FIRST AMENDMENT TO 2012 DEVELOPMENT AGREEMENT

This FIRST AMENDMENT TO 2012 DEVELOPMENT AGREEMENT (this "First Amendment") is executed between CH-B Trinity Falls, LP, a Texas limited partnership ("Owner") and the City of McKinney, Texas (the "City") to be effective _____ __, 2014 (the "Effective Date"). The Owner and the City are sometimes herein referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. WHEREAS, Parties entered into that certain *2012 Development Agreement* effective December 4, 2012, recorded in the real property records of Collin County on January 16, 2013, as document 3013116000067920 (the "2012 Agreement"); and

B. WHEREAS, the Parties desire to amend the 2012 Agreement as reflected in this First Amendment; and

C. WHEREAS, in the event of any conflict or inconsistency between this First Amendment and the 2012 Agreement, the provisions and intent of this First Amendment shall control; and

D. WHEREAS, except as amended by this First Amendment, the Parties intend that the 2012 Agreement shall remain in full force and effect; and

E. WHEREAS, terms used in this First Amendment that have their initial letter capitalized but which are not defined in the First Amendment shall have the meanings given to such terms in the 2012 Agreement.

NOW THEREFORE, FOR AND IN CONSIDERATION FOR THE MUTUAL OBLIGATIONS OF THE PARTIES SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. Section 3.2 of the 2012 Agreement is replaced in its entirety by the following:

> 3.2 Plat Approval. Subdivision of the Property shall require approval of preliminary and final plats (including Record Plats) by the City in accordance with the Governing Regulations, Section 2.3 above and this Agreement. Screening and buffering requirements and any correlative construction and installation of improvements shall be deferred for a period of three (3) months after approval of any final or Record Plat. NOTWITHSTANDING THE FOREGOING, UNLESS EXPRESSLY WAIVED BY THE CITY AND EXCEPT AS OTHERWISE PROVIDED IN SECTION 9.3, IT SHALL BE A CONDITION TO ACCEPTANCE BY THE CITY, AS WELL AS A REQUIREMENT FOR COMPLETENESS, OF ANY APPLICATION FOR A PRELIMINARY PLAT OR FINAL PLAT OF ANY PORTION OF THE PROPERTY THAT NONE OF THE DEFAULTS DESCRIBED BELOW SHALL EXIST AS OF THE FILING DATES FOR SUCH APPLICATIONS. THE EXISTENCE OF ANY OF SUCH DEFAULTS SHALL NOT, HOWEVER, AFFECT IN ANY WAY THE

OBLIGATION OF THE CITY TO CONTINUE TO PROCESS APPLICATIONS FOR PRELIMINARY PLATS AND FINAL PLATS THAT WERE FILED PRIOR TO THE OCCURRENCE OF SUCH DEFAULTS.

(a) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO MAINTAIN ROADWAY PUBLIC INFRASTRUCTURE AS REQUIRED BY SECTION 5.1.4 OF THIS AGREEMENT.

(b) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO INSTALL OR CONSTRUCT SCREENING AND BUFFERING IMPROVEMENTS OR MATERIAL AS REQUIRED BY SECTION 3.2 OF THIS AGREEMENT.

(c) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO MAINTAIN DRAINAGE PUBLIC INFRASTRUCTURE AS REQUIRED BY SECTION 5.1.4 OF THIS AGREEMENT.

(d) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO CONSTRUCT AND CONVEY A NEIGHBORHOOD PARK AS AND WHEN REQUIRED BY EXHIBIT G OF THIS AGREEMENT.

(e) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO MAINTAIN THE TRINITY RIVER COMMON AREA AS REQUIRED BY EXHIBIT G OF THIS AGREEMENT.

(f) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE PAYMENT OF THE PARK FEE FUNDS AS REQUIRED BY EXHIBIT G OF THIS AGREEMENT.

(g) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO PROVIDE POLICE SERVICES AS REQUIRED BY SECTION 3.8.1 OF THIS AGREEMENT.

(h) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO CONSTRUCT AND MAINTAIN MAJOR INFRASTRUCTURE AS REQUIRED BY SECTION 10.3 OF THIS AGREEMENT.

(i) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION (IF APPLICABLE) TO BEGIN CONSTRUCTION OF A FIRE SERVICES FACILITY AS REQUIRED BY SECTION 3.8.3 OF THIS AGREEMENT.

(j) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION (IF APPLICABLE) TO COMPLETE CONSTRUCTION OF A FIRE SERVICES FACILITY AND CAUSE SUCH FACILITY TO OPERATIONAL AS REQUIRED BY SECTION 3.8.2 OF THIS AGREEMENT.

(k) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO FUND THE COST OF FIRE FIGHTING PERSONNEL AS REQUIRED BY SECTION 3.8.2 OF THIS AGREEMENT.

(l) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO CONVEY THE SCHOOL SITES PURSUANT TO THE MISD AGREEMENT DESCRIBED IN SECTION 7.5 OF THIS AGREEMENT.

(m) THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE OBLIGATION TO MAKE ANY PAYMENTS TO THE MISD PURSUANT TO THE MISD AGREEMENT DESCRIBED IN SECTION 7.5 OF THIS AGREEMENT.

2. Section 3.7 of the 2012 Agreement is replaced in its entirety by the following:

3.7 Inspection by the City. The City shall have the right to inspect, from time to time, the construction of any Public Infrastructure and any Structure. If the City determines that any Public Infrastructure or Structure is not being constructed in compliance with the Governing Regulations and the contractor or builder fails to correct the non-compliance within a reasonable period of time after notice thereof, the City shall have the right to enforce compliance and to stop new work on the Public Infrastructure or Structure by the issuance of "stop work order" until the non-compliance is corrected to the reasonable satisfaction of the City. Nothing in this Section 3.7 is intended to obligate the City to perform any inspections of Public Infrastructure or any Structure or to create any liability of the City to determine whether Public Infrastructure or any Structure is constructed in accordance with the Governing Regulations.

Section 3.8 of the 2012 Agreement is replaced in its entirety by the following:

3.8 Termination of Certified Inspectors. The City and the District each shall have the right to terminate any Certified Inspector for failure to properly perform any duty required by this Agreement or for failure to provide inspection reports or monthly status reports as required by this Agreement, if such failure is not cured by the Certified Inspector within ten (10) days after receipt of written notice from either the City or the District with copy thereof to the other. Upon any such termination, the City, at its option, may allow the use of another Certified Inspector or may elect to perform some or all of the duties reserved to Certified Inspectors by this Article III. If the City elects to perform any of those duties, such duties shall be performed (and reports provided to the District) in the same manner as would be applicable to the Certified Inspectors, and the actual, reasonable costs and expenses paid or incurred by the City in performing the duties shall be paid by the contractor or builder (or by the owner of the property on which the work is being performed). Nothing in this Section 3.8 is intended to obligate the City to determine whether a Certified Inspector is performing its duties under this Agreement, to create any liability of the City with respect to the failure of a Certified Inspector to perform its duties under this Agreement, to obligate the City to perform any inspections of Public Infrastructure or any Structure or to create any liability of the City to determine whether Public Infrastructure or any Structure is constructed in accordance with the Governing Regulations.

3. Section 4.3 of the 2012 Agreement is replaced in its entirety by the following:

4.3 City Inspection Fees. Any inspections of Public Infrastructure or Structures pursuant to the City's inspection rights under Section 3.7 (in the event the City determines that any Public Infrastructure or Structure is not being constructed in accordance with the Governing Regulations) or under Section 3.8 (in the event the City terminates any Certified Inspector), shall be subject to the payment to the City of all reasonable costs and expenses paid or incurred by the City in performing the inspections (the "Inspection Fees"). Nothing in this Section 4.3 shall obligate the City to perform any inspections under Section 3.7, Section 3.8, or otherwise under any provision of the 2012 Agreement or this First Amendment.

4. Section 5.1.1.1.1 of the 2012 Agreement is replaced in its entirety by the following:

5.1.1.1.1 prior to the date of the request for the issuance of a building permit for the 1,900th Dwelling Unit, use its best efforts to implement the City's capital improvement plans to design, acquire easements for, construct, cause to be dedicated to and accepted by the City, and make operational, the "Bloomdale Pump Station" and the water lines required to deliver an adequate supply of water from the Bloomdale Pump Station to the north side of Bloomdale Road as shown on the City's Water Master Plan. Within 60 days after Owner's Notice to the City that at least 1,000 building permits have been issued, the City shall provide Notice to Owner of the City's ability and intentions with regards to the timing of construction of the Bloomdale Pump Station and associated infrastructure, including, but not limited to, the NTMWD facilities required to deliver water to the Bloomdale Pump Station;

Section 5.1.1.2.1, Section 5.1.1.2.2, and Section 5.1.1.2.3 of the 2012 Agreement are replaced in their entirety by the following:

5.1.1.2 At no cost to the City, Owner will cause the following to occur with respect to the water Public Infrastructure:

5.1.1.2.1 prior to the issuance of the 450th building permit for a Dwelling Unit, design, acquire easements for, construct, and tender for dedication to and acceptance by the City, the extension of the existing water line located in Hardin Boulevard north of Wilmeth Drive (the "West Feed"). The West Feed, including facilities and improvements related thereto, shall be extended to the north from its current terminus along the alignment of future Hardin Boulevard (as approved by the City) to FM 543, then east along FM 543 to the Property (see **Exhibit C-5** of the 2012 Agreement). The size of the West Feed shall be in accordance with the City's current Water Master Plan, or smaller if approved by the City Engineer. Notwithstanding the foregoing, however, Owner will design, acquire easements for, construct, and tender for dedication to and acceptance by the City of the West Feed within one-year after written notice is delivered by the City to Owner at any time after the 300th building permit has been issued for a Dwelling Unit. No permits for any Dwelling Unit shall be issued after the expiration of such one-year period unless the West Feed has been competed, dedicated, and accepted as described in this subsection;

5.1.1.2.2 prior to the issuance of a building permit for the 525th Dwelling Unit, design, acquire easements for, construct, and tender for dedication to and acceptance by the City, the elevated water storage facility designated as the "Trinity Elevated Storage Tank" on the City's current Water Master Plan and on **Exhibit C-5** of the 2012 Agreement (the "Trinity EST"). The size of the Trinity EST shall be in accordance with the City's Water Master Plan, or smaller, if approved by the City Engineer. Notwithstanding the foregoing, however, Owner will design, acquire easements for, construct, and tender for dedication to and acceptance by the City of the Trinity EST within two years after written notice is delivered by the City to Owner at any time after the City has delivered written notice with respect to the West Feed as provided in Subsection 5.1.1.2.1. No permits for any Dwelling Unit shall be issued after the

expiration of such two-year period unless the Trinity EST has been completed, dedicated, and accepted as described in this subsection;

5.1.1.2.3.1 subject to Section 5.1.1.4 below and provided the Bloomdale Pump Station is operating at such time, prior to the issuance of a building permit for the 1,900th Dwelling Unit, design, acquire easements for, construct, and tender for dedication to and acceptance by the City, the water distribution facilities designated as the "East Feed" on attached **Exhibit C-5** (including facilities and improvements related thereto, the "East Water Feed");

Section 5.1.2.1 of the 2012 Agreement is replaced in its entirety by the following:

5.1.2.1 As and when reasonably determined by the City, if at all, the City shall design, acquire easements for, construct, and cause to be dedicated to and accepted by the City, all upgrades and expansions to the City's off-Property sewer Public Infrastructure (excluding sewer Public Infrastructure described as Owner's responsibility under Section 5.1.2.2) to the extent necessary to provide uninterrupted, equitable and uniform sanitary sewer service to the Property.

Exhibit C-1 to the 2012 Agreement is replaced in its entirety by **Exhibit C-1** to this First Amendment; Exhibit L to the 2012 Agreement is replaced in its entirety by **Exhibit L** to this First Amendment; and Section 12.18.1 of the 2012 Agreement is replaced in its entirety by the following:

12.18.1 CCOL Deed. Owner agrees to convey two tracts within the Property totaling approximately 84.8 acres of land near the northern boundary of the Property as depicted on the Concept Plan Land Use Plan attached as **Exhibit C-1** to this First Amendment (the "CCOL ROW") for the future construction of the Collin County Outer Loop (the "CCOL") by the City, Collin County, or other entity or governmental agency (the "CCOL Agency"). Prior to the Effective Date of this First Amendment, Owner delivered to a third-party escrow agent approved by Owner and the City (the "Escrow Agent") a special warranty deed (the "CCOL Deed"), a copy of which is attached as **Exhibit L** to this First Amendment, conveying to the City fee simple title to the CCOL ROW: (1) free of monetary liens and monetary encumbrances; (2) subject to all matters of record that affect the CCOL ROW as of the date of this Agreement; and (3) subject to a perpetual easement reserving to Owner and its successors the right to locate, construct, install, maintain, replace, and repair water, sanitary sewer, and drainage facilities over, under, and across the CCOL ROW, provided that such easement and any facilities shall be expressly limited to only those areas wherein such easement and facilities conform to applicable City of McKinney ordinances and which do not conflict with the design and construction of the Collin County Outer Loop. The Parties acknowledge that the legal description of the CCOL ROW contained in the CCOL Deed reflects an alignment preferred by Owner and supported by the City but which may vary from other alignments that have been considered by Collin County from time to time. The City will use its best efforts to cause Collin County to take official action approving a CCOL alignment that conforms to the alignment reflected by the CCOL Deed. Owner shall not take an adverse

position to any actions sought by the City in approving the alignment reflected in the CCOL Deed.

Exhibit M to the 2012 Agreement is replaced in its entirety by **Exhibit M** to this First Amendment; and Section 12.18.2 of the 2012 Agreement is replaced in its entirety by the following:

12.18.2 Escrow Instructions. Delivery of the CCOL Deed to the Escrow Agent was accompanied by written escrow instructions approved by Owner and the City (the "Escrow Instructions"), a copy of which is attached as **Exhibit M** to this First Amendment, that set forth the conditions upon which the CCOL Deed will be delivered to the City or returned to Owner. The Escrow Instructions shall provide that the CCOL Deed will be delivered to the City not earlier than 30 days after the CCOL Agency certifies in writing to Owner, the City, and the Escrow Agent that the CCOL Agency: (a) has approved and has immediately available funds to pay for the construction of the CCOL or portion thereof that includes the CCOL ROW, including an intersection of the CCOL with future Hardin Boulevard; (b) has opened the bids and awarded the contract for such construction; and (c) is prepared to give the selected contractor a "Notice to Proceed" subject only to the availability of the CCOL ROW. The Escrow Instructions also provide that the CCOL Deed may be returned to Owner with the written consent of the City and shall be returned to Owner not earlier than 30 days after Owner certifies in writing to the City, the CCOL Agency, and the Escrow Agent that one or more of the following has occurred: (A) construction of permanent improvements (including, but not limited to, infrastructure) has commenced on property in the vicinity of the Property that effectively prevents use of the CCOL ROW as part of the CCOL; (B) the CCOL Agency has awarded a contract for the construction of the CCOL based on an alignment that differs materially from the CCOL ROW or that does not include an intersection of the CCOL with future Hardin Boulevard; (C) the CCOL has been abandoned by order of the CCOL Agency; or (D) the conditions required to deliver the CCOL Deed to the City have not been satisfied within 40 years after the Effective Date of this Agreement. During the period that the CCOL Deed is being held by the Escrow Agent, Owner may use the CCOL ROW in accordance with the easements described above and as approved by the City. If the CCOL Deed is returned to Owner for any reason, Owner shall have no continuing obligations to provide right-of-way for or related to the CCOL, and the CCOL ROW can be developed in accordance with the Alternative Concept Plan Land Use Plan attached as **Exhibit C-1A** to the 2012 Agreement.

Exhibit C-1 to the 2012 Agreement is replaced in its entirety by **Exhibit C-1** to this First Amendment; and Section 12.18.3 of the 2012 Agreement is replaced in its entirety by the following:

12.18.3 Reserved Land. Owner agrees to reserve for development approximately 36 acres north of and adjacent to the CCOL ROW between future Hardin Boulevard and CR 281 as depicted on the Concept Plan Land Use Plan attached as **Exhibit C-1** to this First Amendment (the "Reserved Land"). If the CCOL Deed is returned to Owner as provided in Subsection 12.18.2, the reservation described herein terminates, and the

Reserved Land can be developed in accordance with the Alternative Concept Plan Land Use Plan attached as **Exhibit C-1A** to the 2012 Agreement.

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SIGNTURE PAGES AND FIRS AMENDMENT EXHIBITS TO FOLLOW

ATTEST:

_____
Name:
Title:

City of McKinney, Texas

By:_____
Name:_____
Title:_____
Date:_____

APPROVED AS TO FORM AND LEGALITY

_____

Name:

Title: City Attorney

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the __ day of _____, 2014, by _____, _____ of the City of McKinney, Texas, on behalf of said city.

_____

Notary Public, State of Texas

CH-B Trinity Falls, LP,
a Texas limited partnership

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

By:_____

Leisha Ehlert, Vice President

Date:_____

STATE OF TEXAS §
§
COUNTY OF _____§

This instrument was acknowledged before me on the ___ day of _____, 2014, by Leisha Ehlert, Vice President of CH-B Trinity Falls GP, LLC, a Delaware limited liability company, the general partner of CH-B Trinity Falls, LP, a Texas limited partnership, on behalf of said limited partnership.

_____

Notary Public, State of Texas

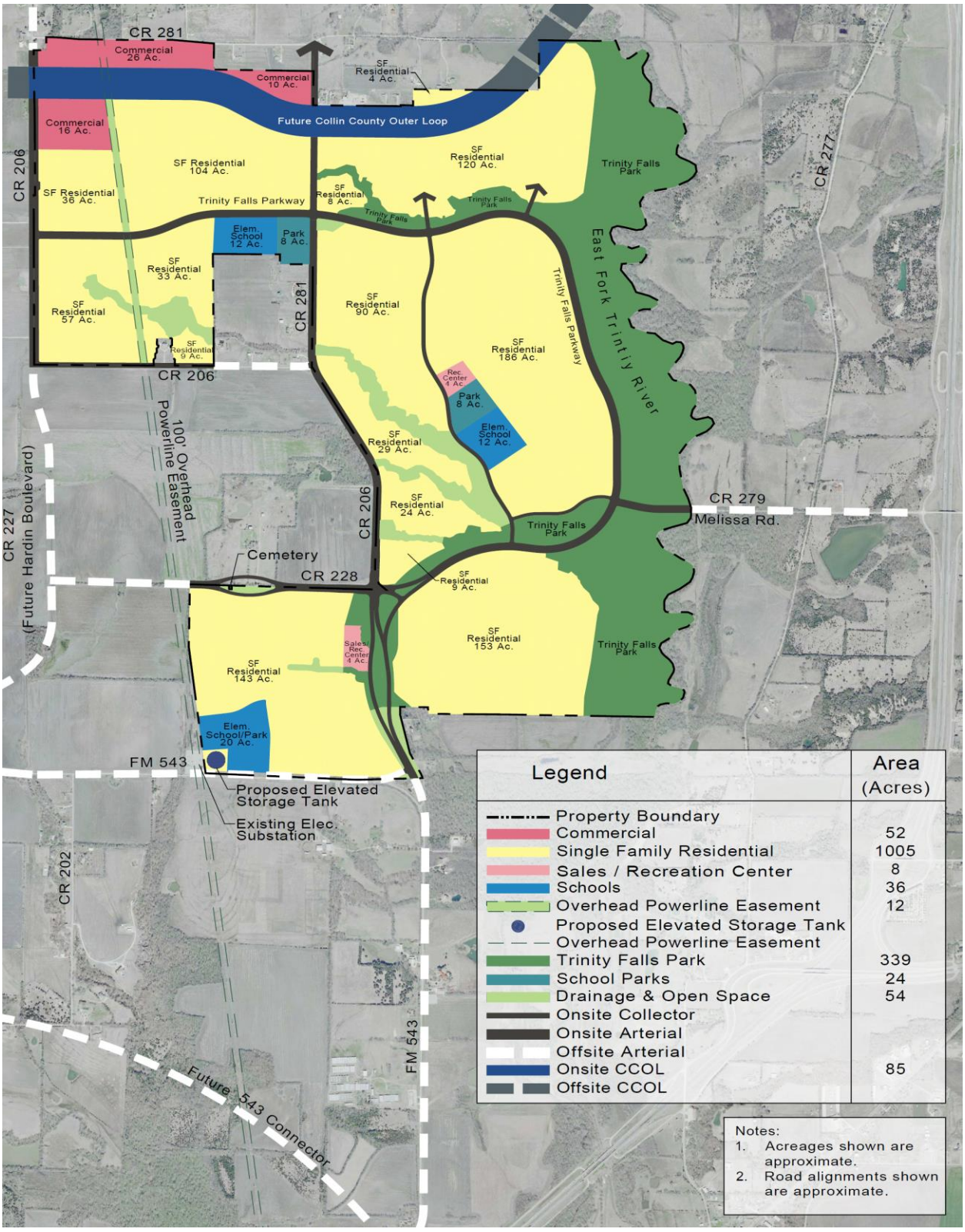
CR 281
Commercial 26 Ac.
Commercial 10 Ac.
Commercial 16 Ac.
Future Collin County Outer Loop
SF Residential 4 Ac.
SF Residential 104 Ac.
SF Residential 36 Ac.
Trinity Falls Parkway
SF Residential 8 Ac.
SF Residential 120 Ac.
Trinity Falls Park
CR 277
CR 206
Elem. School 12 Ac.
Park 8 Ac.
SF Residential 33 Ac.
SF Residential 57 Ac.
SF Residential 9 Ac.
CR 281
SF Residential 90 Ac.
East Fork Trinity River
SF Residential 186 Ac.
Rec. Center 1 Ac.
Park 8 Ac.
Elem. School 12 Ac.
CR 206
100' Overhead Powerline Easement
SF Residential 29 Ac.
SF Residential 24 Ac.
CR 279
Melissa Rd.
CR 227
(Future Hardin Boulevard)
Cemetery
CR 228
SF Residential 9 Ac.
SF Residential 153 Ac.
Sales/ Rec. Center 4 Ac.
SF Residential 143 Ac.
Elem. School/Park 20 Ac.
FM 543
Proposed Elevated Storage Tank
Existing Elec. Substation
CR 202
FM 543
Future 543 Connector
Legend
Area (Acres)
Property Boundary
Commercial 52
Single Family Residential 1005
Sales / Recreation Center 8
Schools 36
Overhead Powerline Easement 12
Proposed Elevated Storage Tank
Overhead Powerline Easement
Trinity Falls Park 339
School Parks 24
Drainage & Open Space 54
Onsite Collector
Onsite Arterial
Offsite Arterial
Onsite CCOL 85
Offsite CCOL
Notes:
1. Acreages shown are approximate.
2. Road alignments shown are approximate.

Exhibit L to First Amendment
Executed CCOL Deed