northeast corner of said 105.79 acre tract, common to the northwest corner of a called 40.039 acre tract of land described in a deed to City Global Investment, LLC, as recorded in Instrument No. 20151130001493780 of the Official Public Records of Collin County, Texas, same being on the southerly line of a called 317.729 acre tract of land described in a deed to Belknap FP, Ltd., as recorded in Volume 4288, Page 156 of the Land Records of Collin County, Texas, and in County Road 88, a variable width right-of-way, no record found;

THENCE South 00°27'04" East, departing the right-of-way of said County Road 88, along the easterly line of said 105.79 acre tract and the westerly line of said 40.039 acre tract, a distance of 2571.21 feet to the southeast corner of said 105.79 acre tract, common to the southwest corner of said 40.039 acre tract, same being on the northerly line of a called 185.094 acre tract of land described in a deed to Brinkman Ranches of Collin County, L.P., as recorded in Volume 6067, Page 1306 of the Land Records of Collin County, Texas, from which, a 1/2 inch iron rod found for witness bears South 05°02' West, 0.2 foot;

THENCE South 89°39'55" West, along the southerly line of said 105.79 acre tract and the northerly line of said 185.094 acre tract, a distance of 1507.18 feet to a 3/4 inch iron pipe found for the northwest corner of said 185.094 acre tract, common to the northeast corner of a called 19.047 acre tract of land described in a deed to Donald L. Vest, as recorded in Instrument No. 93-0016270 of the Land Records of Collin County, Texas;

THENCE South 89°54'25" West, continuing along the southerly line of said 105.79 acre tract and along the northerly line of said 19.047 acre tract, a distance of 618.12 feet to a 1/2 inch iron rod found for the southwest corner of said 105.79 acre tract, common to the northwest corner of said 19.047 acre tract, being on the easterly line of a called 153.954 acre tract of land described in a deed to Rene Bates, as recorded in Volume 3861, Page 2239 of the Land Records of Collin County, Texas;

THENCE North 01°00'33" West, along the westerly line of said 105.79 acre tract and the easterly line of said 153.954 acre tract, a distance of 861.38 feet to a 1/2 inch iron rod found for the northeast corner of said 153.954 acre tract, common to the southeast corner of a called 49.25 acre tract of land described in a deed to Celina Coit 49 Partners, Ltd., as recorded in Instrument No. 20120612000700130 of the Official Public Records of Collin County, Texas;

THENCE North 00°34'17" West, continuing along the westerly line of said 105.79 acre tract and along the easterly line of said 49.25 acre tract, a distance of 748.96 feet to a 3/4 inch iron pipe found for the southerly northwest corner of said 105.79 acre tract, common to the southwest corner of a called 20.00 acre tract of land described in a deed to Grayson Collin Electric Cooperative, Inc., as recorded in Volume 5191, Page 313 of the Land Records of Collin County, Texas;

THENCE North 89°29'12" East, departing the easterly line of said 49.25 acre tract, along the northerly line of said 105.79 acre tract and the southerly line of said 20.00 acre tract, a distance of 783.89 feet to a point for the southeast corner of said 20.00 acre tract, common to an ell corner of said 105.79 acre tract, same being in the center of Wilson Creek;

THENCE North 21°13'48" West, along the westerly line of said 105.79 acre tract, the easterly line of said 20.00 acre tract, and along said creek, a distance of 38.95 feet to a point for corner;

THENCE North 35°29'12" East, continuing along the westerly line of said 105.79 acre tract and the easterly line of said 20.00 acre tract, along the easterly line of a called 8.626 acre tract of land described in a deed to Prosper Land Company, Ltd., as recorded in Instrument No. 20181116001556640 of the Official Public Records of Collin County, Texas, and continuing along said creek, a distance of 367.50 feet to a point for corner;

THENCE continuing along the westerly line of said 105.79 acre tract and the easterly line of said 8.626 acre tract, along the westerly line of aforesaid southeastern 0.172 acre tract, the easterly line of a called 0.172 acre tract of land described in a deed to the County of Collin, as recorded in Volume 2383, Page 570 of the Deed Records of Collin County, Texas (described as the southwestern 0.172 acre tract from hereon), and continuing along said creek, the following courses:

North 06°29'12" East, a distance of 135.40 feet to a point for corner;

North 23°45'48" West, a distance of 206.30 feet to a point for corner;

North 14°59'48" West, a distance of 136.00 feet to a point for corner;

North 12°30'48" West, a distance of 171.14 feet to a point for the northwest corner of said southeastern 0.172 acre tract, being on the southerly line of a called 0.172 acre tract of land described in a deed to the County of Collin, as recorded in Volume 2489, Page 144 of the Deed Records of Collin County, Texas (described as the northwestern 0.172 acre tract from hereon), and in aforesaid County Road 88;

THENCE North 89°42'50" East, departing said creek, along the northerly line of said southeastern 0.172 acre tract, the northerly line of said 105.79 acre tract, along the southerly line of said northwestern 0.172 acre tract, the southerly line of a called 0.144 acre tract of land described in a deed to the County of Collin, as recorded in Volume 2489, Page 141 of the Deed Records of Collin County, Texas, the southerly line of a called 3.23 acre tract of land described in a deed to Tropix Pools Real Estate LLC, as recorded in Instrument No. 20150205000129420 of the Official Public Records of Collin County, Texas, the southerly line of a called 6.00 acre tract of land described in a deed to Manus Chaiprasert and wife, Suwanna Chaiprasert, as recorded in Instrument No. 20080606000688720 of the Official Public Records of Collin County, Texas, the southerly line of a called 4.517 acre tract of land described in a deed to Wesley D. Stalcup, as recorded in Volume 3014, Page 280 of the Land Records of Collin County, Texas, also along the southerly line of a called 5.00 acre tract of land described in a deed to Wesley D. Stalcup, as recorded in Volume 3014, Page 276 of the Land Records of Collin County, Texas, and the southerly line of aforesaid 317.729 acre tract, and along said County Road 88, a distance of 1284.69 feet to the **POINT OF BEGINNING**, and containing 105.942 acres (4,814,831 square feet) of land, more or less.

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

Attachment: Revised Development Agreement (Wilson Creek Meadows)

TRACT 2 – ETJ PROPERTY (CONSISTING OF A 19.048 ACRE TRACT AND A 60.971-ACRE TRACT)

19.048-acre tract:

1030, City of Celina ETJ, Collin County, Texas, and being all of a called 19.047 acre tract of land described in a Warranty Deed to Donald L. Vest, as recorded in Instrument No. 93-0016270 of the Land Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found for the northwest corner of said 19.047 acre tract, common to the southwest corner of a called 105.79 acre tract of land described in a deed to Celina Titus, LLC, as recorded in Instrument No. 20160401000388930 of the Official Public Records of Collin County, Texas, being on the easterly line of a called 60.971 acre tract of land described in a deed to Celina Ownsby Coit, LLC as recorded in Instrument No. 20180518000609810 of the Official Public Records of Collin County, Texas;

THENCE North 89°54'06" East, departing the easterly line of said 60.971 acre tract, along the northerly line of said 19.047 acre tract, the southerly line of said 105.79 acre tract, and generally along a fence, a distance of 618.09 feet to a 3/4 inch iron pipe found for the northeast corner of said 19.047 acre tract, common to the northwest corner of a called 185.094 acre tract of land described in a deed to Brinkman Ranches of Collin County, L.P., as recorded in Volume 6067, Page 1306 of the Land Records of Collin County, Texas;

THENCE South 00°19'07" East, departing the southerly line of said 105.79 acre tract, along the easterly line of said 19.047 acre tract, the westerly line of said 185.094 acre tract, and generally along a fence, a distance of 1360.48 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of said 19.047 acre tract, common to the northeast corner of a called 18.531 acre tract of land described in a deed to Donald L. Vest and wife, Julie Ann Vest, as recorded in Volume 1344, Page 66 of the Deed Records of Collin County, Texas;

THENCE South 89°24'52" West, along the southerly line of said 19.047 acre tract, the northerly line of said 18.531 acre tract, and generally along a fence, a distance of 599.52 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said 19.047 acre tract, common to the northwest corner of said 18.531 acre tract, being on the easterly line of a called 42.970 acre tract of land described in a deed to Christopher Wesson Bosh and Adrienne Bosh, as recorded in Instrument No. 20131001001373380 of the Official Public Records of Collin County, Texas;

THENCE North 01°01'45" West, along the westerly line of said 19.047 acre tract, the easterly line of said 42.970 acre tract, and generally along a fence, a distance of 108.16 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" found for the northeast corner of said 42.970 acre tract, common to the southeast corner of aforesaid 60.971 acre tract;

Attachment: Revised Development Agreement (Wilson Creek Meadows)

THENCE North 01°06'13" West, continuing along a westerly line of said 19.047 acre tract, along the easterly line of said 60.971 acre tract, and generally along a fence, a distance of 1257.62 feet to the POINT OF BEGINNING and containing 19.048 acres (829,747 square feet) of land, more or less.

60.971-acre tract:

EXHIBIT "A"
(METES & BOUNDS DESCRIPTION)

BEING a tract of land situated in the McKenzie Wilhite Survey, Abstracts 1008 and 1009, Collin County, Texas, said tract being a remainder of that tract of land conveyed to Rene Bates, according to the document filed of record in Volume 3861, Page 2239, Land Records Collin County, Texas, said tract of land being more particularly described as follows:

BEGINNING at the northwest corner of that tract of land conveyed to Christopher Wesson Bosh and Adrienne Bosh, according to the document filed of record in Document Number 20131001001373380, Official Public Records Collin County, Texas, located in the east line of that tract of land conveyed to Tambros Land Company, LLC, according to the document filed of record in Document Number 20170106000027700, Official Public Records Collin County, Texas, from which a "PK NAIL" found for witness in Collin County Road 86 bears North 03°49'24" West, 0.50 feet;

THENCE North 00°49'54" West, generally with said road and the west line of the above mentioned Bates tract, a portion of the east line of said Tambros tract and passing at a distance of 210.00 feet a "PK NAIL" found for the northeast corner of said Tambros tract, same being common with the southeast corner of that tract of land conveyed to Westgate 115 Investors, L.P., according to the document filed of record in Document Number 20130621000869270, Official Public Records Collin County, Texas and continuing with the east line of said Westgate tract, same being common with the west line of said Bates tract for a total distance of 2024.54 feet to a "PK nail" set in said common line for the most westerly northwest corner of this tract;

THENCE North 89°30'21" East, leaving said road and common line, over and across said Bates tract, a distance of 113.00 feet to a 5/8" iron rod with red plastic cap stamped "KHA" set for an interior "ell" corner of this tract;

THENCE North 00°49'54" West, a distance of 100.00 feet to a 5/8" iron rod with red plastic cap stamped "KHA" set for the most easterly northwest corner of this tract and being in the south line of that tract of land conveyed to Celina Coit 49 Partners, LTD., according to the document filed of record in Document Number 20120612000700130, Official Public Records Collin County, Texas;

THENCE North 89°30'21" East, with said south line, a distance of 1140.10 feet to a 1/2" iron rod found in the west line of that tract of land conveyed to Celina Titus, LLC, according to the document filed of record in Instrument Number 20160401000388930, Official Public Records Collin County, Texas and being the southeast corner of said Celina Coit 49 Partners tract;

THENCE South 01°00'46" East, with said west line, a distance of 861.54 feet to a 1/2" iron rod found for the southwest corner of said Celina Titus tract, same being the northwest corner of that tract of land conveyed to Donald L. Vest, according to the document filed of record in Document Number 93-0016270, Deed Records Collin County, Texas;

THENCE South 01°06'13" East, with the west line of said Vest tract, a distance of 1257.62 feet to a 1/2" iron rod with red plastic cap stamped "KHA" set in said west line for the northeast corner of the above mentioned Bosh tract;

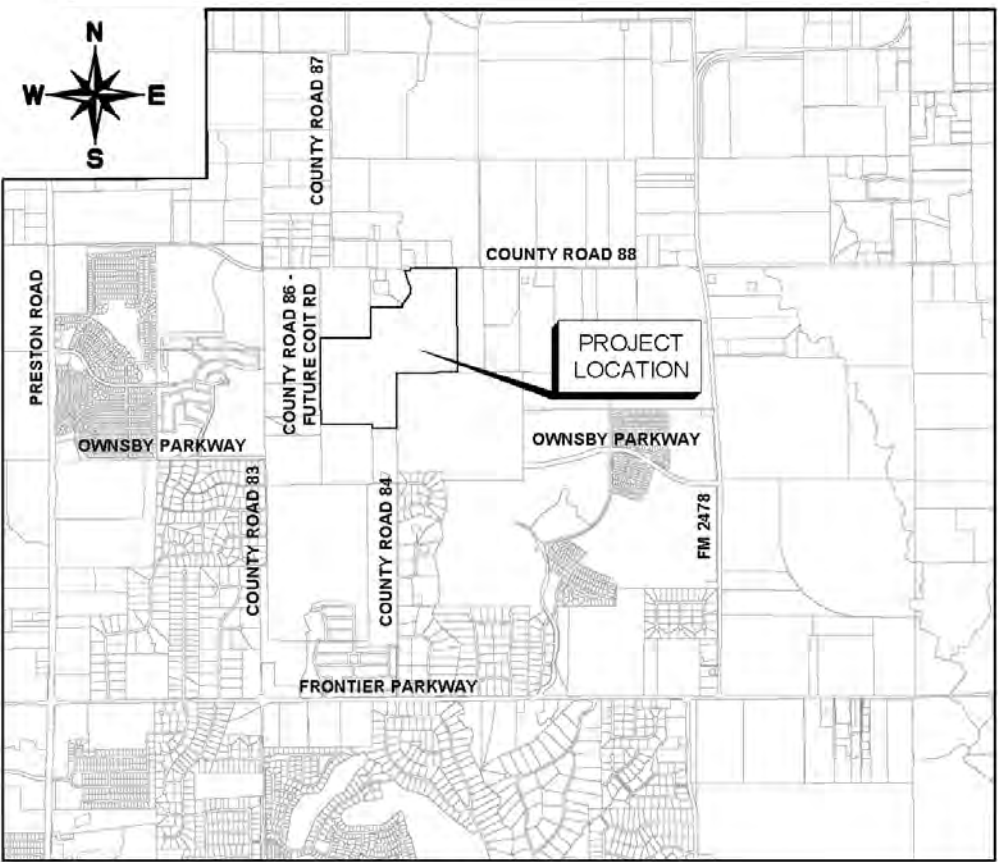
THENCE South 89°15'31" West, leaving said west line and with the north line of said Bosh tract, a distance of 1261.77 feet to the **POINT OF BEGINNING** and containing 60.971 acres (2,655,876 square feet) of land, more or less.

Michael B. Marx 3/14/18

Michael B. Marx
Registered Professional Land Surveyor No. 5181
Kimley-Horn and Associates, Inc.
5750 Genesis Court, Suite 200
Frisco, Texas 75034
Ph. 972-335-3580
michael.marx@kimley-horn.com



EXHIBIT B
DEPICTION OF THE PROPERTY

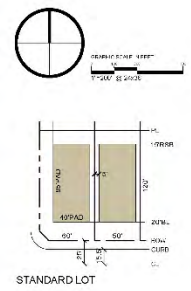
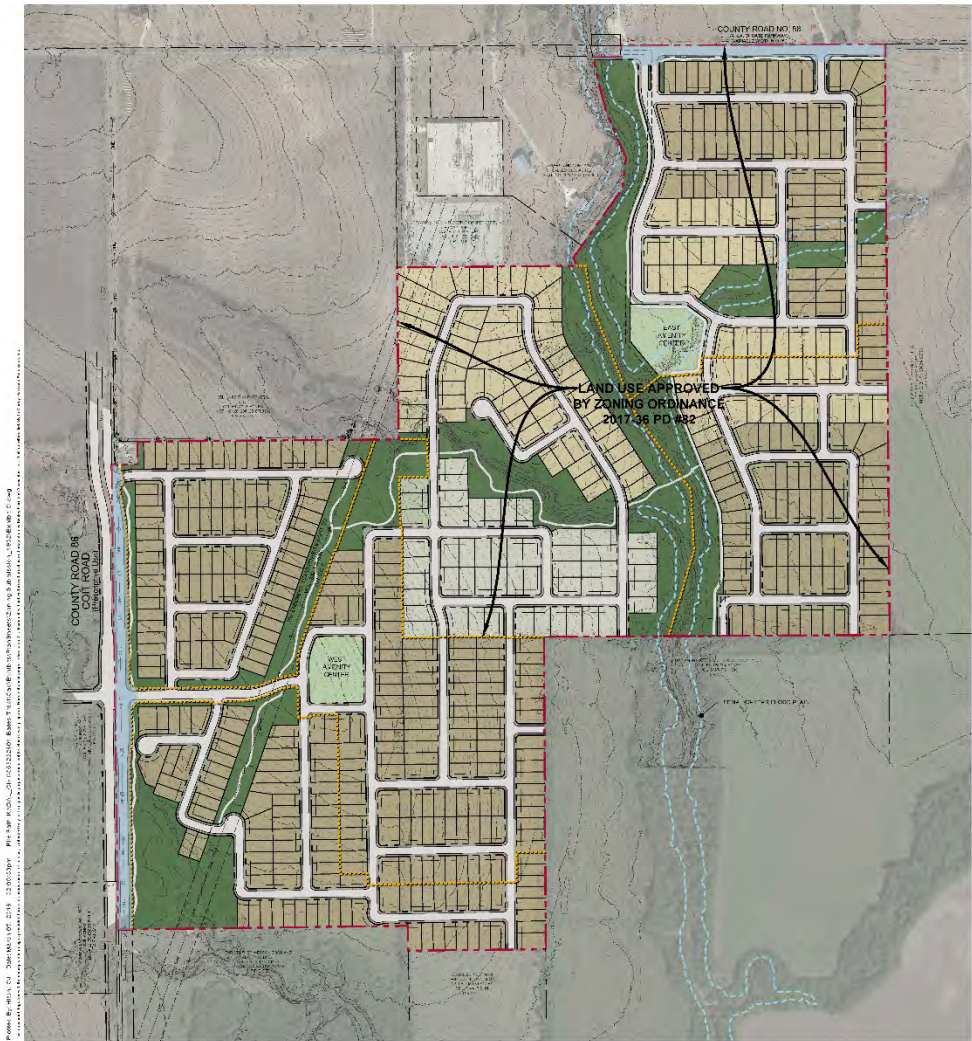


VICINITY MAP

1" = 4000'

Attachment: Revised Development Agreement (Wilson Creek Meadows)

EXHIBIT C
CONCEPT PLAN – ETJ PROPERTY



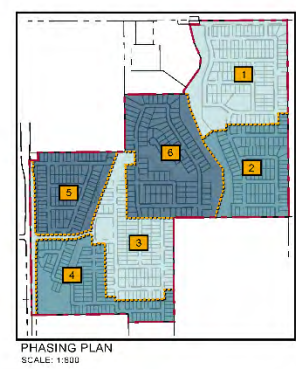
Lot Summary (ETJ Property)	
Lots Provided	308
Lots Allowed	325

Land Use Acreage Summary (ETJ Property)	
Throughfare ROW	2.8 x 10
Open Space Provided	12.2 x 10
Area Net of Throughfare	77.21 x 10
Total Acres	80.03 x 10
Percent Open Space	17.1%

Land Use Acreage Summary for the "Property"	
Throughfare ROW / Roadway ROW	4.9
Open Space - Meadows	23.4
Open Space - Overlook	12.3
Open Space (Amenity Center - Meadows)	2.3
Open Space (Amenity Center - Overlook)	3.8
Total Open Space	39.0
Area Net of Lot / Residential Right of Way	146.2
Total	185.8

Open Space Acreage Summary for the "Property"	
Open Space & Amenity Centers	39.0
Area Net of Throughfare P on Roadway ROW	111.3
Total Percent Open Space	21.5%

NOTE
1. KEY LOTS SHALL HAVE A SIDEYARD SETBACK ADJACENT TO THE SIDE STREET, WHICH IS THE SAME WIDTH AS THE FRONT YARD SETBACK OF THE LOT IT BACKS TO.



VICINITY MAP

NOT TO SCALE

EXHIBIT "C" - CONCEPT PLAN
Wilson Creek Meadows

THIS DEVELOPMENT IS LOCATED WITHIN THE UNINCORPORATED ETJ OF THE CITY OF WILSON, TEXAS. THE DEVELOPMENT IS SUBJECT TO THE CITY OF WILSON'S ZONING ORDINANCE, WHICH IS THE SAME WIDTH AS THE FRONT YARD SETBACK OF THE LOT IT BACKS TO.

March 2019

OWNER / APPLICANT: Cotton County, TX, LLC Cotton County, TX, LLC 1000 E. 10th Street, Suite 100 Waco, TX 76798 P: 817.799.1000 F: 817.799.1001 E: cotton@cotncounty.com	ENGINEER / SURVEYOR: Kimley-Horn and Associates 1000 E. 10th Street, Suite 100 Waco, TX 76798 P: 817.799.1000 F: 817.799.1001 E: kimley@kimley-horn.com
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Kimley-Horn

Attachment: Revised Development Agreement (Wilson Creek Meadows)

EXHIBIT D
DEVELOPMENT REGULATIONS – ETJ PROPERTY

Planned Development Regulations

1.0 Purpose

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

2.0 Definitions

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

3.0 General Regulations

- 3.1 A homeowners association ("HOA") shall be established and shall be responsible for the ownership and maintenance of all common areas, including all private open space areas shown on the Concept Plan.
- 3.2 The maximum number of single-family residential lots within the ETJ Property shall be 320. The layout for this planned development is shown on the Concept Plan.
- 3.3 The phasing shown on the Concept Plan is conceptual, and may be modified by the Owner during the development process (both the size of the phase and the order of the phases may be changed).

4.0 Use Regulations

The permitted uses are outlined below:

- 4.1 The following uses are permitted by right except as otherwise noted:
 - 1. Single-family detached
 - 2. Schools (private or public)
 - 3. Civic
 - 4. Country clubs
 - 5. Golf course and related facilities

6. Marketing and sales centers associated with the development of the ETJ Property
7. Temporary construction offices and storage yards associated with development of the ETJ Property
8. Public works, including drainage facilities, water wells, and water and wastewater treatment, pumping, storage, and transmission facilities
9. Parks, playgrounds, trails, swimming pools, and other forms of improved and unimproved open space
10. Recreation/Amenity centers, pools, cabana buildings and/or locker/changing rooms
11. Temporary concrete or asphalt batch plants associated with development of the ETJ Property
12. Houses of worship
13. Agricultural
14. All other SF-R single family residential district uses as it exists or may be amended

5.0 Area Regulations

- 5.1 General Area regulations for residential uses are set forth in the table and notes below in this Section 5.0 which contain the exclusive lot size, setback, height, dwelling size, and lot coverage requirements for the ETJ Property.

Minimum Lot Size	5,500 SF
Maximum Building Height	45 feet
Minimum Front Yard Setback (See notes 3 & 5)	20 feet
Minimum Side Yard Setback (Interior Side) (See note 6)	5 feet
Minimum Side Yard Setback (Corner Side) (See notes 6 & 7)	15 feet
Minimum Rear Yard Setback	15 feet
Minimum Lot Width (See notes 1 & 2)	50 feet
Minimum Lot Depth	110 feet
Minimum Dwelling Unit Size	1,250 square feet
Maximum Lot Coverage (See note 4)	60%

1. The lot widths shall be measured along the arc of the front building line.
2. Where front porches or rear covered patios are provided, they shall be permitted to encroach a maximum of five feet into the front or rear setback line.

3. Lot coverage is defined as the footprint of the primary residential structure, excluding without limitation patios (covered or uncovered), pools, driveways, sidewalks and other improvements which are not part of an enclosed building.
4. J-swing garages may encroach into the front building line by five feet.
5. The face of a J-swing garage may be located no closer than 20 feet to the side lot line it faces.
6. For street corner lots with a side touching and adjacent to the front yard of a lot behind it, the side yard on the street side of the lot shall be the same width as the adjacent lot front yard.

6.0 Design Standards

- 6.1 Exterior building facades for residential structures shall meet or exceed the requirements outlined in Section 14.05.152 of the Zoning Ordinance except as follows:
 1. Building materials shall comply with the applicable requirements in Section 14.05.152 of the Zoning Ordinance, except that cementitious fiberboard may be used on the second story provided it is interrupted by an intersecting roof line or another architectural feature. No other building design, layout or architectural standards of the Zoning Ordinance shall apply to detached single-family residences within the ETJ Property.
 2. Every detached single-family residence shall have at least two enclosed parking spaces and two spaces on the driveway between the street right-of-way and the front building line.
 3. Front facing garage doors with access from the street shall be allowed provided the garage doors are located at or behind the front building line. Additionally, all front facing garage doors must be in line with or behind the front facade of the house. Front facade shall be defined as the front of a building, or any face of a building given special architectural treatment. In order for a front porch to be treated as the front of the building, it must extend the length not encompassed by a garage and must be covered.
 4. The primary roof pitch for residential building types shall not be less than 8:12. The minimum pitches do not apply to porches, specialty roofs, awnings, dormers, or other similar architectural features.
 5. No building shall exceed a height of more than 45 feet, measured at the mid-point between the top plate and the dominate roof ridge.

7.0 Screening Regulations

7.1 Landscape Buffer:

1. A landscape buffer with a minimum width of 40 feet will be required adjacent to Coit Road except that it may be reduced to 30 feet when a left or right turn lane right-of-way flare occurs. Landscape buffers adjacent to the collector and arterial public right-of-way shall contain at least one large canopy tree, minimum 3" caliper, every 40 linear feet or fraction thereof of street frontage, inclusive of driveways. Trees may be grouped or clustered to facilitate site design but shall not exceed 250 linear feet between trees. For every five large canopy trees or fraction thereof required along the street frontage of Coit Road, two small ornamental trees, minimum 2" caliper, shall also be provided. For every five large canopy trees or fraction thereof required along the street frontage of Coit Road, 1,000 square feet of ornamental planting shall be placed along the sidewalk/ trail. Ornamental plantings may be grouped or clustered to facilitate design but shall not exceed 2,500 linear feet between groupings and/or clusters. Sidewalks and trails shall have a meandering alignment and may encroach into the landscape buffer. Landscape planting areas shall be included intermittently along either side of the sidewalk and trail within the Landscape buffer area.
2. A landscape buffer with a minimum width of 20 feet will be required when a residential lot backs or sides to Punk Carter Parkway. Landscape buffers adjacent to both side of Punk Carter Parkway public right-of-way shall contain at least one large canopy tree that is a minimum of three inches in caliper at the time of planting for every 50 linear feet. Trees may be grouped or clustered to facilitate design, but there shall not be more than 250 linear feet between required trees.

7.2 Screening Fences:

1. For single-family lots siding or backing to Coit Road, there shall be a minimum six-foot masonry wall.
2. For single family lots siding or backing to Punk Carter Parkway, there shall be a minimum eight foot board on board wood fence with stone columns.
3. No other screening fence requirements shall apply.

8.0 Open Space Regulations

- 8.1 This section shall satisfy all requirements in 14.03.008 SF-R, single-family residential district for open space dedication, amenities and improvements for the ETJ Property.
 1. Open space areas within the ETJ Property containing trails shall be open to the public. Amenity centers, Common Areas, multi-use fields, playground equipment, dog parks, and other amenities shall be privately owned and maintained, and shall only be used by residents and their guests.
 2. A minimum of 12 acres (approximately 15 percent of the ETJ Property), as shown on the attached **Exhibit F**, shall be retained as open space. Such open space may be located anywhere on the ETJ Property. For the purposes of this **Exhibit D**, the term "open space" means natural areas, floodplain, areas used for drainage and detention,

common areas and parkway and landscape easements, as well as any area used for an amenity center. Open space shall be privately owned. Open space shall not consist of any area platted for residential dwellings or road right-of-way.

3. As shown on the attached **Exhibit F**, over 4,500 linear feet of eight-foot and ten-foot wide sidewalks shall be constructed within the ETJ Property in phases as the ETJ Property is developed. An eight-foot sidewalk shall be installed along both sides of Punk Carter Parkway from Coit Road to the western amenity center, and within the power line easement from the southernmost cross street to the northern cul-de-sac and east from the power line trail to the western tributary sidewalk in the City Property. A ten-foot wide sidewalk shall be constructed along the east side of Coit Road. Sidewalks shall be located on land dedicated to the homeowners association.
4. The exact location of the trail shown on the attached **Exhibit F** is conceptual and subject to change at the time the final street and lot layout is determined (construction plat). Further, the trail may be built in phases based on the limits of each construction plat.
5. An amenity center shall be constructed within the ETJ Property prior to the 200th building permit being issued for a home located west of Wilson Creek within the ETJ Property. At a minimum, this amenity center shall contain a building which consists of enclosed restrooms, changing areas, and a covered patio; a swimming pool; a children's splash pad; an artificial grass event lawn with lighting; two fire pits; a commercial grade playground with at least 12 play elements; associated sidewalks; and at least 14 parking spaces. Undeveloped areas within the lot containing this amenity center shall be fully landscaped and irrigated. The amenity center shall be privately owned and maintained, and shall only be used by residents and their guests. The City will review and certify that the playground is in compliance with the requirements of this section.
6. Two benches and a trash receptacle shall be placed in two locations within the ETJ Property along the sidewalk as shown on the attached **Exhibit F**. If an area is chosen that does not already contain mature shade trees, two three-inch caliper shade trees shall also be installed in each bench location.
7. All open space areas shall be owned and maintained by the HOA.
8. No other amenity requirements listed in Sec. 14.03.008(c)(5) of the SF-R Zoning Ordinance shall be required.
9. Prior to receiving a Certificate of Occupancy, each home backing to the powerline easement shall have one three-inch caliper tree from the City's approved tree list installed in the rear yard.

10. One three-inch caliper tree from the City's approved tree list will be planted for every 50 linear feet of street frontage adjacent to the open space at the southwest corner of the ETJ Property.
11. Provided approval is granted by Oncor, the power line easement shown on the attached **Exhibit F** shall be landscaped and irrigated. At a minimum, landscaping shall consist of two-inch caliper Vitex or similar ornamental trees planted in at least four locations within the easement and totaling at least 25 ornamental trees, as well as landscape beds in at least three locations along the power line easement sidewalk totaling at least 3,000 square feet of landscape beds.

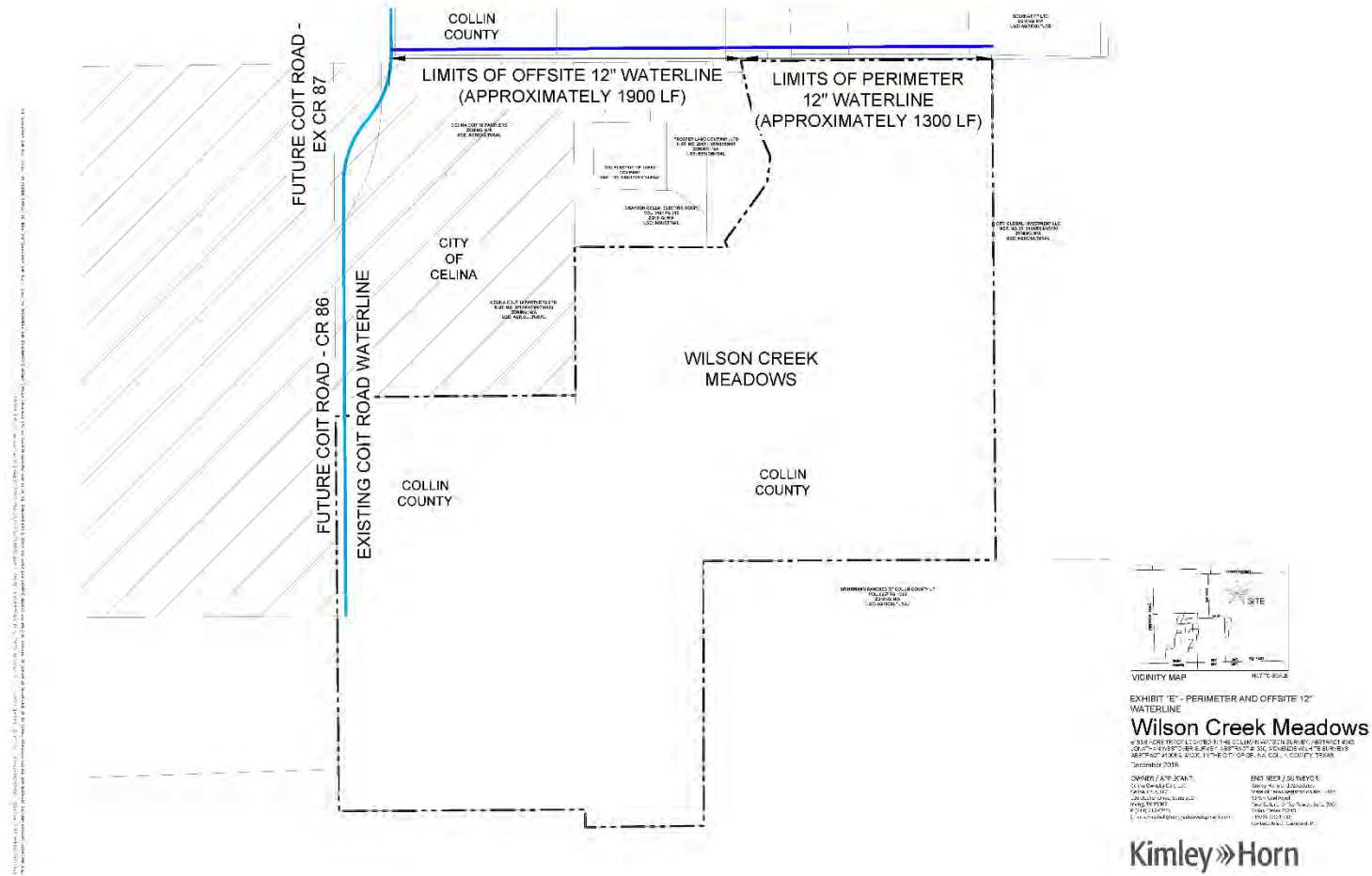
9.0 Subdivision Regulations

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

1. Block length – The maximum internal block length shall be 1,200 feet (measured from intersections such as elbows, tees and cross intersections) and shall contain no more than 20 lots on each side of the street. The maximum block length along open space, perimeter property lines or thoroughfares shall be 1500 feet and shall contain no more than 30 lots on one side of the street. Other exceptions to these block length requirements may be granted for special circumstances or conditions affecting the property in question; exceptions shall be applied for as a subdivision ordinance variance and presented to the Planning & Zoning Commission and City Council at the time of Construction/Preliminary Plat consideration for approval. Pecuniary interests standing alone shall not be justification for the granting of a variance.
2. Cul-de-Sac Length and Diameter – The maximum cul-de-sac length is 600 feet. The right-of-way “bulb” radius shall be fifty feet and the paving radius shall be 40.5 feet to back of curb.
3. Street Offset – The minimum street offset at street intersections measured centerline of road to centerline of road shall be 125 feet.
4. Temporary Dead End Streets - temporary dead end streets, which are less than or equal to 150 feet in length, are not required to have a temporary turnaround at the end of the street, even if the dead end street has lots facing it.
5. Plat and GDP Extensions - If requested in writing by the owner or developer of any portion of the ETJ Property at least 90 days prior to the expiration date, any approved GDP, construction plat and/or construction plans shall be automatically extended one time for one year. City staff shall provide written confirmation of the one year extension upon receipt of said request from the owner or developer.

6. As construction of each phase is completed, representatives of the City shall inspect the water, sanitary sewer, drainage and roadway improvements. If the City finds that such improvements have been completed in accordance with the construction plats and specifications approved by the City (or any modifications thereof approved by the City), and in accordance with all other applicable laws, rules and regulations, the City shall accept the same whereupon ownership of such improvements shall be transferred to the City and be operated and maintained by the City at its sole expense. The requirement for acceptance does not apply to recreational facilities and landscaping improvements that will be maintained by a HOA. Installation of franchise utilities shall be a requirement for acceptance, except that the developer may sell up to thirty percent of the lots within a platted phase and a builder may build on up to thirty percent of the lots within a platted phase without the completion of such installation if the developer indemnifies the City for any damage to the accepted improvements that results from the franchise utility provider installing such utilities after acceptance by the City. Installation of landscaping, retaining walls on private lots, hardscaping and amenity improvements (whether public or private) shall not be a requirement for acceptance of a subdivision.

EXHIBIT E
DEPICTION OF COIT WATER LINE AND 12-INCH WATER LINE



Attachment: Revised Development Agreement (Wilson Creek Meadows)

Exhibit E

Exhibit G
Landscape, Trail, Screening and Amenity Center Conceptual Plan



Attachment: Revised Development Agreement (Wilson Creek Meadows)



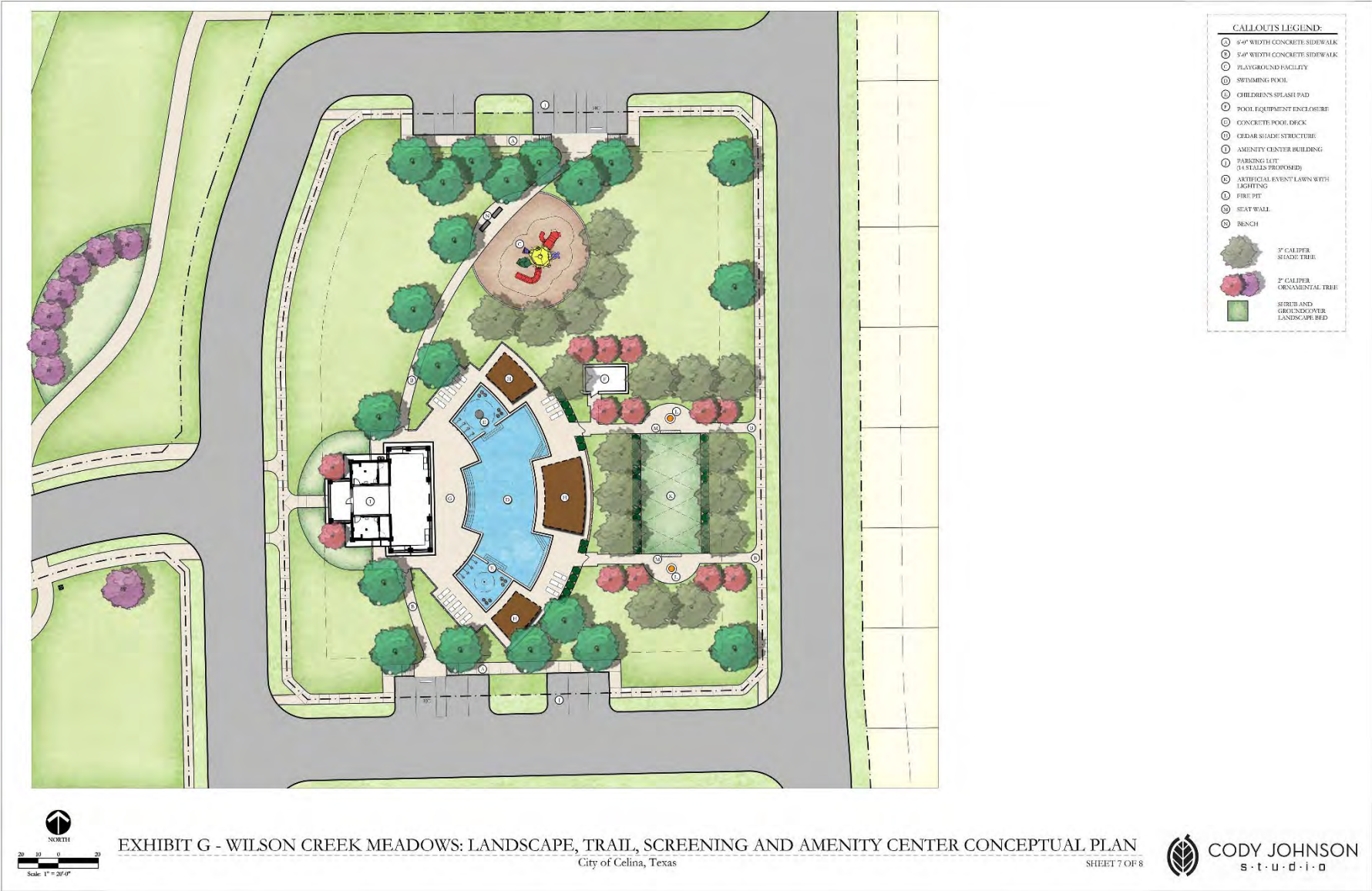




Attachment: Revised Development Agreement (Wilson Creek Meadows)



Attachment: Revised Development Agreement (Wilson Creek Meadows)



Attachment: Revised Development Agreement (Wilson Creek Meadows)



Attachment: Revised Development Agreement (Wilson Creek Meadows)

Wilson Creek Meadows

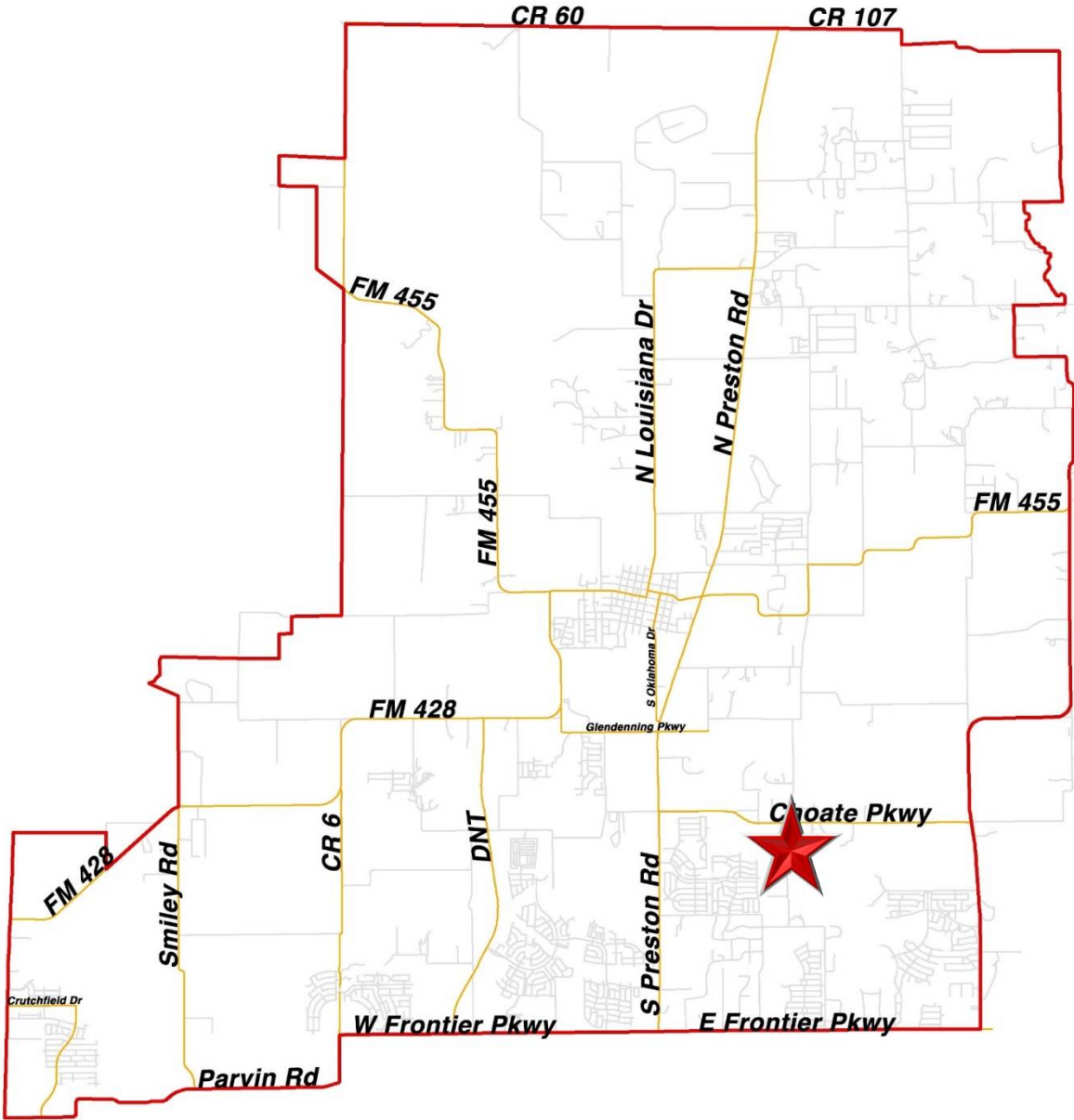
Revised Development Agreement

City Council

June 11, 2019

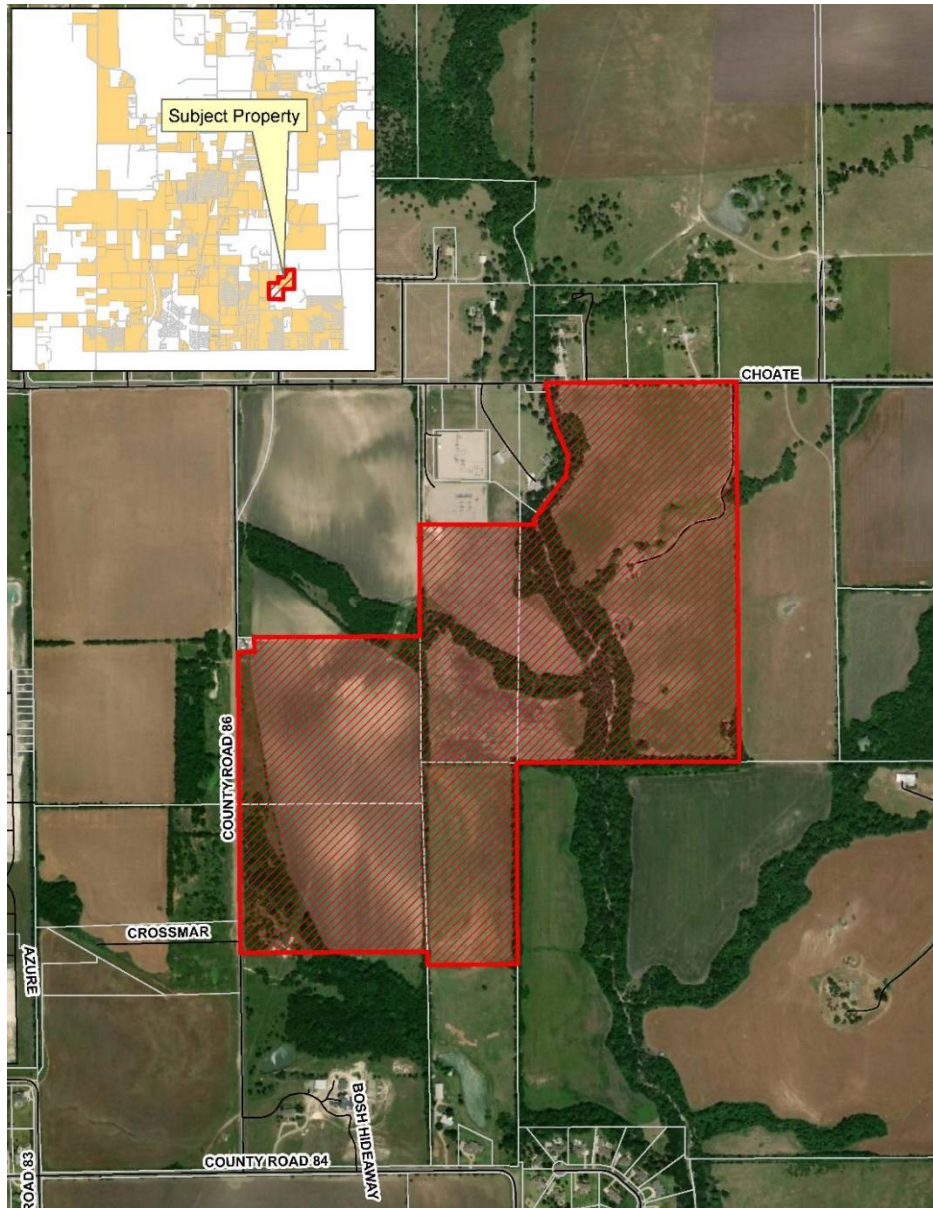
Attachment: Staff Presentation (Wilson Creek Meadows)





Attachment: Staff Presentation (Wilson Creek Meadows)





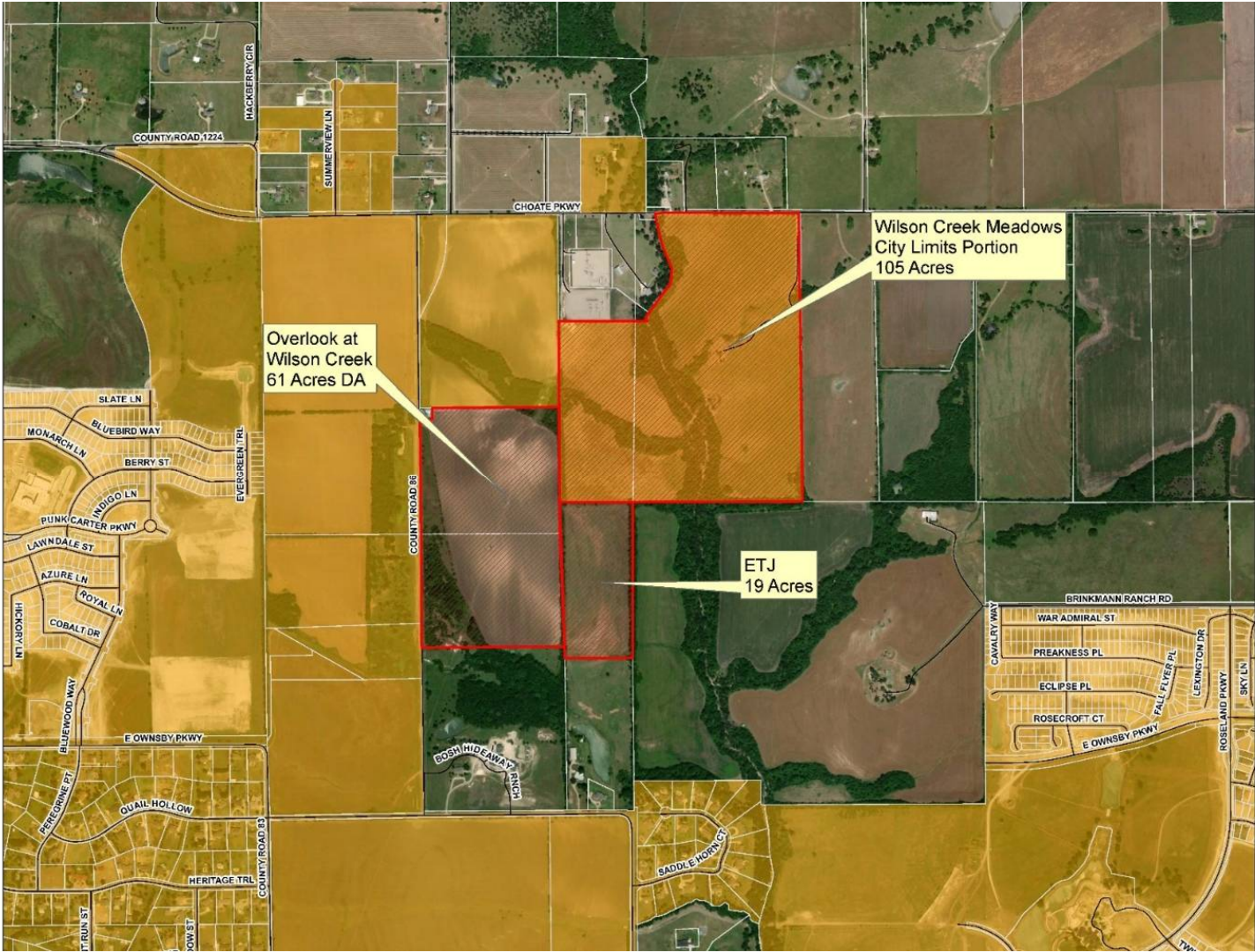
Location Map

The subject property is generally located east of CR 86 (future Coit Road) and south of Choate Parkway

Background

- The City recently approved development agreements for Wilson Creek Meadows (105 acres - 2017) and the Overlook at Wilson Creek (61 acres - 2018)
- Since that time, the developer desires to add another 19 acre tract currently located in the City's ETJ to the development to create a more holistic master planned community
- The revised development agreement outlines the joining of these tracts together under a consistent and unified set of development standards

Project Overview



Attachment: Staff Presentation (Wilson Creek Meadows)

Revisions Overview

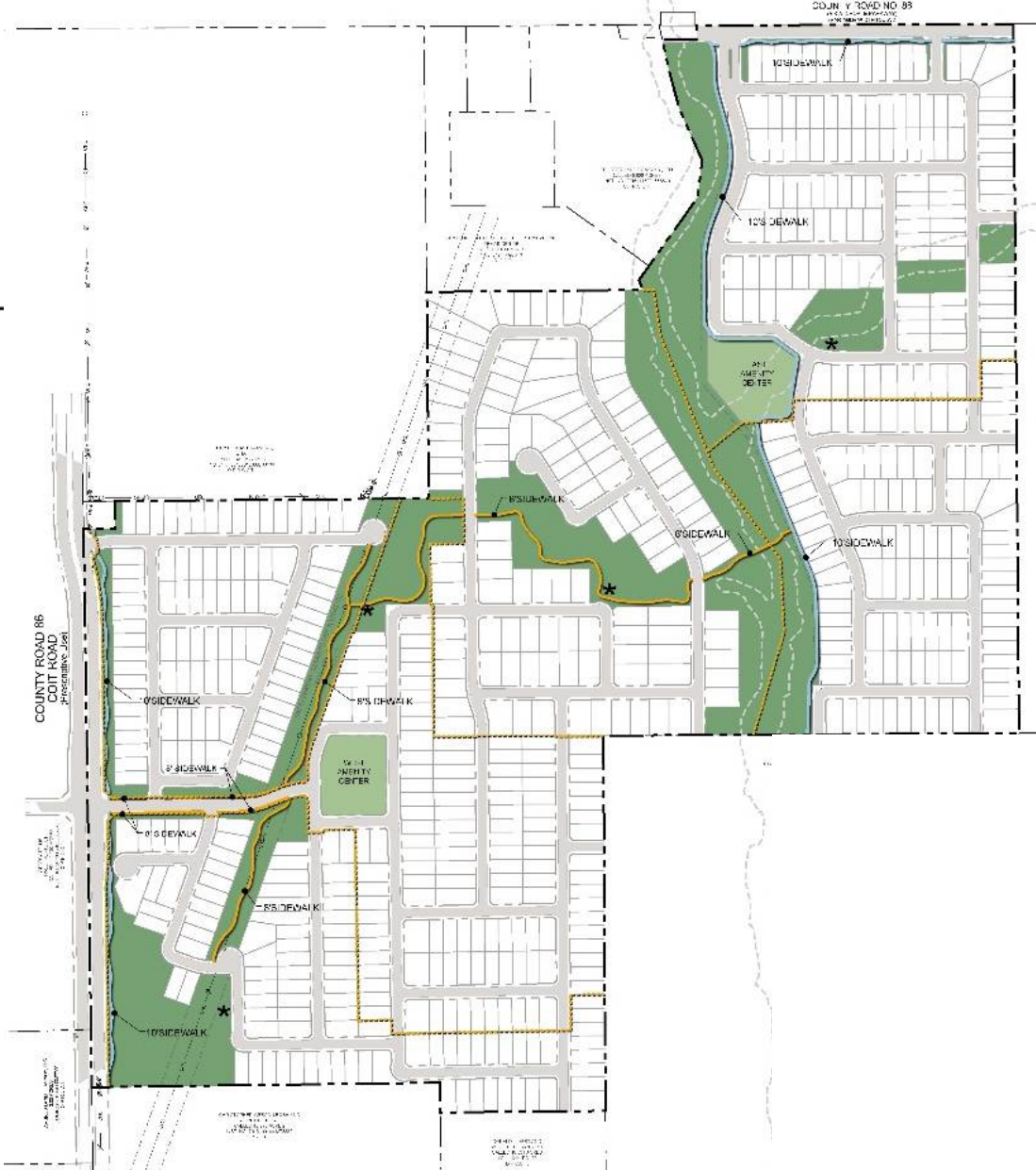
- In addition to combining the 3 various tracts into one cohesive development, the revised agreement requires additional enhancements and design standards of the future community
- A concurrent item on tonight's agenda is the creation of a PID for the new master planned community
- The purpose of the PID is to achieve and apply the aforementioned community enhancements to the entire project

Project Overview

- A 2nd amenity center is required of the master planned community – 1 for each side of Wilson Creek
- Trail extensions, wider sidewalks, enhanced landscape buffers and internal landscaping, and additional requirements were added to what was previously approved
- The final lot count is 643 lots (479 - 50s, 116 – 60s, 48 – 70s)
- Of the 185 acres, only 19 acres are being added



Concept Plan



Attachment: Staff Presentation (Wilson Creek Meadows)

Proposed Amenities



SPLASH PAD EXAMPLES

PLAYGROUND EXAMPLES



Attachment: Staff Presentation (Wilson Creek Meadows)

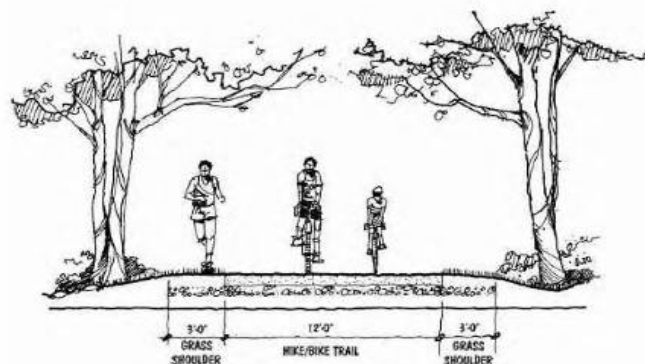
Proposed Amenities



Attachment: Staff Presentation (Wilson Creek Meadows)



Proposed Amenities



TRAIL EXAMPLE



SOCCER FIELD EXAMPLES



LANDSCAPE EXAMPLES

Proposed Amenities



Attachment: Staff Presentation (Wilson Creek Meadows)

Recommendation

- Notices were published in compliance with State and local law
- The Planning & Zoning Commission unanimously recommended approval of the revised DA at its May 21 regular meeting
- During the P&Z public hearing, nobody spoke other than the applicant and staff
- Staff recommends approval as presented



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: June 11, 2019
 Re: Sutton Fields II PID Levy Ordinance

Action Requested:

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 Neighborhood Improvement Area #3 assessment roll for the Sutton Fields II 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 payment of the assessments in accordance with Chapter 372, Texas Local Government Code, as amended; providing for the method of assessment and the payment of the assessments, providing penalties and interest on delinquent assessments, providing for severability, and providing an effective date. (Sutton Fields II SAP approval, PID levy) (DeBuff)

Background Information:

This ordinance approves a Service and Assessment Plan and area assessment roll for Sutton Fields II PID (Public Improvement District), and levies assessments against property in the District.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this ordinance.

Supporting Documents:

- Proposed ordinance

Staff Recommendation:

Staff recommends approval.

CITY OF CELINA, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND NEIGHBORHOOD IMPROVEMENT AREA #3 ASSESSMENT ROLL FOR THE SUTTON FIELDS II 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 PAYMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS, PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 3, 2015, a petition was submitted and filed with the City Secretary (the “City Secretary”) of the City of Celina, Texas (the “City”) pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the “PID Act”), requesting the creation of a public improvement district in the City to be known as the Sutton Fields II Public Improvement District (the “District”); and

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

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

WHEREAS, on October 15, 2015, the City published the Authorization Resolution in *The Dallas Morning News* a newspaper of general circulation in the City; and

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

WHEREAS, on May 28, 2019, the City Council adopted a resolution determining the total costs of the Neighborhood Improvement Area #3 Improvements, calling for a public hearing to consider the levying of the Assessments against the property within Neighborhood Improvement Area #3 of the District (the “Neighborhood Improvement Area #3 Assessments”), authorizing and directing the filing of a proposed Neighborhood Improvement Area #3 Assessment Roll, authorizing and directing the publication of notice of a public hearing to consider the levying of the Neighborhood Improvement Area #3 Assessments against the property within Neighborhood Improvement Area #3 of the District (the “Levy and Assessment Hearing”) in a newspaper of general circulation in the City, and directing related action; and

WHEREAS, the City Secretary, pursuant to Section 372.016(b) of the PID Act, published notice of the Levy and Assessment Hearing on _____, 2019 in the *Celina Record*, a newspaper of general circulation in the City; and

WHEREAS, the City Secretary, pursuant to Section 372.016(c) of the PID Act, mailed the notice of the Levy and Assessment Hearing to the last known address of the owners of the property liable for the Neighborhood Improvement Area #3 Assessments; and

WHEREAS, the City Council opened the Levy and Assessment Hearing on *June 11, 2019*, which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Neighborhood Improvement Area #3 Assessment Roll, and the proposed Neighborhood Improvement Area #3 Assessments, and to offer testimony pertinent to any issue presented on the amount of the Neighborhood Improvement Area #3 Assessments, the allocation of costs of the Neighborhood Improvement Area #3 Improvements, the purposes of the Neighborhood Improvement Area #3 Assessments, the special benefits of the Neighborhood Improvement Area #3 Assessments, and the penalties and interest on annual installments and on delinquent annual installments of the Neighborhood Improvement Area #3 Assessments; and

WHEREAS, the City Council finds and determines that the Neighborhood Improvement Area #3 Assessment Roll and the Sutton Fields II Public Improvement District Amended and Restated Service and Assessment Plan, dated June 11, 2019, (the “Service and Assessment Plan”), attached as **Exhibit A** hereto and which is incorporated herein for all purposes, should be approved and that the Neighborhood Improvement Area #3 Assessments should be levied as provided in this Ordinance and the Service and Assessment Plan and the Neighborhood Improvement Area #3 Assessment Roll attached thereto as Appendix **B-3**; and

WHEREAS, the City Council further finds that there were no written objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of costs of the Neighborhood Improvement Area #3 Improvements, the Neighborhood Improvement Area #3 Assessment Roll, or the levy of the Neighborhood Improvement Area #3 Assessments; and

WHEREAS, the City Council closed the Levy and Assessment Hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the PID Act.

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

Section 1. Terms.

Terms not otherwise defined herein are defined in the Service and Assessment Plan.

Section 2. Findings.

The findings and determinations set forth in the preambles 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. The City Council hereby finds, determines, and ordains, as follows:

(a) The apportionment of the costs of the Neighborhood Improvement Area #3 Improvements (as reflected in the Service and Assessment Plan) is fair and reasonable, reflects an accurate presentation of the special benefit each assessed Parcel will receive from the construction of the Neighborhood Improvement Area #3 Improvements identified in the Service and Assessment Plan, and is hereby approved;

(b) The Service and Assessment Plan covers a period of at least five years and defines the annual indebtedness and projected costs for the Neighborhood Improvement Area #3 Improvements;

(c) The Service and Assessment Plan apportions the cost of a Neighborhood Improvement Area #3 Improvements to be assessed against the property in the District and such apportionment is made on the basis of special benefits accruing to the property because of the Neighborhood Improvement Area #3 Improvements;

(d) All of the real property in the District which is being assessed in the amounts shown in the Neighborhood Improvement Area #3 Assessment Roll will be benefited by the Neighborhood Improvement Area #3 Improvements proposed to be constructed as described in the Service and Assessment Plan, and each assessed Parcel will receive special benefits in each year equal to or greater than each annual Neighborhood Improvement Area

#3 Assessments and will receive special benefits during the term of the Neighborhood Improvement Area #3 Assessments equal to or greater than the total amount assessed;

(e) The method of apportionment of the costs of the Neighborhood Improvement Area #3 Improvements set forth in the Service and Assessment Plan results in imposing equal shares of the costs of the Neighborhood Improvement Area #3 Improvements on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the costs;

(f) The Service and Assessment Plan should be approved as the service plan and assessment plan for the District as described in Sections 372.013 and 372.014 of the PID Act;

(g) The Neighborhood Improvement Area #3 Assessment Roll in the form attached as Appendix **B-3** to the Service and Assessment Plan should be approved as the Neighborhood Improvement Area #3 Assessment Roll for Neighborhood Improvement Area #3 of the District;

(h) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Neighborhood Improvement Area #3 Assessments, interest on Annual Installments, interest and penalties on delinquent Neighborhood Improvement Area #3 Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Neighborhood Improvement Area #3 Assessments should be approved and will expedite collection of the Neighborhood Improvement Area #3 Assessments in a timely manner in order to provide the services and improvements needed and required for the area within the District; and

(i) A written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon.

Section 3. Service and Assessment Plan.

The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the PID Act as the service plan and the assessment plan for the District.

Section 4. Neighborhood Improvement Area #3 Assessment Roll.

The Neighborhood Improvement Area #3 Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the PID Act as the Neighborhood Improvement Area #3 Assessment Roll for Neighborhood Improvement Area #3 of the District.

Section 5. Levy and Payment of Special Assessments for Costs of Authorized Improvements.

(a) The City Council hereby levies an assessment on each tract of property (excluding non-benefitted property) located within Neighborhood Improvement Area #3 of the District, as shown and described on the Service and Assessment Plan and the Neighborhood Improvement Area #3 Assessment Roll, in the respective amounts shown on the Neighborhood Improvement Area #3 Assessment Roll as a special assessment on the properties set forth in the Neighborhood Improvement Area #3 Assessment Roll.

(b) The levy of the Neighborhood Improvement Area #3 Assessments shall be effective on the date of execution of this Ordinance levying Neighborhood Improvement Area #3 Assessments and strictly in accordance with the terms of the Service and Assessment Plan.

(c) The collection of the Neighborhood Improvement Area #3 Assessments shall be as described in the Service and Assessment Plan. The collection of the first Annual Installment for a Neighborhood Improvement Area #3 Lot or Neighborhood Improvement Area #3 Parcel shall commence upon the earlier of (i) the issuance of one or more Neighborhood Improvement Area #3 PID Bonds secured by the Neighborhood Improvement Area #3 Assessment Revenues, or (ii) the two year anniversary of the levy of Assessments on the Neighborhood Improvement Area #3 Assessed Property. Such first Annual Installment for a Neighborhood Improvement Area #3 Lot or Neighborhood Improvement Area #3 Parcel shall be due by January 31st of the following calendar year.

(d) Each Neighborhood Improvement Area #3 Assessment may be paid in a lump sum at any time or may be paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.

(e) Each Neighborhood Improvement Area #3 Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan.

(f) Each Annual Installment shall be collected each year in the manner set forth in the Service and Assessment Plan.

(g) The Administrative Expenses for the Assessed Property shall be calculated pursuant to the terms of the Service and Assessment Plan.

Section 6. Method of Assessment.

The method of apportioning the costs of the Neighborhood Improvement Area #3 Improvements is as set forth in the Service and Assessment Plan.

Section 7. Penalties and Interest on Delinquent Assessments.

Delinquent Neighborhood Improvement Area #3 Assessments shall be subject to the penalties, interest, procedures, and foreclosure sales set forth in the Service and Assessment Plan. The Neighborhood Improvement Area #3 Assessments shall have lien priority as specified in the PID Act, the Service and Assessment Plan, and as otherwise allowed by law.

Section 8. Prepayments of Assessments.

As provided in Section VII of the Service and Assessment Plan, the owner of any Neighborhood Improvement Area #3 Assessed Property may prepay the Neighborhood Improvement Area #3 Assessments levied by this Ordinance.

Section 9. Lien Priority.

The City Council and the owners of property in Neighborhood Improvement Area #3 of the District intend for the obligations, covenants and burdens on the landowners of the Neighborhood Improvement Area #3 Assessed Property, including without limitation the property owners' obligations related to payment of the Neighborhood Improvement Area #3 Assessments and the Annual Installments thereof, to constitute covenants that shall run with the land. The Neighborhood Improvement Area #3 Assessments and the Annual Installments thereof which are levied hereby shall be binding upon the Assessed Parties, as the owners of the property in the District of the Neighborhood Improvement Area #3 Assessed Property, and their respective transferees, legal representatives, heirs, devisees, successors and assigns in the same manner and for the same period as such parties would be personally liable for the payment of ad valorem taxes under applicable law. The Neighborhood Improvement Area #3 Assessments shall have lien priority as specified in the Service and Assessment Plan and the PID Act.

Section 10. Appointment of Initial Administrator and Collector of Assessments.

(a) Appointment of Initial Administrator.

MuniCap, Inc. is hereby appointed and designated as the initial Administrator of the Service and Assessment Plan and of the Neighborhood Improvement Area #3 Assessments levied by this Ordinance. The Administrator shall perform the duties of the Administrator described in the Service and Assessment Plan, in this Ordinance and in any contract between the City and the Administrator. The Administrator's fees, charges and expenses for providing such service shall constitute an Administrative Expense.

(b) Appointment of Temporary Collector.

The City's Director of Finance is hereby appointed and designated as the temporary collector of the Neighborhood Improvement Area #3 Assessments (the "Collector"). The Collector shall serve in such capacity until such time as the City shall arrange for the Collector's duties to be performed by the Denton County Tax Assessor and Collector or another qualified collection agent is selected by the City.

Section 11. Applicability of Tax Code.

To the extent not inconsistent with this Ordinance, and not inconsistent with the PID Act or the other laws governing public improvement districts, the provisions of the Texas Tax Code shall be applicable to the imposition and collection of Neighborhood Improvement Area #3 Assessments by the City.

Section 12. Filing in Land Records.

The City Secretary is directed to cause a copy of this Ordinance, including the Service and Assessment Plan and the Neighborhood Improvement Area #3 Assessment Roll, to be recorded in the real property records of Denton County. The City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council.

Section 13. Severability.

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity or any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 14. Effective Date.

This Ordinance shall take effect, and the levy of the Neighborhood Improvement Area #3 Assessments, and the provisions and terms of the Service and Assessment Plan shall be and become effective upon passage and execution hereof.

[Remainder of Page Intentionally Left Blank; Signatures to Follow]

ADOPTED, PASSED, AND APPROVED on this the 11th day of June, 2019.

ATTEST:

CITY OF CELINA

Vicki Faulkner, City Secretary

Chad Anderson, Mayor Pro-Tem

APPROVED AS TO FORM

Julie Fort, Attorney for the City

Exhibit A

Service and Assessment Plan



Finance Department
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Dawn Berry, Purchasing Manager
 CC: Jay Toutounchian, Finance Director
 Date: June 11, 2019
 Re:

Action Requested:

Consider and act to authorize the City Manager to execute a five year contract between the City of Celina and BKD, LLP in the amount of \$280,000.00 in total (\$52,000 for year one) of the City's Audit Services, Bid 2019-0005. (Berry)

Background Information:

On April 18, 2019, the City received submittals for RFP 2019-0005 for annual audit services for the City and EDC. The invitation was advertised in the local paper and posted on the City's eProcurement system in which forty-one vendors were notified. Two submittals and one no bid were received. Staff reviewed the two responses, interviewed each of the firms, scored the firms and recommends BKD.

The term of the agreement will be for three years with the option to renew for two additional years. Pricing is firm for the term of the agreement.

Alternatives:

N/A

Financial Considerations:

Funding is available in the current budget and will be budgeted accordingly.

	City Financial Audit	EDC Financial Audit	Total Per Year for Both Audits
2019	\$47,000.00	\$5,000.00	\$52,000.00
2020	\$48,750.00	\$5,250.00	\$54,000.00
2021	\$50,500.00	\$5,500.00	\$56,000.00
2022	\$52,250.00	\$5,750.00	\$58,000.00
2023	\$54,000.00	\$6,000.00	\$60,000.00
Contract Total			\$280,000.00

Expenditures will not exceed funds appropriated. Funds will be committed at the issuance of a purchase order for each year.

Legal Review:

N/A

Supporting Documents:

Agreement

Staff Recommendation:

Staff recommends awarding bid 2019-0005 to BKD, LLP in an amount not to exceed \$280,000.00 and to authorize the City Manager to execute the agreement.

CITY OF CELINA, TEXAS

Standard Professional Services Agreement

This Agreement made by and between the City of Celina, Texas, a Texas home-rule municipality (hereinafter referred to as the "Owner") and **BKD, LLP**, (hereinafter referred to as the "Consultant") for **Audit Services, RFP 2019-0005**, (hereinafter referred to as the "Project"). In consideration of the premises, covenants and mutual promises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the Consultant hereby agree as follows:

ARTICLE I: CONTRACT & CONTRACT DOCUMENTS

1.1 THE CONTRACT

The Contract between the Owner and the Consultant, of which this Agreement is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last Party to execute it.

1.2. THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, the Invitation to Bid, Requirements and Instructions to Bidders, the Specifications, terms and conditions, Attachments, Change Orders issued hereafter, Response to the bid, all engagement letters for each fiscal year, and any other amendments hereto executed by the parties hereafter, together with the following (if any): None

ARTICLE 2: RECITALS

- 2.1 The City desires to have the Consultant provide audit services for fiscal years 2019-2023; and
- 2.2 The Consultant has the knowledge, ability and expertise to provide such services; and
- 2.3 The City desires to engage the services of Consultant, as an independent Consultant and not as an employee, to provide services as set forth herein and in Exhibit A: specifications.

ARTICLE 3: TERM / TERMINATION

3.1 TERM

The term of this Agreement shall begin on the date of its execution by all Parties. This Agreement shall continue until Consultant completes the services required herein to the satisfaction of the City unless sooner terminated as provided herein.

3.2 TERMINATION

This Agreement may be suspended or terminated by either Party with or without cause at any time by giving written notice to the other Party. In the event suspension or termination is without cause, payment to the Consultant, in accordance with the terms of this Agreement, will be made on the basis of services reasonably determined by City to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to City.

In the event that the City requires a modification of this Agreement with Consultant, and in the event the Parties fail to agree upon a modification of this Agreement, the Parties shall have the option of terminating this Agreement. Payment to Consultant shall be made by the City in accordance with the terms of this Agreement, for the services mutually agreed upon by the Parties to be properly performed by the Consultant prior to such termination date.

ARTICLE 4: SCOPE OF SERVICES

4.1 SCOPE

The following services, when authorized in writing by a Notice to Proceed, shall be performed by Consultant in accordance with the City's requirements and as set forth in Exhibit A, Specifications:

Audit Services for Fiscal Years 2017-2021

4.2 AUTHORIZED AGENT

All work performed by the Consultant will be performed under this Agreement, signed by a duly authorized agent of the City as approved by City Council of the City of Celina Texas, and the designated authorized agent for the Consultant.

ARTICLE 5: COMPENSATION / PAYMENT TERMS AND CONDITIONS

5.1 Compensation for the performance of Professional Services described herein shall be paid to Consultant by the City in a total amount not to exceed **Two Hundred Eighty Thousand** dollars (\$280,000.00) which shall accrue and be payable as provided below.

5.2 Work will be performed at the rates set forth below for each fiscal year.

	City Financial Audit	EDC Financial Audit	Total Per Year for Both Audits
2019	\$47,000.00	\$5,000.00	\$52,000.00
2020	\$48,750.00	\$5,250.00	\$54,000.00
2021	\$50,500.00	\$5,500.00	\$56,000.00
2022	\$52,250.00	\$5,750.00	\$58,000.00
2023	\$54,000.00	\$6,000.00	\$60,000.00
Contract Total			\$280,000.00

5.3 Payment for work under this Agreement shall be made as progress payments as services are rendered. Billing shall not be more frequently than once each month for the prior month. If the City fails to make any payment due the Consultant within thirty (30) days after receipt of Consultant's invoice, the amounts due the Consultant will be increased at the rate of 1.5% per month from said thirtieth day, unless there is a good faith refusal by the City to pay. Payment shall be remitted to Consultant by City as instructed on invoices.

ARTICLE 6: TIME FOR COMPLETION

6.1 The Consultant's services and compensation under this Agreement have been agreed to in anticipation of orderly and continuous progress of the Assigned Project(s) through completion of the project(s). Specific periods of time for rendering services are set forth in Exhibit A and the Engagement letter for each Fiscal Year to this Agreement, by which times defined services are to be completed.

6.2 If the City fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, the Consultant shall be entitled to equitable adjustment of rates and amounts of compensations to reflect reasonable costs incurred by Consultant as a result of the delay or changes in the various elements that comprise such rates of compensation, but in no event shall such compensation exceed the scope of services schedule of maximum payment unless a written amendment to this Agreement is executed between the Parties.

ARTICLE 7: INDEMNIFICATION

7.1 THE CONSULTANT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD HARMLESS THE CITY , ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES (HEREINAFTER COLLECTIVELY REFERRED TO AS "INDEMNITEES") FROM AND AGAINST THIRD-PARTY SUITS, ACTIONS, CLAIMS, LOSSES, ANY DAMAGE, LIABILITY, AND FROM AND AGAINST ANY COSTS AND EXPENSES, INCLUDING, IN PART, ATTORNEY'S FEES INCIDENTAL TO THE DEFENSE OF SUCH SUITS, ACTIONS CLAIMS, LOSSES, DAMAGES OR LIABILITY ON ACCOUNT OF INJURY, DISEASE, SICKNESS, INCLUDING DEATH, TO ANY PERSON OR DAMAGE TO PROPERTY INCLUDING, IN PART, THE LOSS OF USE RESULTING THEREFROM, TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CONSULTANT, ITS OFFICERS, EMPLOYEES, SERVANTS, AGENTS OR SUBCONTRACTORS, OR ANYONE ELSE UNDER THE CONSULTANT'S DIRECTION AND CONTROL.. THIS INDEMNIFICATION IS SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE, § 271.904(A) AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002(B), AS SAME MAY BE APPLICABLE TO CONSULTANT AS A MATTER OF LAW.

7.02 NOTHING CONTAINED HEREIN SHALL CONSTITUTE A WAIVER OF GOVERNMENTAL IMMUNITY IN FAVOR OF ANY PARTY.

7.03 CONSULTANT AGREES THAT IT IS AN INDEPENDENT CONTRACTOR AND NOT AN AGENT OF THE CITY, AND THAT CONSULTANT IS SUBJECT, AS AN EMPLOYER, TO ALL APPLICABLE UNEMPLOYMENT COMPENSATION STATUTES, SO FAR AS TO RELIEVE THE CITY OF ANY RESPONSIBILITY OR LIABILITY FROM TREATING CONSULTANT'S EMPLOYEES AS EMPLOYEES OF CITY FOR THE PURPOSE OF KEEPING RECORDS, MAKING REPORTS OR PAYMENTS OF UNEMPLOYMENT COMPENSATION TAXES OR CONTRIBUTIONS. CONSULTANT FURTHER AGREES TO INDEMNIFY AND HOLD THE CITY HARMLESS AND REIMBURSE IT FOR ANY EXPENSES OR LIABILITY INCURRED UNDER SAID STATUTES IN CONNECTION WITH EMPLOYEES OF CONSULTANT.

7.04 CONSULTANT SHALL DEFEND AND INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL CLAIMS, SUITS OR LIENS BASED UPON OR ALLEGED TO BE BASED UPON THE NON-PAYMENT OF LABOR, TOOLS, MATERIALS, EQUIPMENT, SUPPLIES, TRANSPORTATION AND MANAGEMENT COSTS INCURRED BY CONSULTANT IN PERFORMING THIS AGREEMENT.

ARTICLE 8: INSURANCE

8.1 Insurance

The Consultant shall provide and maintain insurance as listed in the insurance requirements.

ARTICLE 9: DEFAULT

In the event Consultant fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within thirty (30) days after written notice by City to Consultant, City may, at its sole discretion without prejudice to any other right or remedy.

- (a) Terminate this Agreement and be relieved of the payment of any further consideration to Consultant except for all work determined by the City to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Consultant to and from meetings called by the City at which Consultant is required to attend, but shall not include any loss of profit of Consultant. In the event of such termination, the City may proceed to complete the services in any manner deemed proper by the City , either by the use of its own forces or by resubmitting to others. Consultant agrees that any costs incurred to complete the services herein provided for may be deducted and paid by the City out of such monies as

may be due or that may thereafter become due to Consultant under and by virtue of this Agreement.

- (b) The City may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of Consultant.

ARTICLE 10: MISCELLANEOUS

10.1 Entire Agreement.

This Agreement and the engagement letters for each fiscal year constitute the sole and only Agreement of the Parties and supersedes any prior understandings or written or oral agreements between the Parties with respect to this subject matter.

10.2 Assignment.

Neither this Agreement nor any duties or obligations under it shall be assignable by Consultant without the prior written consent of the City. In the event of an assignment by Consultant to which the City has consented, the assignee or the assignee's legal representative shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, obligations, and agreements contained in this Agreement.

10.3 Adjustments in Services/Amendment.

This Agreement may be amended by the mutual written agreement of the Parties. Consultant shall not make any claims for extra services, additional services or changes in the services without a written agreement with the City prior to the performance of such services.

10.4 Governing law.

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in Denton County, Texas.

10.5 Notices.

All notices required by this Agreement shall be in writing and addressed to the following, or such other Party or address as either Party designates in writing, by certified mail, postage prepaid or by hand delivery:

CITY OF CELINA

Purchasing
142 N. Ohio
Celina, TX 75009
469-813-4194
Contracts@celina-tx.gov

BKD, LLP

David Coleman
14241 Dallas Parkway
Suite 1100
Dallas, TX 75254
dcoleman@bkd.com

10.7 Legal construction.

In the event any one or more of the provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

10.8 Successors and Assigns.

- (a) The City and Consultant each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns of City and Consultant are hereby bound to the other Party to this Agreement and to the partners, successors, executors, administrators, legal representatives and assigns of such other Party in respect of all covenants and obligations of this Agreement.
- (b) Neither the City nor the Consultant may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other Party, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- (c) Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by the Consultant to any Consultant, subcontractor, supplier, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than the City and the Consultant.

10.9 Conflict.

If a conflict exists between this Agreement, and an Exhibit, the Request for Proposal ("RFP"), and/or the Response, then such conflicts shall be resolved as follows:

- (a) If a conflict exists between this Agreement and an Exhibit, the RFP, or the Response, then this Agreement shall control.
- (b) If a conflict exists between the Response and an Exhibit, the Exhibit shall control.
- (c) If a conflict exists between the Response and the RFP, the RFP shall control.
- (d) If a conflict exists between this Agreement and any engagement letter for a given fiscal year, the terms of the engagement letter shall control.

10.10 Severability

Any provision or part of this Agreement that is held to be void or unenforceable under any law or regulation or by a court of competent jurisdiction shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.11 Captions

The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretations of the provisions set forth herein.

10.12 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.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

CITY OF CELINA

CONSULTANT

Jason Laumer, City Manager

Printed Name and Title

Date

Date

Exhibit A: Specification and Response

Attachment: Celina TX Agreement with BKD legal edits - Accepted (Audit Services)



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: June 11, 2019
Re: Notice of Intent to sell certificates of obligation.

Action Requested:

Consider and act upon a resolution approving and authorizing publication of notice of intention to issue certificates of obligation. (Toutouchian)

Background Information:

Board Review/Citizen Input:

N/A

Alternatives:

Financial Considerations:

Legal Review:

Bond Counsel has provided the resolution.

Supporting Documents:

resolution

Staff Recommendation:

RESOLUTION NO. 2019-_____

A RESOLUTION approving and authorizing publication of notice of intention to issue certificates of obligation.

WHEREAS, the City Council (the “Council”) of the City of Celina, Texas (the “City”), has determined that certificates of obligation (the “Certificates”) should be issued under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271, for the purpose of paying contractual obligations to be incurred for authorized needs and purposes, to wit: (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 (together, the “Project”); and

WHEREAS, prior to the issuance of such certificates, the Council is required to publish notice of its intention to issue the same in a newspaper of general circulation in the City, said notice stating (i) the time and place the Council tentatively proposes to pass the ordinance authorizing the issuance of the certificates, (ii) the maximum amount proposed to be issued, (iii) the purposes for which the certificates are to be issued and (iv) the manner in which the Council proposes to pay the certificates; now, therefore,

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

SECTION 1: The City Secretary is hereby authorized and directed to cause notice to be published of the Council’s intention to issue certificates of obligation, in one or more series, in a principal amount not to exceed the amount set forth in **Exhibit A** attached hereto 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, and such certificates shall be payable from ad valorem taxes and a limited pledge of the net revenues of the City’s combined Waterworks and Sewer System. The notice hereby approved and authorized to be published shall read substantially in the form and content of **Exhibit A** hereto attached and incorporated herein by reference as a part of this resolution for all purposes.

SECTION 2: The City Secretary shall cause the aforesaid notice to be published in a newspaper of general circulation in the City, once a week for two consecutive weeks, the date of the first publication to be at least thirty-one (31) days prior to the date stated therein for the passage of the ordinance authorizing the issuance of the certificates of obligation.

SECTION 3: It is officially found, determined, and declared that the meeting at which this Resolution 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 Resolution, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 4: This Resolution shall be in force and effect from and after its passage on the date shown below.

[remainder of page intentionally left blank]

Attachment: 2019- R - Intent to issue Resol (Notice of Intent)

PASSED AND ADOPTED, this June 11, 2019.

CITY OF CELINA, TEXAS

ATTEST:

Mayor

City Secretary

(City Seal)

Attachment: 2019- R - Intent to issue Resol (Notice of Intent)

EXHIBIT A

NOTICE OF INTENTION TO ISSUE CITY OF
CELINA, TEXAS, CERTIFICATES OF OBLIGATION

TAKE NOTICE that the City Council of the City of Celina, Texas, shall convene at 5:00 p.m. on August 13, 2019, in the Celina ISD Admin Bldg., Board Room, located at 205 S. Colorado Street, Celina, Texas, and, during such meeting, the City Council will consider the passage of one or more ordinances authorizing the issuance of certificates of obligation, in one or more series, in a principal amount not to exceed \$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, and such certificates shall be payable from ad valorem taxes and a limited pledge of the net revenues of the City's combined waterworks and sewer system. The certificates are to be issued, and this notice is given, under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271.

Vicki Faulkner, City Secretary
City of Celina, Texas

Attachment: 2019- R - Intent to issue Resol (Notice of Intent)

CERTIFICATE OF OBLIGATION

FISCAL YEARS 2020

FISCAL YEAR 2020 General Fund		FISCAL YEAR 2020 Water/Wastewater Fund	
Principal	23,551,000	Principal	19,449,000
Description	Budget	Description	Budget
Sutton Fields Fire Station 3	1,100,000	DT ELEVATED STORAGE TANK	225,00
Punk Carter Station 4	900,000	CRPS TO DTPS TRANSMISSION LINE	11,500,00
		PRESTON RD WATER LINE - OWNSBY/PRESTHIL	2,100,00
Total Fire & EMS	\$ 2,000,000	KENTUCKY STREET RECONST	335,00
		COLORADO STREET RECONST	850,00
GLENDENNING PKWY CR 55	750,000	GROUND STORAGE TANK	1,000,00
COLORADO STREET RECONSTRUCTION	770,000	PRESTON RD SEWER LINE -OWNSBY/FRONTIER	450,00
SH 289 LIGHTING	1,000,000	KENTUCKY STREET RECONST	350,00
		COLORADO STREET RECONST	350,00
Total Streets	\$ 2,520,000	COLLIN COLLEGE SEWER LINE	600,00
		Total Water/Wastewater	\$ 17,760,00
Annex Renovations	1,850,000		
EDC/Main Street Remodel	800,000	COLORADO STREET DRAINAGE	\$ 1,400,00
POLICE FACILITY (SITE ACQUISITION)	1,500,000		
POLICE FACILITY (DESIGN)	1,500,000	Total Drainage	\$ 1,400,00
Total Buildings/Structures	\$ 5,650,000		
OLD CELINA PARK	13,000,000		
Total Parks	13,000,000		
Grand Total	\$ 23,170,000	Grand Total	\$ 19,160,00
ESTIMATED ISSUANCE COSTS	381,000	ESTIMATED ISSUANCE COSTS	289,00
TAX SUPORTED (GENERAL FUND)	23,551,000	W/S REVENUE SUPORTED (W/S FUND)	19,449,00
TAX SUPORTED (GENERAL FUND)	23,551,000.00		
W/S REVENUE SUPORTED (W/S FUND)	19,449,000.00		
TOTAL BONDS TO BE ISSUED	43,000,000		

Attachment: Certificates of Obligation (Notice of Intent)



CERTIFICATES OF OBLIGATION TO BE ISSUED SUMMER 2019



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: June 11, 2019
 Re: Celina Hills Development Agreement

Action Requested:

Consider and act upon a Development Agreement by and between the City of Celina and Westgate HS Celina Investments L.P. (Celina Hills Development Agreement) (DeBuff)

Background Information:

This development agreement contemplates the City of Celina to be the retail provider of water and sewer services to the property, the creation of a master planned community to be known as Celina Hills, to include amenities such as hike and bike trails and park and open space improvements, road improvements, infrastructure, and funding for infrastructure through an 80.5 acre Public Improvement District (PID).

Fees are proposed in the following amounts per residential lot:

- Technology fee: \$500
- Park Fee: \$1,500
- Water Impact Fee: \$2,000
- Wastewater Impact fee: \$2,000
- Roadway Impact fee: \$1,000
 - o Roadway Impact Fees will increase to \$2,000 once PID Bonds are issued and paid to Owner for the acquisition of Park Carter Parkway right of way.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

This agreement has been reviewed by the City Attorney.

Supporting Documents:

- Proposed agreement

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: June 11, 2019
Re: Agreement to buy 23.7 acres from Westgate HS Celina Investments

Action Requested:

Consider and act upon a resolution and agreement by and between the City of Celina and Westgate HS Celina Investments, L.P. for a land purchase by the city of 23.7 acres. (Celina Hills) (DeBuff)

Background Information:

This agreement contemplates the purchase of 23.7 acres, located approximately at the southwest corner of the future Punk Carter Parkway and Coit Road, for the price of \$1,800,000. Of the purchase price, \$1,500,000 will be paid at the time of closing the sale, and \$300,000 will be paid via a 380 Grant from the fees collected from the development agreement property of 119.151 acres, located at approximately the southwest corner of Choate Parkway and Coit road and including the 23.7 acre property contemplated in this sale.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this agreement.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.



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: June 11, 2019
Re: Resolution accepting Celina Hills PID Petition

Action Requested:

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

Background Information:

This resolution accepts the PID petition from the Celina Hills development, and calls for a public hearing to create the District.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this resolution.

Supporting Documents:

- Proposed resolution

Staff Recommendation:

Staff recommends approval.

**CITY OF CELINA, TEXAS
RESOLUTION NO. __**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA,
TEXAS, ACCEPTING A PETITION TO CREATE THE CELINA HILLS
PUBLIC IMPROVEMENT DISTRICT AND CALLING FOR A PUBLIC
HEARING.**

WHEREAS, Chapter 372 of the Texas Local Government Code (the “*Act*”) authorizes the creation of public improvement districts; and

WHEREAS, on June 3, 2019, the owners of real property delivered to the City of Celina, Texas (the “*City*”) a petition (the “*Petition*”, which is attached as **Exhibit A** and incorporated herein for all purposes) meeting the requirements of the Act and indicating: (i) the owners of more than fifty percent (50%) of the appraised value of the taxable real property liable for assessment, and (ii) the owners of more than fifty percent (50%) of the area of all taxable real property liable for assessment within the District have executed the Petition requesting that the City Council create the Celina Hills Public Improvement District (the “*District*”); and

WHEREAS, the Act states that the Petition 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; and

WHEREAS, the Act further requires that prior to the adoption of the resolution creating the District, the City Council must hold a public hearing on the advisability of the improvements, the nature of the improvements contemplated, the estimated costs of the improvements, the boundaries of the District, the method of assessment, and the apportionment, if any, of the costs between the District and the City.

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. City staff reviewed the Petition and determined that same complied with the requirements of the Act and the City Council accepts the Petition. The Petition is filed with the office of the City Secretary and is available for public inspection.

Section 3. The City Council calls a public hearing to be scheduled at or after 5:00 p.m. on July 9, 2019 to be held at the regular meeting place of the City Council in the Celina I.S.D. Administration Building located at 205 S. Colorado Street, Celina, Texas on the advisability of the improvements, the nature of the improvements contemplated, the estimated costs of the improvements, the boundaries of the District, the method of assessment, and the apportionment, if any, of the costs between the District and the City. Attached hereto as **Exhibit B** is a form of the Notice of Public Hearing, the form and substance of which is hereby adopted and approved. All residents and property owners within the District, and all other persons, are hereby invited to appear in person, or by their attorney, and speak on the creation of the District.

Section 4. The City Council hereby authorizes and directs the City Secretary, on or before June 22, 2019, in accordance with the Act, to: (a) publish notice of the public hearing in a newspaper of general circulation in the City; and (b) mail notice of the public hearing to the owners of property located in the proposed District as reflected on the tax rolls.

[Remainder of page left blank intentionally.]

PASSED AND APPROVED THIS THE 11TH DAY OF JUNE, 2019.

CITY OF CELINA, TEXAS

SEAN TERRY, MAYOR

ATTEST:

VICKI FAULKNER, CITY SECRETARY

EXHIBIT A PETITION FOR CREATION

PETITION FOR THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT WITHIN THE CITY OF CELINA, TEXAS, FOR THE CELINA HILLS DEVELOPMENT

This petition (the "Petition") is submitted and filed with the City Secretary of the City of Celina, Texas (the "City"), by Westgate HS Celina Investments, L.P., a Texas limited partnership (the "Owner"), acting pursuant to the provisions of Chapter 372, Texas Local Government Code, as amended (the "Act"), requesting that the City create a public improvement district (the "District") to include property owned by the Owner and located within the corporate limits of the City (the "Property"), more particularly described in Exhibit A and depicted in Exhibit B. In support of this Petition, the Owner would present the following:

Section 1. General Nature of the Authorized Improvements. The purposes of the District include the design, acquisition, and construction of public improvement projects authorized by §372.003(b) of the Act that are necessary for development of the Property, which public improvements will include, but not be limited to: (i) roadway improvements, drainage improvements, water and wastewater system improvements, right-of-way acquisition, parks, open space, landscaping, and trail systems; and other similar improvement projects; and, (ii) and payment of expenses incurred in the establishment, administration and operation of the District (collectively, the "Authorized Improvements"). These Authorized Improvements shall promote the interests of the City and confer a special benefit on the Property.

Section 2. Estimated Cost of the Authorized Improvements. The Owner estimates that the cost to design, acquire, and construct the Authorized Improvements is \$5,625,000.00.

Section 3. Boundaries of the Proposed District. The District is proposed to include the Property.

Section 4. Proposed Method of Assessment. The City shall levy an assessment on each lot within the District to pay the cost of the Authorized Improvements in a manner that results in imposing equal shares of the cost on property similarly benefited. Each assessment may be paid in full at any time (including accrued and unpaid interest) or may be paid in annual installments (including interest and debt). The annual installments must be paid in amounts necessary to meet annual costs for the Authorized Improvements and must continue for a period necessary to retire the indebtedness on the Authorized Improvements.

Section 5. Proposed Apportionment of Cost between the District and the City. The City shall not be obligated to provide any funds to finance the Authorized Improvements. The cost of the Authorized Improvements will be paid from the assessments and from other sources of funds, if any, available to the Owner.

Section 6. Management of the District. The Owner proposes that the District 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.

Section 7. Owner Requests Establishment of the District. The person signing this Petition requests the establishment of the District.

Section 8. Advisory Board. The Owner proposes that the District be established and managed without the creation of an advisory body.

This Petition has been signed by (1) the owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and (2) record owners of real property liable for assessment under the proposal who: (A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or (B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

This Petition is hereby filed with the City Secretary of the City in support of the creation of the District by the City Council as herein provided. The undersigned requests that the City Council grant its consent as above stated.

RESPECTFULLY SUBMITTED, on this the 31st day of May, 2019.

WESTGATE HS CELINA INVESTMENTS, L.P.,
a Texas limited partnership

By: HFI Irving RE GP, LLC,
a Texas limited liability company,
its general partner

By: 

Thomas C. Hillsman, Authorized Signatory

Exhibit A

Metes and Bounds Description of the Property

See Following Pages

Exhibit A to the Celina Hills PID Creation Petition – Page 1

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**CELINA HILLS
PID DESCRIPTION
CELINA, COLLIN COUNTY, TEXAS
METES-AND-BOUNDS DESCRIPTION**



BEING a tract of land situated in the M. Wilhite Surveys, Abstract Numbers 1008 and 1009, City of Celina, Collin County, Texas, being part of the tract described in the deed to WESTGATE 115 INVESTORS, L.P., recorded in Document Number 20130621000869270, Official Public Records, Collin County, Texas, the subject tract being more particularly described as follows (bearings are based on the State Plane Coordinate System, Texas North Central Zone (4202), North American Datum of 1988 (NAD '88), description is based on recorded documents, limited field survey work was performed. This description for use in zoning/PID application only, is preliminary, and shall not be used, viewed or relied upon as a final survey document):

COMMENCING at a 1/2 inch rebar found within an asphalt roadway at the northwest corner of the tract described in the deed to Celina Coit 49 Partners, LTD, recorded under Document Number 20120612000700130, Official Public Records, Collin County, Texas;

THENCE with the west line of said Celina Coit 49 Partners, LTD. Tract, SOUTH 00 degrees 39 minutes 49 seconds EAST, a distance of 995.29 feet to the northwest corner and **POINT OF BEGINNING** of the herein described tract;

THENCE with the west line of said Celina Coit 49 Partners tract, SOUTH 00 degrees 39 minutes 49 seconds EAST, a distance of 715.01 feet to the southwest corner of said Celina Coit 49 Partners tract, from which a PK nail found bears SOUTH 17 degrees EAST, 4.25 feet;

THENCE with the east line of said Westgate 115 Investors tract, SOUTH 00 degrees 49 minutes 45 seconds EAST, a distance of 646.21 feet;

THENCE through the interior of said Westgate 115 Investors tract, the following calls:

1. SOUTH 89 degrees 12 minutes 21 seconds WEST, a distance of 542.27 feet;
2. SOUTH 00 degrees 47 minutes 39 seconds EAST, a distance of 426.50 feet;
3. NORTH 89 degrees 12 minutes 21 seconds EAST, a distance of 542.53 feet to the east line of said Westgate 115 Investors tract;

THENCE with the perimeter and to the corners of said Westgate 115 Investors tract, the following calls:

1. SOUTH 00 degrees 49 minutes 45 seconds EAST, a distance of 841.82 feet;
2. SOUTH 88 degrees 12 minutes 25 seconds WEST, a distance of 1308.94 feet;
3. SOUTH 89 degrees 09 minutes 05 seconds WEST, a distance of 70.31 feet;
4. NORTH 00 degrees 55 minutes 30 seconds WEST, a distance of 2742.88 feet;

Kirkman Engineering, LLC | Barton Chapa Surveying, LLC
4821 Merlot Avenue, Suite 210
Grapevine, TX 76051 | 817.488.4960
TBPE FIRM# 15874 | TBPLS FIRM# 10194474

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CELINA HILLS
PID DESCRIPTION
CELINA, COLLIN COUNTY, TEXAS
METES-AND-BOUNDS DESCRIPTION



THENCE through the interior of said Westgate 115 Investors tract, NORTH 89 degrees 12 minutes 21 seconds EAST, a distance of 926.34 feet;

THENCE through the interior of said Westgate 115 Investors tract, SOUTH 79 degrees 39 minutes 26 seconds EAST, a distance of 468.26 feet, returning to the **POINT OF BEGINNING** and enclosing 80.870 acres (3,522,695 square feet) of land, more or less.

Kirkman Engineering, LLC | Barton Chapa Surveying, LLC
4821 Merlot Avenue, Suite 210
Grapevine, TX 76051 | 817.488.4960
TBPE FIRM# 15874 | TBPLS FIRM# 10194474

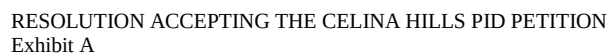


Exhibit B
Depiction of the Property
See Following Page

Exhibit B to the Celina Hills PID Creation Petition – Page 1



SHEET:
JOB #:

HIL 15002

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EXHIBIT B

CITY OF CELINA, TEXAS

NOTICE OF PUBLIC HEARING REGARDING

THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT

Pursuant to Section 372.009(c) and (d) of the Texas Local Government Code, as amended, notice is hereby given that the City Council of the City of Celina, Texas (“Celina”), will hold a public hearing to accept public comments and discuss the petition (the “Petition”), filed by Westgate HS Celina Investments, L.P., a Texas limited partnership (the “Owner”), requesting that Celina create the Celina Hills Public Improvement District (the “District”) to include property owned by the Owner.

Time and Place of the Hearing. The public hearing will start at or after 5:00 p.m. on July 9, 2019 at the regular meeting place of the City Council of the City in the Celina I.S.D. Administration Building located at 205 S. Colorado Street, Celina, Texas 75009.

General Nature of the Proposed Authorized Improvements. The purposes of the District include the design, acquisition, construction, and improvement of public improvement projects authorized by the Public Improvement District Assessment Act, codified as Chapter 372, Texas Local Government Code, as amended (the “Act”), that are necessary for the development of the property within the District, which public improvements may include, but not be limited to: (i) roadway improvements, drainage improvements, water and wastewater system improvements, right-of-way acquisition, parks, open space, landscaping, and trail systems; and other similar improvement projects; and (ii) payment of expenses incurred in the establishment, administration and operation of the District (collectively, the “Authorized Improvements”). These Authorized Improvements shall promote the interests of the City and confer a special benefit on the Property.

Estimated Cost of the Authorized Improvements. The estimated cost to design, acquire and construct the Authorized Improvements, including eligible costs related to the establishment, administration and operation of the District and expenses associated with financing Authorized Improvements is \$5,625,000.00.

Proposed District Boundaries. The District is proposed to include approximately 80.870 acres of land generally located in the area south of CR 88 (Choate Parkway) and west of Coit Road, as more particularly described by a metes and bounds description available at Celina City Hall located at 142 N. Ohio Street, Celina, Texas 75009 and available for public inspection during regular business hours.

Proposed Method of Assessment. Celina 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).

Proposed Apportionment of Cost between the District and Celina. Celina will not be obligated to provide any funds to finance the Authorized Improvements, other than from assessments levied on the District property and possible tax increment reinvestment zone revenue. No municipal property in the District shall be assessed. The Petitioner may also pay certain costs of the improvements from other funds available to it as developer of the District.