

**2012 AGREEMENT CONCERNING CREATION AND OPERATION OF  
MCKINNEY MUNICIPAL UTILITY DISTRICT NO. 2 OF COLLIN COUNTY**

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

This 2012 Agreement Concerning Creation and Operation of McKinney Municipal Utility District No. 2 of Collin County (this "Agreement") is entered into by the City of McKinney, Texas, (the "City"), CH-B Trinity Falls, LP, a Texas limited partnership ("Owner"), and the McKinney Municipal Utility District No. 2 of Collin County, a municipal utility district created pursuant to Article XVI, Section 59, of the Texas Constitution, Chapters 49 and 54 of the Texas Water Code, and the applicable Special District Local Law (the "District").

**ARTICLE I**  
**RECITALS**

1.01 Owner is the owner of approximately 830.764 acres in Collin County, Texas, as shown on Exhibit A as M.U.D. No. 2 Tracts "A" and "B" and described on Exhibit B attached to this Agreement (the "Development"). The Development lies entirely within the City's extraterritorial jurisdiction ("ETJ").

1.02 Section 42.042 of the Texas Local Government Code requires that an applicant request a city's written consent to create a municipal utility district within a city's ETJ.

1.03 On December 5, 2006, a petition entitled "Petition Requesting Consent for the Creation of a Municipal Utility District" requesting the consent of the City to the creation of the District was filed with the City Secretary's Office.

1.04 The City Council of the City adopted Ordinance No. 2006-12-141 dated December 5, 2006, consenting to the creation of the District (the "Consent Ordinance").

1.05 Owner intends to submit a petition to the City requesting that the Development be annexed for limited purposes by the City pursuant to a Strategic Partnership Agreement for the exclusive and limited purpose of allowing the City to impose a sales and use tax within the Development.

1.06 The prior owners of the Development (MA-BBO FIVE, LP and MA BB OWEN, LP), the City, and the District entered into that certain Agreement Concerning Creation and Operation of McKinney Municipal Utility District No. 2 of Collin County (as executed by the prior owners on December 14, 2006, by the City on December 18, 2006, and by the District on February 24, 2012, the "Original District Agreement").

1.07 Owner is the successor in interest to the prior owners of the Development, which prior owners have no continuing right, title, or interest of any kind in and to the Development or any agreements related to the Development.

1.08 Owner, the City, and the District intend to enter into this Agreement to amend and restate in its entirety the Original District Agreement.

1.09 Owner, the City, and the District intend that when this Agreement has been fully executed the Original District Agreement shall be automatically and unconditionally terminated and of no further force and effect.

1.10 Owner, the City, and the District intend that the purposes of this Agreement are to set out the mutually agreeable terms and conditions relating to the creation and operation of the District, which are the provisions under which the City adopted the Consent Ordinance. It is an essential element of the granting of the City's consent to the creation of the District.

NOW THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions hereinafter set forth, the Parties contract and agree as follows:

## **ARTICLE II** **DEFINITIONS**

2.01 "Agreement" means this 2012 Agreement Concerning Creation and Operation of McKinney Municipal Utility District No. 2 of Collin County.

2.02 "Assignee" means a successor to Owner as defined in Section 10.09(b) of this Agreement.

2.03 "Attorney General" means the Attorney General of the State of Texas.

2.04 "Board" means the Board of Directors of the District.

2.05 "Bond" means (a) any instrument, including a bond, note, certificate of participation, or other instrument evidencing a proportionate interest in payments, due to be paid by the District, or (b) any other type of obligation that (1) is issued or incurred by the District under the District's borrowing power, without regard to whether it is subject to annual appropriation, and (2) is represented by an instrument issued in bearer or registered form or is not represented by an instrument but the transfer of which is registered on books maintained for that purpose by or on behalf of the District. The term shall include obligations issued to refund outstanding Bonds, but shall not include reimbursement agreements entered into between the District and a developer of the Development or bond anticipation notes.

2.06 "Bond Limit Amount" means the maximum amount of Bonds, excluding refunding Bonds, that may be issued by the District pursuant to Section 5.03 of this Agreement.

2.07 "CCN" means a certificate of convenience and necessity or similar permit issued by the TCEQ authorizing a specified entity to be the retail water or sewer service provider in a specified area.

2.08 "City" means the City of McKinney, Texas, a home rule municipality located in Collin County.

- 2.09 "City Attorney" means the City Attorney of the City.
- 2.10 "City Council" means the City Council of the City.
- 2.11 "City Manager" means the City Manager of the City.
- 2.12 "City Objection" means an objection by the City to a Bond issue as defined in Section 5.09 of this Agreement.
- 2.13 "Consent Ordinance" means Ordinance No. 2006-12-141 adopted by the City Council and dated December 5, 2006.
- 2.14 "City Secretary" means the City Secretary of the City.
- 2.15 "Consent Petition" means the petition submitted by Owner to the City requesting the City's consent to the creation of the District and to the Road Project.
- 2.16 "Development" means that certain 830.764-acre tract located in Collin County, Texas as shown on Exhibit A and described on Exhibit B.
- 2.17 "Development Agreement" means the 2012 Development Agreement dated December 4, 2012, by and between the City and Owner, as amended.
- 2.18 "District" means the McKinney Municipal Utility District No. 2 of Collin County and any other district created within the Development by dividing the District into two new districts.
- 2.19 "District Confirmation Date" means May 8, 2010.
- 2.20 "Effective Date" means the date on which the Consent Ordinance was adopted by the City.
- 2.21 "ETJ" means the extraterritorial jurisdiction of a city as defined by the Texas Local Government Code, as amended.
- 2.22 "Infrastructure" means all water, wastewater, drainage, roadway and other infrastructure improvements installed or constructed to serve the Development, whether located within or outside the Development.
- 2.23 "Major Items" means those matters set forth in Section 5.02(a)-(e) of this Agreement.
- 2.24 "Notice" means notice as defined in Section 10.01 of this Agreement.
- 2.25 "Original District Agreement" is defined in Section 1.06.

2.26 "Owner" means CH-B Trinity Falls, LP, a Texas limited partnership.

2.27 "Party" means, individually, the City, Owner, or the District, their successors and Assigns as permitted by this Agreement.

2.28 "Parties" mean, collectively, the City, Owner, and the District, and their successors and Assigns as permitted by this Agreement.

2.29 "Road Project" means the construction, acquisition, improvement, maintenance, and operation of all macadamized, graveled, or paved roads and turnpikes and improvements in aid of such roads and turnpikes located within and outside the District.

2.30 "Strategic Partnership Agreement" means the Strategic Partnership Agreement as defined in the Development Agreement.

2.31 "TCEQ" means the Texas Commission on Environmental Quality or its successor state agency.

### **ARTICLE III** **CITY CONSENTS**

In accordance with the terms of this Agreement, the City consents to: (a) the creation of the District over the Development; (b) the District undertaking the Road Project; (c) the calling and holding of an election within the District to confirm the creation of the District and carry out the District's business; and (d) the division of the District into two new districts. The consents given by this Article III are irrevocable and unconditional.

### **ARTICLE IV** **EXECUTION OF AGREEMENTS**

4.01 Documents To Be Executed. Owner covenants and agrees to cause the District to approve, execute, and deliver to the City this Agreement and the Strategic Partnership Agreement within ninety (90) days after the receipt of a written request by the City.

4.02 Issuance of Bonds. If the District fails to approve, execute, and deliver to the City this Agreement or the Strategic Partnership Agreement within the time frame required by Section 4.01 and such failure is not cured within fifteen (15) days after Notice from the City to Owner and the District, such failure shall constitute a material breach of this Agreement by Owner and shall operate to prohibit the District from taking any affirmative act to issue Bonds until the failure has been cured. The City shall have all rights to enjoin the issuance of Bonds during any period in which a material breach exists under this Section 4.02.

4.03 Reimbursement. If Owner fails to cause the District to approve, execute, and deliver to the City this Agreement or the Strategic Partnership Agreement within the time frame required by Section 4.01 and such failure is not cured within fifteen (15) days after Notice from

the City to Owner and the District, then Owner shall not, from and after the date of such failure, enter into any agreements with the District or seek reimbursement from the District for any expenses incurred in connection with the District or development of the Development until the failure has been cured.

**ARTICLE V**  
**ISSUANCE OF BONDS AND CONSENT TO ROAD PROJECT**

5.01 Issuance of Bonds. The District may issue Bonds as permitted by law and this Agreement. Except as authorized by this Agreement, the District shall not issue Bonds without prior approval of the City Council.

5.02 Purposes. The purposes for which the District may issue Bonds without approval of the City Council shall be restricted to the following (collectively, "Major Items"):

(a) Purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to:

- (1) Provide a water supply for the District for municipal, domestic, and commercial uses;
- (2) Collect, transport, process, dispose of, and control all domestic, commercial, industrial or communal wastes from the District, whether in fluid, solid, or composite state;
- (3) Gather, conduct, divert, and control local storm water or other local harmful excesses of water in the District; and
- (4) Undertake the Road Project as set forth in Section 5.03.

(b) Payment of organization expenses, initial operation expenses, cost of issuance, interest during construction and capitalized interest;

(c) Establishment, operation, and maintenance of a police and fire department to perform police, fire-fighting and other emergency services within the District;

(d) Purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment, and other items related to recreational facilities, including without limiting, parks, landscaping, parkways, greenbelts, sidewalks, trails, public right-of-way beautification projects, street lighting and security lighting as described in Texas Water Code §§ 49.461-49.466 or as permitted under Texas Water Code §54.201; and

(e) Refunding of any outstanding Bonds of the District for a debt service savings; provided, however, that any such refunding Bonds otherwise satisfy the requirements of this Agreement.

5.03 Road Project. This Agreement hereby authorizes and further consents to the District undertaking the Road Project and to the issuance by the District of Bonds for the Road Project subject to the City's consent to the legislation granting such power; however, the District may issue Bonds only after the District becomes a Party to this Agreement. In consideration for the City's consent to the Road Project, the District agrees that the total amount of Bonds issued by the District for all purposes (excluding refunding Bonds) shall not exceed \$94,000,000.00, less the amount of funds expended by the District pursuant to Section 3.3 of the Strategic Partnership Agreement for any of the authorized purposes listed in Section 5.02 of this Agreement (the "Bond Limit Amount"), unless specifically approved by the City Council. Owner and the District acknowledge that the Bond Limit Amount is sufficient to accomplish the purposes of the District and that Owner and the District have voluntarily agreed to the Bond Limit Amount. District facilities, if any, the cost of which exceeds the Bond Limit Amount will be dedicated to the District without reimbursement unless otherwise approved by the City Council.

5.04 Bond Requirements. The District shall obtain all necessary authorizations for Bonds issued to finance the Major Items and the acquisition or construction of Infrastructure for the benefit of the District in accordance with this Agreement and laws applicable to the District. Unless waived by the City in writing, all Bonds issued by the District shall comply with the following requirements:

- (a) Maximum maturity of 25 years for any one series of Bonds; and
- (b) Interest rate that does not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one month period immediately preceding the date that the notice of the sale of such Bonds is given; and
- (c) The Bonds shall expressly provide that the District shall reserve the right to redeem Bonds at any time beginning not later than the tenth (10th) anniversary of the date of issuance, without premium. No variable rate Bonds shall be issued by the District without City Council approval; and
- (d) Any refunding Bonds of the District must provide for a minimum of three percent (3%) present value savings and, further, must provide that the latest maturity of the refunding Bonds may not extend beyond the latest maturity of the refunded Bonds unless approved by the City Council; and
- (e) No Bonds shall be issued having an issuance date more than twenty (20) years after the first record plat is recorded within the District.

5.05 Certifications. With respect to any matter required by this Article V to be certified in writing, this Agreement also requires, and the District hereby warrants, that every statement in any certification shall be true and correct in all material respects and that the person signing the certification has been given the requisite authority to do so on behalf of the District.

5.06 Economic Feasibility. Before submission of an application for approval of issuance of Bonds to the TCEQ or the Attorney General, whichever occurs first, the District's

financial advisor shall certify in writing to the City Secretary, City Manager, and City Bond Counsel that the Bonds will be issued within the then-current economic feasibility guidelines established by the TCEQ for districts in Collin County.

5.07 Notice of Bond Issues. At least thirty (30) days before submission of an application for approval of issuance of Bonds to the TCEQ or the Attorney General, whichever occurs first, the District shall deliver to the City Secretary, City Manager, and City Bond Counsel the certification required by Section 5.06 of this Agreement and Notice containing: (a) the amount of Bonds being proposed for issuance; (b) a general description of the projects to be funded and/or the Bonds to be refunded by such Bonds; and (c) the proposed debt service and District tax rate after issuance of the Bonds. If the District is not required to obtain TCEQ approval of the issuance of the Bonds, the District shall deliver such certification and Notice to the City Secretary, City Manager, and City Bond Counsel at least sixty (60) days prior to issuance of Bonds, except refunding Bonds, by the District.

5.08 Compliance with Agreements. At least thirty (30) days before submission of an application for approval of issuance of Bonds to the TCEQ or the Attorney General, whichever occurs first, the District shall certify in writing to the City Secretary, City Manager, and City Bond Counsel that the District and Owner are not in breach of any of the Consent Ordinance, this Agreement, or the Strategic Partnership Agreement.

5.09 Bond Objections. The City shall have a period of thirty (30) days after receiving the last of the certifications and Notices required by Sections 5.07 and 5.08 of this Agreement within which to object to the Bonds. If the City fails to object to a proposed Bond issue within such 30-day period, the City shall be deemed to have waived all objections. The only basis for an objection by the City to a proposed Bond issue shall be that the District or Owner is in default of a provision of the Consent Ordinance, this Agreement, or the Strategic Partnership Agreement. If the City objects to a proposed Bond issue (a "City Objection"), such objection (a) shall be in writing, (b) shall be given to the District; (c) shall be signed by the City Manager or the City Manager's designee, and (d) shall specifically identify the applicable provision under the Consent Ordinance, this Agreement, or the Strategic Partnership Agreement for which the District or Owner is in default. It shall not be a basis for a City Objection that the City disagrees with the District's financial advisor as to the financial feasibility of the Bonds so long as the proposed Bonds are approved by the TCEQ and Attorney General. In the event a City Objection is timely given to the District (as required by this Section 5.09) with respect to a specific Bond application, the City and the District shall cooperate to resolve the City Objection within a reasonable time, and the Bond application to which the City Objection applies shall be delayed until the City Objection has been cured or waived. Unless otherwise cured by written agreement of the Parties, a City Objection shall be deemed cured if (x) the District files a petition seeking declaratory judgment in state district court, (y) not less than thirty (30) days before filing the petition the District gives the City Attorney and the City Manager Notice of, and waives any objections to the City's right to intervene in, such a declaratory judgment action, and (z) the district court determines that the District or Owner is not in default with respect to any provision of the Consent Ordinance, this Agreement, or the Strategic Partnership Agreement or, alternatively, finds that if such a default had previously occurred, the default has been cured. A City Objection may be waived by the City at any time.

5.10 Official Statements. Within thirty (30) days after the District closes the sale of each series of Bonds, the District shall deliver to the City Secretary and City Manager a copy of the final official statement for such series of Bonds. If the City requests additional information regarding such issuance of the Bonds, the District shall promptly provide such information at no cost to the City.

## **ARTICLE VI** **REPORTING REQUIREMENTS**

The District shall: (a) send a copy of each order or other action setting an ad valorem tax rate to the City Secretary, City Manager, and City Bond Counsel within thirty (30) days after the District adopts the rate; (b) send a copy of each annual audit to the City Secretary, City Manager, and City Bond Counsel within thirty (30) days after approval by the Board; and (c) provide copies of any material event notices filed under applicable federal securities laws or regulations to the City Secretary, City Manager, and City Bond Counsel within thirty (30) days after filing such notices with the applicable federal agency.

## **ARTICLE VII** **ANNEXATION OF DISTRICT BY CITY**

7.01 General Terms. The Parties acknowledge and agree that the Development lies wholly within the City's ETJ. The Parties further acknowledge that the creation of the District, and the City's consent thereto, are for purposes that include promoting the orderly development and extension of City services to the Development upon annexation.

7.02 Incorporation. In furtherance of the purposes of this Agreement, the District and Owner, on behalf of themselves and their respective successors and Assignees, covenant and agree to the extent allowed by law that, except upon written consent of the City Council, neither the District nor Owner will: (a) seek or support any effort to incorporate the Development or any part thereof; or (b) sign, join in, associate with, or direct to be signed any petition seeking to incorporate any of the Development or seeking to include any of the Development within the boundaries of any other incorporated entity.

7.03 Notice. Within thirty (30) days after written Notice from the City, the District shall file in the real property records of Collin County: (a) a notice in the form required by Section 49.452 of the Texas Water Code; and (b) a notice in the form of Exhibit C attached to this Agreement stating that the City has the authority to annex the District subject to the limitations set forth in Section 7.05 of this Agreement.

7.04 Annexation of Portions of Development. Owner and the District agree to cooperate with and assist the City in annexing one or more areas in the manner prescribed by law which does not result in the dissolution of the District, each of which may not exceed 525 feet in width at its widest point or such other width limitation subsequently imposed by law, as reasonably necessary for the City to connect areas to the City that are outside the District and that the City intends to annex. The City consents and agrees that such areas shall be located within right of way areas or along lot lines whenever possible. Notwithstanding the zoning



approved for the annexed area, such area can be developed and used in accordance with the Development Agreement.

7.05 Full Purpose Annexation. The City will not annex the Development for full purposes any earlier than the first to occur of: (a) completion of the Major Items and completion of the construction of the Infrastructure to serve full development of the Property and the issuance by the District of Bonds to reimburse the full cost of the Major Items and the Infrastructure; (b) fifteen (15) years after the first record plat is recorded within the District; or (c) the dissolution of the District (other than as a result of annexation by the City).

7.06 Limited Purpose Annexation. The Parties agree that the City shall have the right to annex for limited purposes the Development for the sole and limited purpose of imposing the City's sales and use tax within the Development pursuant to Section 43.0751 of the Local Government Code. The terms and conditions upon which such limited purpose annexations may occur shall be set forth in the Strategic Partnership Agreement.

7.07 Reimbursement Agreements. Unless waived by the City in writing, the District agrees not to issue debt or incur contractual indebtedness for purposes of reimbursing Owner for any costs or expenses paid by Owner after the 25<sup>th</sup> anniversary of the District Confirmation Date, which costs and expenses would otherwise be eligible to be reimbursed to Owner by the District pursuant to the rules and regulations of the TCEQ or other applicable law, and expressly and irrevocably waives any claims against the City for repayment of such indebtedness following full-purpose annexation.

## **ARTICLE VIII** **TERM OF AGREEMENT**

This Agreement shall be effective from the Effective Date and shall continue in effect until the District is annexed for full purposes and dissolved by the City or until terminated in writing by mutual agreement of the City and the District.

## **ARTICLE IX** **BREACH, NOTICE AND REMEDIES**

9.01 Notification of Breach. If either Party commits a breach of this Agreement, the non-breaching Party shall give Notice to the breaching Party that describes the breach in reasonable detail.

9.02 Cure of Breach. The breaching Party shall commence curing such breach within fourteen (14) calendar days after the time the breaching Party receives such Notice and complete the cure within fourteen (14) calendar days from the date of commencement of the cure; however, if the breach is not reasonably susceptible to cure by the breaching Party within such 14-day period, the non-breaching Party shall not bring any action so long as the breaching Party has commenced to cure the default within such 14-day period and diligently completes the cure within a reasonable time without unreasonable cessation of the work. Breach of an obligation to pay money shall be considered susceptible to cure within any period required.

9.03 Remedies for Breach. If the breaching Party does not cure such breach within the stated period of time, the non-breaching Party may, in its sole discretion, and without prejudice to any other right under this Agreement, law, or equity, seek an action under the Uniform Declaratory Judgment Act, specific performance, mandamus, injunctive relief, and other remedies described in this Agreement; provided, however, (a) the non-breaching Party shall not be entitled to terminate this Agreement, (b) each Party specifically waives any right such Party has or in the future may have to terminate this Agreement, and (c) it is understood and agreed that no Party will seek or recover actual, consequential or any other type of monetary damages or awards.

## ARTICLE X ADDITIONAL PROVISIONS

10.01 Notice. Any notices, certifications, approvals, or other communications (a "Notice") required to be given by one Party to another under this Agreement shall be given in writing addressed to the Party to be notified at the address set forth below and shall be deemed given: (a) when the Notice is delivered in person to the person to whose attention the Notice is addressed; (b) when received if the Notice is deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid; (c) when the Notice is delivered by Federal Express, UPS, or another nationally recognized courier service with evidence of delivery signed by any person at the delivery address; or (d) five business days after the Notice is sent by FAX (with electronic confirmation by the sending FAX machine) with a confirming copy sent by United States mail within 48 hours after the FAX is sent. If any date or period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the Notice shall be extended to the first business day following the Saturday, Sunday, or legal holiday. For the purpose of giving any Notice, the addresses of the Parties are set forth below. The Parties may change the information set forth below by sending Notice of such changes to the other Party as provided in this Section 10.01.

To the City: City of McKinney, Texas  
Attn: City Manager  
222 N. Tennessee  
McKinney, Texas 75069  
E-Mail: [jgray@mckinneytexas.org](mailto:jgray@mckinneytexas.org)  
FAX: 972.547.2607

Copy to: Attn: City Attorney  
Mark Houser  
Brown & Hofmeister  
740 E. Campbell Road, Suite 800  
Richardson, Texas 75081  
E-Mail: [mhouser@bhlaw.net](mailto:mhouser@bhlaw.net)  
FAX: 214.747.6111

To Owner: CH-B Trinity Falls, LP  
Attn: Leisha Ehlert  
1111 West 11<sup>th</sup> Street  
Austin, Texas 78703  
E-Mail: [le@castlehillco.com](mailto:le@castlehillco.com)  
FAX: 512-381.6131

Copy to: Vinson & Elkins  
Attn: Randy Jurgensmeyer  
2001 Ross Avenue, Suite 3700  
Dallas, TX 75201  
E-Mail: [rjurgensmeyer@velaw.com](mailto:rjurgensmeyer@velaw.com)  
Fax: 214.999.7790

Copy to: Sanford Kuhl Hagan Kugle Parker Kahn LLP  
Attn: Julianne Kugle  
1980 Post Oak Boulevard, Suite 1380  
Houston, TX 77056  
E-Mail: [kugle@sklaw.us](mailto:kugle@sklaw.us)  
Fax: 713.850.1330

10.02 No Waiver. Any failure by a Party to insist upon strict performance by the other Party of any 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 hereto of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

10.03 City Consent and Approval. Except for the procedures with respect to Bond objections in Section 5.09 of this Agreement, in any provision of this Agreement that provides for the consent or approval of the City staff or City Council, such consent or approval may be withheld or conditioned by the staff or City Council at its sole discretion.

10.04 Governing Law and Venue. This Agreement must be construed and enforced in accordance with the laws of the State of Texas, as they apply to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The Parties acknowledge that this Agreement is performable in Collin County, Texas and hereby submit to the jurisdiction of the courts of Collin County, Texas, and hereby agree that any such courts shall be a proper forum for the determination of any dispute arising hereunder.

10.05 Authority to Execute. The City warrants that this Agreement has been approved by the City Council 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. Owner warrants that the execution of this Agreement is duly authorized in conformity with the articles of incorporation, bylaws, partnership agreement, or other applicable organizational

documents of Owner and that the individual executing this Agreement on behalf of Owner has been authorized to do so. The District warrants that this Agreement has been approved by the Board 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 Board has been authorized to do so.

10.06 Severability. The provisions of this Agreement are severable and, in the event any word, phrase, clause, sentence, paragraph, section, or other provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held or determined to be invalid, illegal, or unenforceable for any reason, and the extent of such invalidity or unenforceability does not cause substantial deviation from the underlying intent of the parties as expressed in this Agreement, then such provision shall be deemed severed from this Agreement with respect to such person, entity or circumstance, without invalidating the remainder of this Agreement or the application of such provision to other persons, entities or circumstances except to the extent that the severed provision(s) is a dependent substantive term the removal of which affects the intent and effect of the remaining provisions.

10.07 Changes in State or Federal Laws. If any state or federal law changes so as to make it impossible for the City or the District to perform its obligations under this Agreement, the Parties will cooperate to amend the Agreement in such a manner that is most consistent with the original intent of the Agreement as legally possible.

10.08 Additional Documents and Acts. The Parties agree that at any time after execution of this Agreement, they will, upon the request of any other Party, execute and/or exchange any other documents necessary to effectuate the terms of this Agreement and perform any further acts or things as the other Party may reasonably request to effectuate the terms of this Agreement.

10.09 Captions. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of the Agreement.

10.10 Assignment.

(a) Neither the District nor the City may assign this Agreement without the written consent of the other Parties.

(b) 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 Owner under this Agreement, to the District (after the District Confirmation Date) and to any person or entity (an "Assignee") without the consent of the City, provided that the following conditions are satisfied: (1) if not the District, Assignee is a successor owner of all or any part of the Development or is a lender to a successor owner of all or any part of the Development; (2) if not the District, Assignee has a contractual right to be reimbursed for water, sewer, or drainage improvements and/or the Road Project from Bonds (or has a lien or other security interest in such reimbursements); (3) the assignment is in writing executed by Owner and Assignee in the form of assignment attached as Exhibit D; (4) Assignee expressly assumes in the assignment any assigned obligations and expressly

agrees in the assignment to observe, perform, and be bound by this Agreement to the extent this Agreement relates to the obligations, rights, titles, or interests assigned; and (5) a copy of the executed assignment is provided to all Parties within fifteen (15) days after execution. Provided the foregoing conditions are satisfied, from and after the date the assignment is executed by Owner and Assignee, the City agrees to look solely to Assignee for the performance of all obligations assigned to Assignee and agrees that Owner shall be released from performing the assigned obligations and from any liability that results from the Assignee's failure to perform the assigned obligations. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment. Owner shall maintain written records of all assignments made by Owner (including, for each Assignee, the Notice information required by this Agreement, and including a copy of each executed assignment) and, upon written request from any Party or Assignee, shall provide a copy of such records to the requesting person or entity. It is specifically intended that this Agreement, and all terms, conditions and covenants herein, shall survive a transfer, conveyance, or assignment occasioned by the exercise of foreclosure of lien rights by a creditor or a Party, whether judicial or non-judicial. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and Assignees. Notwithstanding the foregoing, however, Owner shall not have the right to assign this Agreement, or any right, title, or interest of Owner under this Agreement, until the District has become a Party.

10.11 Amendment. This Agreement may be amended only with the written consent of all Parties and with approval of the governing bodies of the City and the District.

10.12 Interpretation. The Parties acknowledge that each party and, if it so chooses, its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto. As used in this Agreement, the term "including" means "including without limitation" and the term "days" means calendar days, not business days. Wherever required by the context, the singular shall include the plural, and the plural shall include the singular. Each defined term herein may be used in its singular or plural form whether or not so defined.

10.13 No Third Party Beneficiary. This Agreement is solely for the benefit of the Parties, and neither the City, the District nor Owner intends by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than the City, the District and Owner.

10.14 Incorporation of Exhibits by Reference. All exhibits attached to this Agreement are incorporated into this Agreement by reference for the purposes set forth herein, as follows:

|                  |                                      |
|------------------|--------------------------------------|
| <u>Exhibit A</u> | Map                                  |
| <u>Exhibit B</u> | Legal description of the Development |
| <u>Exhibit C</u> | Annexation Notice                    |
| <u>Exhibit D</u> | Assignment and Assumption Agreement  |

10.15 Conspicuous Provisions. The City, the District, and Owner acknowledge that the provisions of this Agreement set out in **bold, CAPITALS** (or any combination thereof) satisfy the requirements for the express negligence rule and/or are conspicuous.

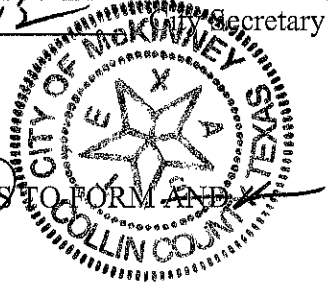
10.16 Counterpart Originals. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

10.17 Termination of Original District Agreement. Upon full execution of this Agreement, the Original District Agreement shall be automatically and unconditionally terminated and of no further force and effect, and each Party unconditionally releases the other Parties from all duties, obligations, and liabilities that may have arisen under the Original District Agreement.

[Signature Pages Follow]

ATTEST:

Emily Clark  
12/13/12  
Secretary



APPROVED AS TO FORM AND LEGALITY

[Signature]  
City Attorney

CITY OF MCKINNEY

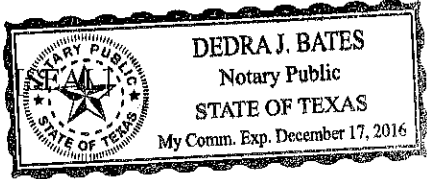
By: [Signature]  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: 12/12/12

By Rob Daake, Deputy City Manager  
and authorized signatory

STATE OF TEXAS                   §  
   §  
COUNTY OF Collin           §

This instrument was acknowledged before me, on the 12 day of December, 2012  
by Rob Daake, Deputy City of the City of McKinney, Texas on behalf of said city.  
managers



Dedra J. Bates

Notary Public, State of Texas

Printed Name: Dedra J. Bates

My Commission Expires: December 17, 2012

CH-B TRINITY FALLS, LP,  
a Texas limited partnership,

By: CH-B Trinity Falls GP, LLC,  
a Delaware limited liability company,  
its general partner

By: *[Signature]*

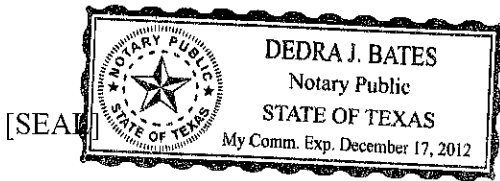
Name: Leisha Ehlert

Title: Vice President

Date: 12.5.12

STATE OF TEXAS §  
COUNTY OF Collin §

This instrument was acknowledged before me, on the 5<sup>th</sup> day of December, 2012, by Leisha Ehlert, Vice President of CH-B Trinity Falls GP, LLC, a Delaware limited liability company and general partner of CH-B Trinity Falls, LP, a Texas limited partnership, on behalf of said limited partnership.

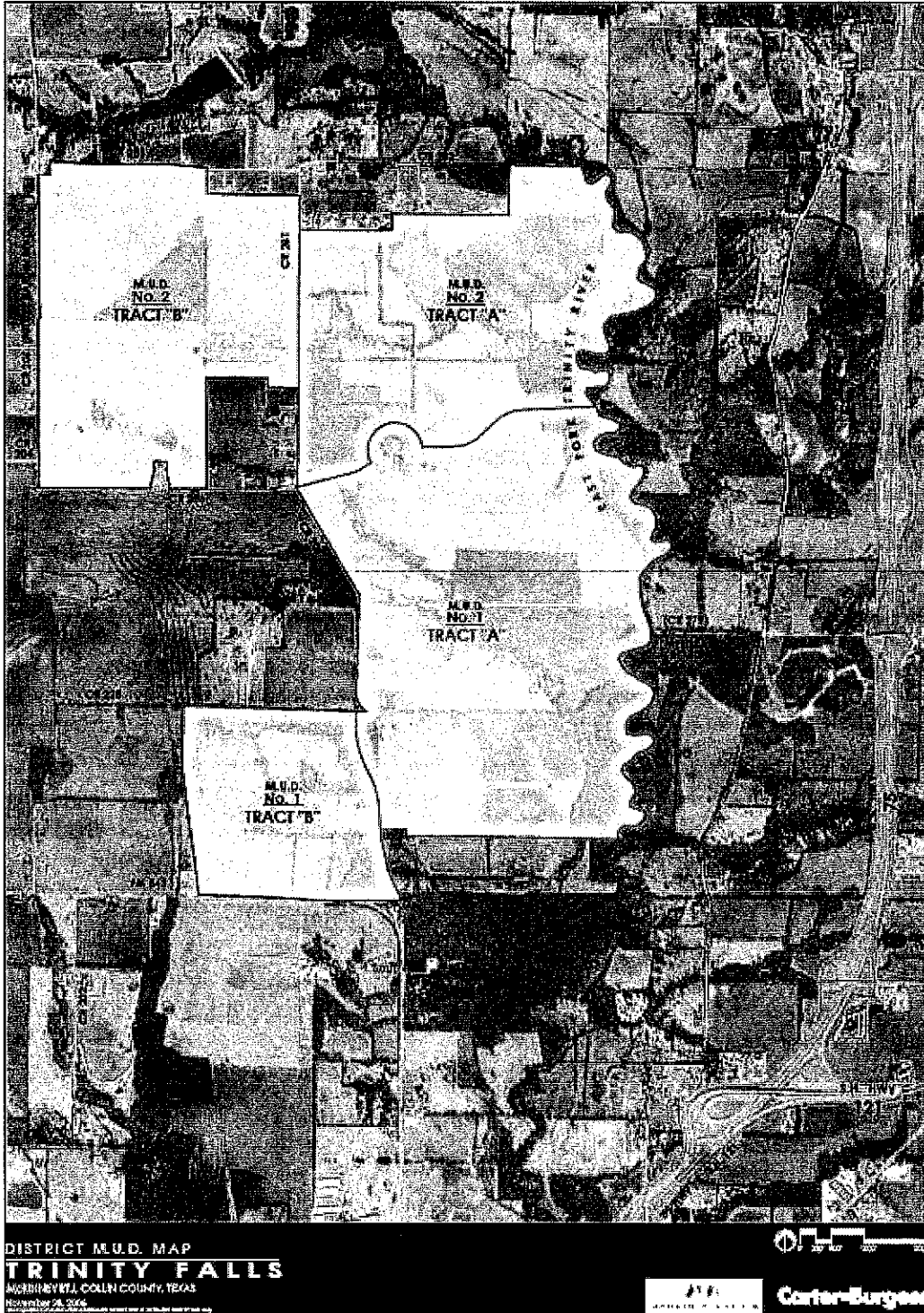


*Dedra J. Bates*  
Notary Public, State of Texas  
Printed Name: Dedra J. Bates  
My Commission Expires: 12.17.12





Exhibit A  
MAP



**Exhibit B**  
**LEGAL DESCRIPTION OF THE DEVELOPMENT**

(1) MUD 2/TRACT A - 423.553 acres

BEING A 423.553 ACRE TRACT OF LAND SITUATED IN THE THOMAS BRUCE SURVEY, ABSTRACT NO. 103, THE THOMAS LINDSAY SURVEY, ABSTRACT NO. 521, COLLIN COUNTY, TEXAS, AND BEING ALL OF A CALLED 106.762 ACRE TRACT OF LAND CONVEYED TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060918001344750, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING ALL OF A CALLED 118.259 ACRE TRACT OF LAND CONVEYED TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060918001344760, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING PART OF A CALLED 1113.084 ACRE TRACT OF LAND CONVEYED TO MA BB OWEN, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060616000829800, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, SAID 423.553 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS), DETERMINED BY GPS OBSERVATIONS ON JULIAN DAY 320, 2005, CALCULATED FROM DENTON CORS ARP (PID-DF8986), ARLINGTON RRP2 CORS ARP (PID-DF 5387) AND COLLIN CORS ARP (PID-8982), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT A 5/8 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 106.762 ACRE TRACT AND THE NORTHEAST CORNER OF A 39.06 ACRE TRACT OF LAND DESCRIBED IN A DEED TO THOMAS M. FRIS AS RECORDED IN COLLIN COUNTY CLERK'S FILE NO. 96-0104896, LAND RECORDS, COLLIN COUNTY, TEXAS, SAID POINT ALSO BEING ON THE SOUTH LINE OF A TRACT OF LAND DESCRIBED IN A DEED TO JOHN P. WALDEN & WIFE JANE WALDEN AS RECORDED IN VOLUME 551, PAGE 366 OF THE DEED RECORDS OF COLLIN COUNTY, TEXAS;

THENCE, ALONG COMMON LINES OF SAID 106.762 ACRE TRACT AND SAID WALDEN TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 89 DEGREES 11 MINUTES 59 SECONDS EAST, A DISTANCE OF 900.54 FEET TO A 5/8 INCH IRON ROD FOUND FOR CORNER;

SOUTH 89 DEGREES 27 MINUTES 53 SECONDS EAST, A DISTANCE OF 161.43 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 83 DEGREES 20 MINUTES 49 SECONDS EAST, A DISTANCE OF 67.79 FEET TO THE NORTHEAST CORNER OF SAID 106.762 ACRE

TRACT AND THE APPROXIMATE CENTERLINE OF EAST FORK OF THE TRINITY RIVER;

THENCE, ALONG THE EAST PROPERTY LINE OF SAID 106.762 ACRE TRACT, AND WITH THE CENTERLINE OF AFORESAID EAST FORK OF THE TRINITY RIVER, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 20 DEGREES 21 MINUTES 50 SECONDS EAST, A DISTANCE OF 147.67 FEET TO A POINT FOR CORNER;

SOUTH 15 DEGREES 11 MINUTES 51 SECONDS EAST, A DISTANCE OF 121.20 FEET TO A POINT FOR CORNER;

SOUTH 53 DEGREES 55 MINUTES 47 SECONDS EAST, A DISTANCE OF 57.30 FEET TO A POINT FOR CORNER;

NORTH 81 DEGREES 40 MINUTES 31 SECONDS EAST, A DISTANCE OF 68.17 FEET TO A POINT FOR CORNER;

NORTH 55 DEGREES 58 MINUTES 51 SECONDS EAST, A DISTANCE OF 70.86 FEET TO A POINT FOR CORNER;

NORTH 50 DEGREES 52 MINUTES 37 SECONDS EAST, A DISTANCE OF 167.34 FEET TO A POINT FOR CORNER;

SOUTH 63 DEGREES 52 MINUTES 45 SECONDS EAST, A DISTANCE OF 76.94 FEET TO A POINT FOR CORNER;

SOUTH 24 DEGREES 20 MINUTES 33 SECONDS EAST, A DISTANCE OF 73.75 FEET TO A POINT FOR CORNER;

SOUTH 19 DEGREES 16 MINUTES 49 SECONDS WEST, A DISTANCE OF 61.92 FEET TO A POINT FOR CORNER;

SOUTH 29 DEGREES 28 MINUTES 37 SECONDS WEST, A DISTANCE OF 67.28 FEET TO A POINT FOR CORNER;

SOUTH 29 DEGREES 53 MINUTES 46 SECONDS WEST, A DISTANCE OF 70.84 FEET TO A POINT FOR CORNER;

SOUTH 04 DEGREES 46 MINUTES 27 SECONDS EAST, A DISTANCE OF 98.68 FEET TO A POINT FOR CORNER;

SOUTH 27 DEGREES 59 MINUTES 37 SECONDS EAST, A DISTANCE OF 72.48 FEET TO A POINT FOR CORNER;

SOUTH 38 DEGREES 58 MINUTES 18 SECONDS EAST, A DISTANCE OF 131.77 FEET TO A POINT FOR CORNER;

SOUTH 03 DEGREES 11 MINUTES 20 SECONDS EAST, A DISTANCE OF 91.41 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 35 MINUTES 41 SECONDS WEST, A DISTANCE OF 188.59 FEET TO A POINT FOR CORNER;

SOUTH 36 DEGREES 55 MINUTES 44 SECONDS EAST, A DISTANCE OF 101.19 FEET TO A POINT FOR CORNER;

SOUTH 77 DEGREES 27 MINUTES 27 SECONDS EAST, A DISTANCE OF 101.27 FEET TO A POINT FOR CORNER;

SOUTH 89 DEGREES 08 MINUTES 21 SECONDS EAST, A DISTANCE OF 137.11 FEET TO A POINT FOR CORNER;

SOUTH 56 DEGREES 41 MINUTES 24 SECONDS EAST, A DISTANCE OF 136.45 FEET TO A POINT FOR CORNER;

SOUTH 41 DEGREES 28 MINUTES 51 SECONDS EAST, A DISTANCE OF 84.90 FEET TO A POINT FOR CORNER;

SOUTH 16 DEGREES 13 MINUTES 08 SECONDS EAST, A DISTANCE OF 239.45 FEET TO A POINT FOR CORNER;

SOUTH 20 DEGREES 49 MINUTES 08 SECONDS WEST, A DISTANCE OF 84.82 FEET TO A POINT FOR CORNER;

SOUTH 38 DEGREES 02 MINUTES 36 SECONDS WEST, A DISTANCE OF 120.85 FEET TO A POINT FOR CORNER;

SOUTH 16 DEGREES 50 MINUTES 36 SECONDS WEST, A DISTANCE OF 106.92 FEET TO A POINT FOR CORNER;

SOUTH 04 DEGREES 08 MINUTES 50 SECONDS WEST, A DISTANCE OF 83.94 FEET TO A POINT FOR CORNER;

SOUTH 45 DEGREES 46 MINUTES 39 SECONDS EAST, A DISTANCE OF 70.50 FEET TO A POINT FOR CORNER;

SOUTH 65 DEGREES 20 MINUTES 11 SECONDS EAST, A DISTANCE OF 154.89 FEET TO A POINT FOR CORNER;

SOUTH 57 DEGREES 43 MINUTES 24 SECONDS EAST, A DISTANCE OF 104.47 FEET TO A POINT FOR CORNER;

SOUTH 08 DEGREES 58 MINUTES 00 SECONDS EAST, A DISTANCE OF 103.87 FEET TO A POINT FOR CORNER;

SOUTH 30 DEGREES 16 MINUTES 36 SECONDS WEST, A DISTANCE OF 92.56 FEET TO A POINT FOR CORNER;

SOUTH 48 DEGREES 18 MINUTES 00 SECONDS WEST, A DISTANCE OF 95.11 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 48 MINUTES 37 SECONDS WEST, A DISTANCE OF 115.06 FEET TO A POINT FOR CORNER;

SOUTH 63 DEGREES 46 MINUTES 10 SECONDS WEST, A DISTANCE OF 108.90 FEET TO A POINT FOR CORNER;

SOUTH 74 DEGREES 52 MINUTES 48 SECONDS WEST, A DISTANCE OF 108.83 FEET TO A POINT FOR CORNER;

SOUTH 80 DEGREES 20 MINUTES 18 SECONDS WEST, A DISTANCE OF 130.42 FEET TO A POINT FOR CORNER;

SOUTH 77 DEGREES 33 MINUTES 24 SECONDS WEST, A DISTANCE OF 159.57 FEET TO A POINT FOR CORNER;

SOUTH 49 DEGREES 37 MINUTES 34 SECONDS WEST, A DISTANCE OF 79.64 FEET TO A POINT FOR CORNER;

SOUTH 30 DEGREES 51 MINUTES 57 SECONDS WEST, A DISTANCE OF 127.68 FEET TO A POINT FOR CORNER;

SOUTH 08 DEGREES 15 MINUTES 52 SECONDS EAST, A DISTANCE OF 88.75 FEET TO A POINT FOR CORNER;

SOUTH 20 DEGREES 25 MINUTES 34 SECONDS EAST, A DISTANCE OF 191.80 FEET TO A POINT FOR CORNER;

SOUTH 08 DEGREES 27 MINUTES 55 SECONDS EAST, A DISTANCE OF 92.30 FEET TO A POINT FOR CORNER;

SOUTH 39 DEGREES 42 MINUTES 15 SECONDS WEST, A DISTANCE OF 84.38 FEET TO A POINT FOR CORNER;

SOUTH 80 DEGREES 08 MINUTES 27 SECONDS WEST, A DISTANCE OF 92.47 FEET TO A POINT FOR CORNER;

NORTH 75 DEGREES 29 MINUTES 03 SECONDS WEST, A DISTANCE OF 181.83 FEET TO A POINT FOR CORNER;

NORTH 78 DEGREES 44 MINUTES 38 SECONDS WEST, A DISTANCE OF 106.12 FEET TO A POINT FOR CORNER;

SOUTH 69 DEGREES 37 MINUTES 05 SECONDS WEST, A DISTANCE OF 80.67 FEET TO A POINT FOR CORNER;

SOUTH 20 DEGREES 46 MINUTES 24 SECONDS WEST, A DISTANCE OF 87.62 FEET TO A POINT FOR CORNER;

SOUTH 14 DEGREES 45 MINUTES 22 SECONDS EAST, PASSING AT A DISTANCE OF 71.19 FEET THE SOUTHEAST CORNER OF SAID 106.762 ACRE TRACT, SAME BEING A NORTHEAST CORNER OF AFORESAID 1113.084 ACRE TRACT, CONTINUING WITH THE CENTERLINE OF SAID EAST FORK OF THE TRINITY RIVER AND THE EAST PROPERTY LINE OF SAID 1113.084 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 120.37 FEET TO A POINT FOR CORNER;

THENCE, CONTINUING WITH THE CENTERLINE OF SAID EAST FORK OF THE TRINITY RIVER AND ALONG THE EAST PROPERTY LINE OF SAID 1113.084 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 34 DEGREES 39 MINUTES 08 SECONDS EAST, A DISTANCE OF 74.62 FEET TO A POINT FOR CORNER;

SOUTH 84 DEGREES 34 MINUTES 58 SECONDS EAST, A DISTANCE OF 126.28 FEET TO A POINT FOR CORNER;

SOUTH 65 DEGREES 27 MINUTES 27 SECONDS EAST, A DISTANCE OF 133.32 FEET TO A POINT FOR CORNER;

NORTH 71 DEGREES 35 MINUTES 21 SECONDS EAST, A DISTANCE OF 110.32 FEET TO A POINT FOR CORNER;

SOUTH 75 DEGREES 11 MINUTES 25 SECONDS EAST, A DISTANCE OF 99.44 FEET TO A POINT FOR CORNER;

SOUTH 16 DEGREES 58 MINUTES 48 SECONDS EAST, A DISTANCE OF 54.42 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 07 MINUTES 16 SECONDS WEST, A DISTANCE OF 82.33 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 19 MINUTES 44 SECONDS WEST, A DISTANCE OF 114.95 FEET TO A POINT FOR CORNER;

SOUTH 85 DEGREES 30 MINUTES 45 SECONDS WEST, A DISTANCE OF 291.84 FEET TO A POINT FOR CORNER;

SOUTH 08 DEGREES 46 MINUTES 06 SECONDS WEST, A DISTANCE OF 95.18 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 06 MINUTES 09 SECONDS EAST, A DISTANCE OF 121.86 FEET TO A POINT FOR CORNER;

SOUTH 38 DEGREES 12 MINUTES 58 SECONDS EAST, A DISTANCE OF 130.83 FEET TO A POINT FOR CORNER;

THENCE, OVER AND ACROSS SAID 1113.084 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 87 DEGREES 05 MINUTES 41 SECONDS WEST, A DISTANCE OF 1162.77 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 39 DEGREES 50 MINUTES 38 SECONDS, A RADIUS OF 630.00 FEET, A LONG CHORD THAT BEARS, SOUTH 67 DEGREES 10 MINUTES 22 SECONDS WEST, A DISTANCE OF 429.33 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 438.11 FEET TO A POINT FOR CORNER;

SOUTH 47 DEGREES 15 MINUTES 03 SECONDS WEST, A DISTANCE OF 379.74 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 41 DEGREES 03 MINUTES 11 SECONDS, A RADIUS OF 570.00 FEET, A LONG CHORD THAT BEARS, SOUTH 67 DEGREES 46 MINUTES 38 SECONDS WEST, A DISTANCE OF 399.73 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 408.41 FEET TO A POINT FOR CORNER;

SOUTH 88 DEGREES 18 MINUTES 14 SECONDS WEST, A DISTANCE OF 536.71 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 202 DEGREES 43 MINUTES 24 SECONDS, A RADIUS OF 430.00 FEET, A



LONG CHORD THAT BEARS, SOUTH 72 DEGREES 56 MINUTES 30 SECONDS WEST, A DISTANCE OF 843.15 FEET;

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 1521.42 FEET TO A POINT FOR CORNER;

SOUTH 57 DEGREES 34 MINUTES 46 SECONDS WEST, A DISTANCE OF 177.27 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 17 DEGREES 46 MINUTES 00 SECONDS, A RADIUS OF 570.00 FEET, A LONG CHORD THAT BEARS, SOUTH 66 DEGREES 27 MINUTES 46 SECONDS WEST, A DISTANCE OF 176.04 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC LENGTH OF 176.75 FEET TO A POINT FOR CORNER;

SOUTH 75 DEGREES 20 MINUTES 45 SECONDS WEST, A DISTANCE OF 877.21 FEET TO A POINT FOR CORNER IN THE WEST LINE OF SAID 1113.084 ACRE TRACT, SAME BEING THE APPROXIMATE CENTERLINE OF COLLIN COUNTY ROAD NO. 281 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE, NORTH 00 DEGREES 31 MINUTES 40 SECONDS EAST, ALONG THE WEST LINE OF SAID 1113.084 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID COLLIN COUNTY ROAD NO. 281, A DISTANCE OF 1574.34 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN INSIDE ELL CORNER OF SAID 1113.084 ACRE TRACT AND THE NORTHEAST CORNER OF A CALLED 3.000 ACRE TRACT OF LAND CONVEYED TO TERRY L. HERTWICK AND ROSE ETTA JONES BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2002-0001673, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 04 MINUTES 47 SECONDS EAST, OVER AND ACROSS SAID 1113.084 ACRE TRACT, CONTINUING ALONG THE APPROXIMATE CENTERLINE OF SAID COLLIN COUNTY ROAD NO. 281, A DISTANCE OF 2505.18 FEET TO A POINT FOR AN INSIDE ELL CORNER OF SAID 1113.084 ACRE TRACT;

THENCE, SOUTH 89 DEGREES 21 MINUTES 54 SECONDS EAST, ALONG THE NORTH LINE OF SAID 1113.084 ACRE TRACT, PASSING AT A DISTANCE OF 40.00 FEET A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 1290.73 FEET TO A 5/8 INCH IRON ROD FOUND FOR THE A NORTHEAST CORNER OF SAID 1113.084 ACRE TRACT AND BEING ON THE WEST LINE OF SAID 118.259 ACRE TRACT;

THENCE, NORTH 00 DEGREES 11 MINUTES 31 SECONDS WEST, ALONG THE WEST LINE OF SAID 118.259 ACRE TRACT, A DISTANCE OF 15.14 FEET TO A 1/2 INCH IRON ROD FOUND FOR A NORTHWEST CORNER OF SAID 118.259 ACRE TRACT AND THE SOUTHWEST CORNER OF A CALLED 1.071 ACRE TRACT OF LAND DESCRIBED IN A DEED TO ANITA L. GRAY AND HUSBAND, JIMMY L. GRAY AS RECORDED IN COLLIN COUNTY CLERK'S FILE NO. 94-0054427 OF THE LAND RECORDS OF COLLIN COUNTY, TEXAS;

THENCE SOUTH 89 DEGREES 10 MINUTES 20 SECONDS EAST, ALONG THE SOUTH LINE OF AFORESAID 1.071 ACRE TRACT, A DISTANCE OF 182.65 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 1.071 ACRE TRACT;

THENCE NORTH 00 DEGREES 11 MINUTES 36 SECONDS WEST, ALONG THE EAST LINE OF AFORESAID 1.071 ACRE TRACT, A DISTANCE OF 254.52 FEET TO A POINT FOR CORNER, FROM WHICH A 5/8 INCH IRON ROD FOUND BEARS NORTH 00 DEGREES 11 MINUTES 36 SECONDS WEST, A DISTANCE OF 0.64 FEET, SAID POINT BEING IN THE SOUTH LINE OF A CALLED 10.000 ACRE TRACT OF LAND DESCRIBED IN A DEED TO CABE W. CHADICK AS RECORDED IN COLLIN COUNTY CLERK'S FILE NO. 2000-0095879 OF THE LAND RECORDS OF COLLIN COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 20 MINUTES 27 SECONDS EAST, ALONG THE NORTH LINE OF SAID 118.259 ACRE TRACT, THE SOUTH LINE OF SAID 10.000 ACRE TRACT, THE SOUTH LINE OF AFORESAID 39.06 ACRE TRACT, A DISTANCE OF 1856.29 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID THOMAS M. FRIS TRACT;

THENCE, NORTH 00 DEGREES 05 MINUTES 19 SECONDS EAST, ALONG THE WEST LINE OF SAID 106.762 ACRE TRACT AND THE EAST LINE OF SAID THOMAS M. FRIS TRACT, A DISTANCE OF 794.23 FEET TO THE **POINT OF BEGINNING**, AND CONTAINING 423.553 ACRES OF LAND, MORE OR LESS.

(2) MUD 2/TRACT B - 407.211 acres

BEING A 407.211 ACRE TRACT OF LAND SITUATED IN THE JOHN LARIMON SURVEY, ABSTRACT NO. 530, AND THE THOMAS BRUCE SURVEY, ABSTRACT NO. 103, COLLIN COUNTY, TEXAS, AND BEING PART OF A 158.524 ACRE TRACT OF LAND CONVEYED TO MA-BBO FIVE, L.P. BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060718001344740, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS AND BEING PART OF A 1113.084 ACRE TRACT OF LAND CONVEYED TO MA BB OWEN, L.P. BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060616000829800, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS. SAID 407.211 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS), DETERMINED BY

GPS OBSERVATIONS ON JULIAN DAY 320, 2005, CALCULATED FROM DENTON CORS ARP (PID-DF8986), ARLINGTON RRP2 CORS ARP (PID-DF 5387) AND COLLIN CORS ARP (PID-8982), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT AT A NORTHWEST CORNER OF AFORESAID 1113.084 ACRE TRACT AND BEING THE SOUTHWEST CORNER OF A CALLED 0.998 ACRE TRACT OF LAND CONVEYED TO CHAMBERVILLE CEMETERY ASSOCIATION BY DEED RECORDED IN VOLUME 2034, PAGE 573, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING IN COLLIN COUNTY ROAD NO. 206 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE NORTH 89 DEGREES 45 MINUTES 16 SECONDS EAST, ALONG THE SOUTH LINE OF AFORESAID 0.998 ACRE TRACT, PASSING AT A DISTANCE OF 9.74 FEET A 5/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 188.45 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN INSIDE ELL CORNER OF AFORESAID 1113.084 ACRE TRACT AND BEING THE SOUTHEAST CORNER OF SAID 0.998 ACRE TRACT;

THENCE NORTH 00 DEGREES 55 MINUTES 15 SECONDS WEST, ALONG THE EAST LINE OF AFORESAID 0.998 ACRE TRACT PASSING AT A DISTANCE OF 177.66 FEET A 1/2 INCH IRON ROD FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 206.50 FEET TO A POINT FOR A NORTHEAST CORNER OF SAID 0.998 ACRE TRACT AND BEING A NORTHWEST CORNER OF AFORESAID 1113.084 ACRE TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF COLLIN COUNTY ROAD NO. 281 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE ALONG THE NORTH LINE OF AFORESAID 1113.084 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 281 THE FOLLOWING COURSES AND DISTANCES:

SOUTH 88 DEGREES 11 MINUTES 52 SECONDS EAST, A DISTANCE OF 172.87 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 84 DEGREES 50 MINUTES 48 SECONDS EAST, A DISTANCE OF 300.57 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 88 DEGREES 57 MINUTES 46 SECONDS EAST, A DISTANCE OF 689.46 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 89 DEGREES 51 MINUTES 11 SECONDS EAST, A DISTANCE OF 691.44 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 84 DEGREES 42 MINUTES 34 SECONDS EAST, A DISTANCE OF 623.13 FEET TO A 3/4 INCH IRON ROD FOUND FOR THE MOST NORTHERN NORTHEAST CORNER OF AFORESAID 1113.084 ACRE TRACT AND BEING THE NORTHWEST CORNER OF A CALLED 7.04 ACRE TRACT OF LAND CONVEYED TO ROBERT W. GANTER AND ELIZABETH A. GANTER BY DEED RECORDED IN COUNTY CLERK'S NO. 97-0024749. LAND RECORDS, COLLIN COUNTY, TEXAS;

SOUTH 00 DEGREES 29 MINUTES 01 SECONDS WEST, ALONG AN EAST LINE OF AFORESAID 1113.084 ACRE TRACT AND THE COMMON WEST LINE OF AFORESAID 7.04 ACRE TRACT , A DISTANCE OF 411.24 FEET TO A 1/2 INCH IRON PIPE FOUND FOR THE SOUTHWEST CORNER OF SAID 7.04 ACRE TRACT;

SOUTH 89 DEGREES 02 MINUTES 06 SECONDS EAST, ALONG THE NORTH LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON SOUTH LINE OF AFORESAID 7.04 ACRE TRACT, A DISTANCE OF 1471.42 FEET TO A 1/2 INCH IRON PIPE FOUND FOR CORNER AND BEING ON THE WEST LINE OF A CALLED 5.660 ACRE TRACT OF LAND CONVEYED TO DONALD DWAYNE TUCKER AND WIFE, JEAN TUCKER RECORDED IN VOLUME 931, PAGE 368, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING IN THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 281;

THENCE SOUTH 00 DEGREES 40 MINUTES 36 SECONDS WEST, ALONG AN EAST LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON WEST LINES OF AFORESAID 5.660 TUCKER TRACT AND OF A CALLED 1.39 ACRE TRACT OF LAND CONVEYED TO CALVIN JARRETT AND KAREN JARRETT BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2005-0097078, LAND RECORDS, COLLIN COUNTY, TEXAS AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 281, A DISTANCE OF 537.51 FEET TO A POINT FOR THE CORNER;

THENCE, SOUTH 00 DEGREES 04 MINUTES 47 SECONDS WEST, OVER AND ACROSS SAID 1113.084 ACRE TRACT, A DISTANCE OF 2505.18 FEET TO A 1/2 INCH IRON ROD FOUND ON A SOUTH LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON NORTHEAST CORNER OF A CALLED 3.000 ACRE TRACT OF LAND CONVEYED TO TERRY L. HARTWICK AND ROSE ETTA JONES BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2002-0001673, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 54 MINUTES 23 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 1113.084 ACRE TRACT, AND THE COMMON NORTH

LINE OF SAID 3.000 ACRE TRACT, A DISTANCE OF 484.37 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER ON THE EAST LINE OF A 19.33 ACRE TRACT OF LAND CONVEYED TO TERRY L. HARTWICK AND ROSE ETTA JONES BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 94-0065235, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 14 MINUTES 32 SECONDS WEST, A DISTANCE OF 154.99 FEET TO A 5/8 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 19.33 ACRE TRACT;

THENCE, NORTH 89 DEGREES 39 MINUTES 30 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 19.33 ACRE TRACT, A DISTANCE OF 988.76 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER ON THE EAST LINE OF SAID 158.524 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 26 MINUTES 33 SECONDS EAST, ALONG THE EAST LINE OF SAID 158.524 ACRE TRACT AND THE COMMON WEST LINES OF SAID 19.33 ACRE TRACT AND A CALLED 11.06 ACRE TRACT OF LAND CONVEYED TO HUGH P. McADAMS BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 92-0003436, LAND RECORDS, COLLIN COUNTY, TEXAS, A DISTANCE OF 1763.02 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 158.524 ACRE TRACT AND BEING THE SOUTHWEST CORNER OF SAID 11.06 ACRE TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF COLLIN COUNTY ROAD NO. 206 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY) AND BEING ON THE NORTH LINE OF A CALLED 72 ACRE TRACT OF LAND CONVEYED TO J.L. MELL, BEVERLY ANN ALLEN & NANCY JO. LAWRENCE BY DEED RECORDED IN COUNTY CLERKS' FILE NO. 2000-0101341, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE NORTH 89 DEGREES 36 MINUTES 20 SECONDS WEST, ALONG THE SOUTH LINE OF AFORESAID 158.524 ACRE TRACT AND THE COMMON NORTH LINE OF AFORESAID 72 ACRE TRACT AND ALONG THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206 A DISTANCE OF 576.42 FEET TO A POINT FOR AN ELL CORNER OF SAID 158.524 ACRE TRACT AND BEING THE SOUTHEAST CORNER OF THE REMAINDER OF A TRACT OF LAND CONVEYED TO DONALD M. MOTSENBACKER AND WIFE, NORMA FAYE MOTSENBACKER BY DEED RECORDED IN VOLUME 2678, PAGE 833, DEED RECORDS, COLLIN COUNTY, TEXAS;

THENCE ALONG THE COMMON LINES BETWEEN AFORESAID 158.524 ACRE TRACT AND AFORESAID REMAINDER MOTSENBACKER TRACT THE FOLLOWING COURSES AND DISTANCES:

NORTH 01 DEGREES 01 MINUTES 34 SECONDS EAST, PASSING AT A DISTANCE OF 28.19 FEET A 1/2 INCH IRON ROD FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 95.45 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 46 DEGREES 22 MINUTES 09 SECONDS WEST, A DISTANCE OF 30.04 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 01 DEGREES 02 MINUTES 48 SECONDS EAST, A DISTANCE OF 66.35 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 48 DEGREES 15 MINUTES 02 SECONDS WEST, A DISTANCE OF 30.38 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 01 DEGREES 27 MINUTES 43 SECONDS EAST, A DISTANCE OF 66.57 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 46 DEGREES 58 MINUTES 13 SECONDS WEST, A DISTANCE OF 23.59 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 00 DEGREES 24 MINUTES 20 SECONDS EAST, A DISTANCE OF 25.48 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 71 DEGREES 03 MINUTES 06 SECONDS EAST, A DISTANCE OF 10.41 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 39 DEGREES 44 MINUTES 59 SECONDS EAST, A DISTANCE OF 10.78 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 00 DEGREES 21 MINUTES 32 SECONDS WEST, A DISTANCE OF 98.69 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 43 DEGREES 09 MINUTES 55 SECONDS WEST, A DISTANCE OF 11.67 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 88 DEGREES 23 MINUTES 42 SECONDS WEST, A DISTANCE OF 201.10 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 46 DEGREES 23 MINUTES 42 SECONDS WEST, A DISTANCE OF 10.70 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 14 DEGREES 06 MINUTES 56 SECONDS WEST, A DISTANCE OF 10.35 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 01 DEGREES 47 MINUTES 24 SECONDS WEST, A DISTANCE OF 81.41 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 19 DEGREES 38 MINUTES 16 SECONDS EAST, A DISTANCE OF 10.39 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 52 DEGREES 48 MINUTES 19 SECONDS EAST, A DISTANCE OF 10.82 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 76 DEGREES 36 MINUTES 21 SECONDS EAST, A DISTANCE OF 10.30 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 02 DEGREES 21 MINUTES 20 SECONDS WEST, A DISTANCE OF 25.12 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 47 DEGREES 10 MINUTES 36 SECONDS WEST, A DISTANCE OF 33.81 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 47 MINUTES 06 SECONDS EAST, A DISTANCE OF 63.78 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 44 DEGREES 58 MINUTES 54 SECONDS WEST, A DISTANCE OF 31.86 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 34 MINUTES 55 SECONDS EAST, A DISTANCE OF 65.94 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 48 DEGREES 15 MINUTES 30 SECONDS WEST, A DISTANCE OF 30.58 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 40 MINUTES 17 SECONDS EAST, PASSING AT A DISTANCE OF 66.78 FEET A 1/2 INCH IRON ROD FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 95.05 FEET TO A POINT FOR AN ELL CORNER OF AFORESAID 158.524 ACRE TRACT AND THE SOUTHWEST CORNER OF AFORESAID REMAINDER MOTSENBACKER TRACT AND BEING ON THE NORTH LINE OF A CALLED 36.145 ACRE TRACT OF LAND CONVEYED TO CAROLYN PUTNEY BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2003-0016137, LAND RECORDS, COLLIN COUNTY, TEXAS AND BEING IN THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO.206;

THENCE NORTH 89 DEGREES 36 MINUTES 20 SECONDS WEST, ALONG THE SOUTH LINE OF AFORESAID 158.524 ACRE TRACT AND THE COMMON NORTH LINE OF AFORESAID 36.145 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206, A DISTANCE OF 1762.31 FEET TO A POINT FOR CORNER;

THENCE NORTH 00 DEGREES 08 MINUTES 15 SECONDS WEST, PASSING AT A DISTANCE OF 26.32 FEET A 1/2 INCH IRON ROD FOUND FOR WITNESS, CONTINUING ALONG THE WEST LINE OF AFORESAID 158.524 ACRE TRACT AND THE COMMON EAST LINE OF THE FOLLOWING TRACTS, A CALLED 22.030 ACRE TRACT OF LAND CONVEYED TO BILLY J. DRURY, ET AL BY DEED RECORDED IN VOLUME 1043, PAGE 346, DEED RECORDS, COLLIN COUNTY, TEXAS AND A CALLED 22.030 ACRE TRACT OF LAND CONVEYED TO JIMMIE L. DRURY BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2003-0060252, LAND RECORDS, COLLIN COUNTY, TEXAS AND A CALLED 3.67 ACRE TRACT OF LAND CONVEYED TO RODNEY C. NIXON BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 93-0108403, LAND RECORDS, COLLIN COUNTY, TEXAS AND A CALLED 3.67 ACRE TRACT OF LAND CONVEYED TO RODNEY C. NIXON BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 93-0108402, LAND RECORDS, COLLIN COUNTY, TEXAS AND A CALLED 11.015 ACRE TRACT OF LAND CONVEYED TO QUIDA NIXON BY DEED RECORDED IN VOLUME 1043, PAGE 338, DEED RECORDS, COLLIN COUNTY, TEXAS AND A CALLED 11.015 ACRE TRACT OF LAND CONVEYED TO DEAN ANDERSON BY DEED RECORDED IN VOLUME 1043, PAGE 333, DEED RECORDS, COLLIN COUNTY, TEXAS AND ALONG THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206, A DISTANCE OF 2672.26 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 88 DEGREES 53 MINUTES 46 SECONDS EAST, A DISTANCE OF 19.61 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 1113.084 ACRE TRACT;

THENCE ALONG THE WEST LINE OF AFORESAID 1113.084 ACRE TRACT THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 12 MINUTES 11 SECONDS WEST, A DISTANCE OF 1035.01 FEET TO A POINT FOR CORNER;

NORTH 00 DEGREES 50 MINUTES 11 SECONDS WEST, A DISTANCE OF 1248.29 FEET TO THE **POINT OF BEGINNING**, AND CONTAINING 407.211 ACRES OF LAND, MORE OR LESS.



Exhibit C

STATE OF TEXAS                   §  
  §  
COUNTY OF COLLIN               §

NOTICE CONCERNING ANNEXATION AND SERVICES

The real property described in Exhibit A attached hereto and incorporated herein is located in McKinney Municipal Utility District No. 2 of Collin County (the "District"). The District is located wholly within the extraterritorial jurisdiction of the City of McKinney. The City does not impose property taxes within the District and is not required by state law to provide police protection, fire protection, road maintenance or any other municipal services to the District.

The City of McKinney may annex the District for full purposes upon the earliest to occur of: (a) completion of the Major Items and completion of the construction of the Infrastructure to serve full development of the Property and the issuance by the District of Bonds to reimburse the full cost of the Major Items and the Infrastructure; (b) fifteen (15) years after the first record plat is recorded within the District; or (c) the dissolution of the District (other than as a result of annexation by the City).

For additional information concerning potential annexation of the District, contact the City of McKinney Director of Development Services.

MCKINNEY MUNICIPAL UTILITY  
DISTRICT NO. 2 OF COLLIN  
COUNTY

By: \_\_\_\_\_  
Its: President, Board of Directors

Date: \_\_\_\_\_

STATE OF TEXAS                   §  
  §  
COUNTY OF \_\_\_\_\_         §

This instrument was acknowledged before me, on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_, President, Board of Directors of the McKinney Municipal Utility District No. 2 of Collin County, on behalf of said district.

[SEAL]

\_\_\_\_\_  
Notary Public, State of Texas  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

After recording, return to:

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Exhibit A to Notice Concerning Annexation And Services

Exhibit D

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between \_\_\_\_\_, a \_\_\_\_\_ ("Assignor"), and \_\_\_\_\_, a \_\_\_\_\_ ("Assignee") (Assignor and Assignee are hereinafter sometimes collectively referred to as the "Parties" and singularly as a "Party").

RECITALS:

A. Assignor is the owner of the rights of the Owner under that certain "2012 Agreement Concerning Creation and Operation of McKinney Municipal Utility District No. 2 of Collin County (the "Agreement") effective as of \_\_\_\_\_, 2012, among Assignor as "Owner", the City of McKinney, Texas, as the "City", and McKinney Municipal Utility District No. 2 of Collin County, as the "District," relating to the creation and operation of the District, to the extent that the Agreement covers, affects, and relates to the lands described on Exhibit A attached to and made a part hereof of this Assignment for all purposes (the "Transferred Premises").

B. Assignor desires to assign certain of its rights under the Agreement as it relates to the Transferred Premises to Assignee, and Assignee desires to acquire such rights, on and subject to the terms and conditions of this Assignment.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and obligations set forth herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties hereby agree and act as follows:

1. Certain Defined Terms. Unless indicated otherwise herein, capitalized terms in this Assignment shall have the same respective meanings as are ascribed to them in the Agreement.

2. Assignment. Subject to all of the terms and conditions of this Assignment, Assignor hereby assigns all [or describe specifically assigned rights if partial] of its rights under the Agreement, insofar as the Agreement covers, affects, and relates to the Transferred Premises.

3. Assumption. Assignee hereby assumes all obligations of Assignor and any liability that may result from acts or omissions by Assignee under the Agreement as it relates to the Transferred Premises that may arise or accrue from and after the effective date of this Assignment, and Assignor is hereby released from all such obligations and liabilities from and after the effective date of this Assignment; provided, however, this Assignment does not release Assignor from any liability that resulted from an act or

omission by Assignor that occurred prior to the effective date of this Assignment unless the City approves the release in writing.

4. Governing Law. This Assignment must be construed and enforced in accordance with the laws of the State of Texas, as they apply to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary.

5. Counterpart/Facsimile Execution. This Assignment has been prepared in multiple counterparts, each of which shall constitute an original hereof, and the execution of any one of such counterparts by any signatory shall have the same force and effect and shall be binding upon such signatory to the same extent as if the same counterpart were executed by all of the signatories. Facsimile copies of signatures may be appended hereto with the same force and effect as legally delivered original signatures.

6. Notice to City. A copy of this Assignment shall be provided to the City within fifteen (15) days after execution.

7. Binding Effect. This Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignees and their respective heirs, personal representatives, successors, and assigns.

EXECUTED as of the day and year first above written.

ASSIGNOR:

[\_\_\_\_\_]

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

ASSIGNEE:

[\_\_\_\_\_]

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS                   §  
  §  
COUNTY OF \_\_\_\_\_ §

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Notary Public, State of Texas  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF TEXAS                   §  
  §  
COUNTY OF \_\_\_\_\_ §

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Notary Public, State of Texas  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Exhibit "A" to Assignment and Assumption Agreement

THE TRANSFERRED PREMISES

Filed and Recorded  
Official Public Records  
Stacey Kemp, County Clerk  
Collin County, TEXAS  
03/26/2013 01:35:43 PM  
\$168.00 DFOSTER  
20130326000400890



A handwritten signature in cursive script that reads "Stacey Kemp".