

## 2012 DEVELOPMENT AGREEMENT

This 2012 Development Agreement (this "Agreement") is executed between CH-B Trinity Falls, LP, a Texas limited partnership ("Owner"), its successors, transferees and assigns, and the City of McKinney, Texas (the "City") to be effective December 4, 2012 (the "Effective Date").

### ARTICLE I RECITALS

1.1 WHEREAS, the City is a home rule municipal corporation of the State of Texas;

1.2 WHEREAS, Owner is a Texas limited partnership;

1.3 WHEREAS, Owner and the City are sometimes individually referred to as a "Party" and collectively as the "Parties";

1.4 WHEREAS, Owner is the owner of the real property located in Collin County, Texas (the "County") depicted on Exhibit A and described by metes and bounds on Exhibits B-1, B-2, B-3 and B-4 (collectively, the "Property");

1.5 WHEREAS, MA-BBO Five, LP, a Texas limited partnership, and MA BB Owen, LP, a Texas limited partnership, were the prior owners of the Property (the "Prior Owner");

1.6 WHEREAS, the City and the Prior Owner entered into that certain Development Agreement effective December 5, 2006, concerning the development of the Property, which Development Agreement was recorded in the deed records of Collin County, Texas as Document No. 20101230001439090 (the "Prior Agreement");

1.7 WHEREAS, Owner is the successor in interest to Prior Owner with respect to ownership of the Property and with respect to all right, title, and interest of Prior Owner related to the Property including, but not limited to, all right, title and interest of Prior Owner in and to the Prior Agreement;

1.8 WHEREAS, Owner has assumed the obligations of Prior Owner under the Prior Agreement;

1.9 WHEREAS, Prior Owner has no ownership interest in the Property, no right, title, or interest in and to the Prior Agreement, and no right, title, or interest related to the Property;

1.10 WHEREAS, immediately prior to the execution of this Agreement the Prior Agreement was in full force and effect and was binding on Owner and the City;

1.11 WHEREAS, the Parties believe it is in their collective best interests to amend and restate the Prior Agreement in its entirety;

1.12 WHEREAS, the Parties intend that this Agreement shall amend and restate the Prior Agreement in its entirety and that from and after the execution of this Agreement the Prior Agreement shall be null and void and of no further force and effect;

1.13 WHEREAS, the Property is located wholly within the extraterritorial jurisdiction (“ETJ”) of the City and not within the ETJ or corporate limits of any other town or city;

1.14 WHEREAS, the Parties intend for the Property to be developed within the City’s ETJ, that the City shall have and exercise exclusive jurisdiction over the subdivision and platting of the Property and the design, construction, installation, and inspection of water, sewer, drainage, roadway, and other public infrastructure (“Public Infrastructure”) to serve the Property, and that the County shall have and exercise no jurisdiction over such matters;

1.15 WHEREAS, as of March 19, 2002, pursuant to Chapter 242 of the Texas Local Government Code, the Collin County Commissioners Court and the City executed an interlocal agreement titled *City-County Plat Approval Agreement* (the “Interlocal Agreement”), which Interlocal Agreement was approved by Resolution No. 2002-03-060(R) by the City Council of the City (the “City Council”);

1.16 WHEREAS, pursuant to Section 1 of the Interlocal Agreement, the County and the City agreed that the City is granted exclusive jurisdiction to regulate all subdivision plats and approve all related permits in the City’s ETJ in accordance with Chapter 212 of the Local Government Code, the City’s adopted Subdivision Regulations or other applicable codes or ordinances, and that the County no longer exercises any of these functions in the City’s ETJ;

1.17 WHEREAS, pursuant to Section 2 of the Interlocal Agreement, the County and the City agreed that the City Secretary or his/her designee is authorized to accept plat applications for tracts of land located in the ETJ of the City, collect plat application fees established by law, and provide applicants one response indicating approval or denial of the plat application by the appropriate approving authority;

1.18 WHEREAS, pursuant to Section 3 of the Interlocal Agreement, the County and the City agreed that the subdivision regulations of the City are established as a consolidated and consistent set of regulations related to plats and subdivisions of land as authorized by Chapters 212 and 232 of the Local Government Code, and will be enforced in the ETJ of the City;

1.19 WHEREAS, except where full-purpose annexation is contemplated under Section 12.18, the Parties intend for the Property to be developed within the City’s ETJ and not subject to full-purpose annexation by the City for the term of, and as otherwise provided by, this Agreement;

1.20 WHEREAS, the Parties intend that the Property be annexed by the City for the sole and limited purpose of allowing the City to collect sales and use taxes within the annexed areas pursuant to Section 43.0751 of the Texas Local Government Code, provided, however, any such limited purpose annexation is not intended to create a “limited district” as that term is defined in Section 43.0751(a)(2) of the Texas Local Government Code;

1.21 WHEREAS, the City is a party to that certain North Texas Municipal Water District Regional Water Supply Facilities Amendatory Contract dated as August 1, 1988 (the “NTMWD Supply Contract”), wherein, among other things, the City cannot contract to supply treated water for use outside its boundaries or the area of its statutory ETJ without the approval of the North Texas Municipal Water District (the “NTMWD”);

1.22 WHEREAS, the Property is currently included within the North Collin Water Supply Corporation’s (“NCWSC”) retail water certificated area under Certificate of Convenience and Necessity No. 11035 (the “Water CCN”);

1.23 WHEREAS, pursuant to that certain Settlement Agreement among NCWSC, the City, the City of Melissa and the City of Anna dated as of January 12, 2005 (the “Settlement Agreement”), the City is permitted to acquire NCWSC’s Water CCN for property located within the Remaining Territory (as such term is defined in the Settlement Agreement and used herein) upon payment to NCWSC of \$125.00 per acre for which such Water CCN is acquired in the Remaining Territory;

1.24 WHEREAS, the Property is entirely located within the Remaining Territory and the City intends to obtain the Water CCN for the Property, as provided in this Agreement;

1.25 WHEREAS, the Parties intend that the City will be the retail provider of water service to the Property;

1.26 WHEREAS, the City is a party to that certain City of McKinney-Trinity East Fork Regional Wastewater System Contract dated effective August 23, 1979 (“Sewer Contract”);

1.27 WHEREAS, the Property is located within an area for which the City has a Certificate of Convenience and Necessity to provide retail sewer service (CCN No. 20071; the “Sewer CCN”);

1.28 WHEREAS, the Parties intend that the City will be the retail provider of sewer service to the Property;

1.29 WHEREAS, notwithstanding the fact that the Property is located within the City’s ETJ and is not subject to the City’s zoning regulations, the Parties intend that the Property be developed: as a high-quality, master-planned, mixed-use community including parkland, open space, and other public and private amenities that will benefit and serve the present and future citizens of the City; and pursuant to binding, contractual development regulations that are approved by Owner and the City, that are recorded in the deed records of the County (so as to bind Owner and all future owners of the Property or any portion thereof), and that will provide regulatory certainty during the term of this Agreement;

1.30 WHEREAS, Public Infrastructure is not currently available to serve the Owner’s intended development of the Property;

1.31 WHEREAS, due to the location and other natural features of the Property, the cost of the Public Infrastructure does not allow the intended development of the Property in a cost-effective and market-competitive manner;

1.32 WHEREAS, to facilitate the intended development of the Property in a cost-effective and market-competitive manner, Prior Owner submitted a written petition to the City Council dated December 5, 2006, requesting that the City Council consent to the creation of McKinney Municipal Utility District No. 1 (“MUD No. 1”), over that tract of the Property described on **Exhibits B-1 and B-2** and that will design, construct and install certain Public Infrastructure necessary for the intended development of the Property;

1.33 WHEREAS, the City Council adopted Ordinance No. 2006-12-140 dated December 5, 2006, consenting to the creation of MUD No. 1 (the “MUD No. 1 Consent Ordinance”);

1.34 WHEREAS, to facilitate the intended development of the Property in a cost-effective and market-competitive manner, Prior Owner submitted a written petition to the City Council dated December 5, 2006, requesting that the City Council consent to the creation of McKinney Municipal Utility District No. 2 (“MUD No. 2”), over that tract of the Property described on **Exhibits B-3 and B-4** and that will design, construct and install certain Public Infrastructure necessary for the intended development of the Property;

1.35 WHEREAS, the City Council adopted Ordinance No. 2006-12-141 dated December 5, 2006, consenting to the creation of MUD No. 2 (the “MUD No. 2 Consent Ordinance”);

1.36 WHEREAS, MUD No. 1 and MUD No. 2 are hereinafter individually and collectively, as applicable, called the “District” and the MUD No. 1 Consent Ordinance and MUD No. 2 Consent Ordinance are hereinafter individually and collectively, as applicable, called the “Consent Ordinance”;

1.37 WHEREAS, the City has also consented to the creation of the District as set forth in the Consent Ordinance;

1.38 WHEREAS, it is the intent of the Parties that the Prior Agreement and, when fully executed, this Agreement, fully satisfy the requirements of Section 4 of the Consent Ordinance;

1.39 WHEREAS, concurrently with the execution of the Prior Agreement, the City approved and entered into a consent agreement with respect to MUD No. 1 (the “MUD No. 1 Consent Agreement”);

1.40 WHEREAS, concurrently with the execution of the Prior Agreement, the City approved and entered into a consent agreement with respect to MUD No. 2 (the “MUD No. 2 Consent Agreement”);

1.41 WHEREAS, the MUD No. 1 Consent Agreement and MUD No. 2 Consent Agreement are hereinafter individually and collectively, as applicable, called the “Consent Agreement”;

1.42 WHEREAS, MUD No. 1 and MUD No. 2 were created by House Bill No. 3979, enacted by the 80<sup>th</sup> Texas Legislature, Regular Session, effective September 1, 2007, codified as Chapters 8223 and 8252, Subtitle F, Title 6, Special District Local Laws Code (the “District Legislation”);

1.43 WHEREAS, pursuant to the District Legislation, the temporary directors of MUD No. 1 held an election on May 11, 2010, that confirmed the creation of MUD No. 1 and elected five directors as provided by Section 49.102, Texas Water Code;

1.44 WHEREAS, pursuant to the District Legislation, the temporary directors of MUD No. 2 held an election on May 11, 2010, that confirmed the creation of MUD No. 2 and elected five directors as provided by Section 49.102, Texas Water Code;

1.45 WHEREAS, the Parties intend that the District, or Owner as appropriate, will design, construct and install the Public Infrastructure, in accordance with the “Governing Regulations” (hereinafter defined), in accordance with the applicable requirements of the Texas Water Code, and the rules, regulations and policies of the Texas Commission on Environmental Quality (the “TCEQ”), and otherwise in accordance with this Agreement;

1.46 WHEREAS, the Parties intend that the District, or Owner as appropriate, will design, construct and install the Public Infrastructure using funds advanced to the District by Owner; and that the District will thereafter reimburse Owner for such advances using the proceeds of bonds issued by the District and secured solely by the District ad valorem taxes levied on property within the District and by other funds legally available to the District (with the City having no responsibility or liability whatsoever for any District bonds); and that all District bonds shall be approved by the TCEQ, as required by law, and by the Attorney General of the State of Texas (the “AG”);

1.47 WHEREAS, the Parties intend that the District at its sole expense will provide, or cause to be provided, police and fire services, as further set forth herein, to serve the Owner’s intended development of the Property;

1.48 WHEREAS, the Owner’s intended development of the Property, including the design, construction and installation of Public Infrastructure, is intended to benefit the City and its current and future citizens by the creation of substantial future tax base for the City;

1.49 WHEREAS, this Agreement is a development agreement as provided for by Section 212.172 of the Texas Local Government Code;

1.50 WHEREAS, the Parties have the authority to enter into this Agreement pursuant to Section 212.171 *et seq* of the Texas Local Government Code; and

1.51 WHEREAS, the terms "Exhibit," "Article," or "Section" when used in this Agreement are references to Exhibits attached to and made a part of this Agreement, references to Articles of this Agreement, and references to Sections of this Agreement unless the context in which such terms are used clearly requires a different meaning.

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

**ARTICLE II**  
**DEVELOPMENT REGULATIONS**

2.1 Governing Regulations. Development of the Property shall be governed solely by the following regulations (collectively, the “Governing Regulations”):

2.1.1 the Concept Plan consisting of **Exhibit C-1** through **Exhibit C-5**, as amended from time to time in accordance with this Agreement (the “Concept Plan”), which Concept Plan is a development plan as provided in Section 212.172 of the Texas Local Government Code;

2.1.2 the City’s “Subdivision Ordinance” (i.e., currently Chapter 142 of the City of McKinney Code of Ordinances), as may be amended from time to time, except as otherwise provided in the Special Regulations (the “Subdivision Regulations”);

2.1.3 the City Utility and Land Development Ordinances (i.e. currently Chapters 110 and 130, respectively, of the City of McKinney Code of Ordinances) described on **Exhibit D**, as may be amended from time to time; however subject to the specific exception for the Trinity River floodplain area identified in **Exhibit D-1** (the “City Ordinances”);

2.1.4 the building codes described on **Exhibit E** (the “Building Codes”), as may be amended from time to time pursuant to Section 2.6;

2.1.5 the special regulations set forth on **Exhibit F** (the “Special Regulations”);

2.1.6 the development regulations set forth on **Exhibit G** (the “Development Regulations”), as may be amended from time to time;

2.1.7 the impact fees and ordinances set forth on **Exhibit H**, as may be amended from time to time;

2.1.8 record plats for portions of the Property that are approved, from time to time, by the City in accordance with this Agreement (the “Approved Plats”);

2.1.9 revisions and exceptions to Development Regulations described in Section 2.5;

2.1.10 State and Federal Requirements described in Section 2.7, including amendments allowed by Section 2.7;

2.1.11 the Development Process described in Article III;

2.1.12 the Development Charges described in Article IV, including amendments allowed by Article IV;

2.1.13 Fire and police services agreements entered into pursuant to this Agreement;

2.1.14 ordinances enacted pursuant to Texas Local Government Code Section 217.041 et seq.; provided, however, so long as Owner's performance is in compliance with the Development Agreement, the City cannot claim that such performance is a nuisance; and

2.1.15 the Public Infrastructure and Retail Utility Service provisions of Article V.

Subject to the City's rights to amendment stated above, the Governing Regulations are exclusive, and no other future ordinances, rules, regulations, standards, policies, orders, guidelines, or other City-adopted or City-enforced requirements of any kind shall apply to the development of the Property. Owner acknowledges and agrees, however, that other ordinances of the City that do not regulate the development of the Property may be applied and enforced by the City to non-development activities within the Property. Owner further acknowledges and agrees that any modifications to the Governing Regulations allowed by this Agreement constitute Owner's limited waiver of its vested rights under Chapter 245, Texas Local Government Code, as amended.

2.2 Concept Plan. The Concept Plan identifies "Planning Units," land uses, major streets, major drainage ways, location of sites for certain parks, schools and other present and proposed land uses. The Concept Plan may be amended from time to time with the approval of the City Council or as otherwise provided herein. The Director of Development Services of the City has the authority to administratively approve revisions to the Concept Plan provided acreages of land uses other than schools and school parks do not increase or decrease more than ten percent (10%) and provided arterial and collector roadway alignments substantially conform to the alignments shown on the then-existing Concept Plan. Subject to the approval of the McKinney Independent School District or as allowed by the "MISD Agreement" (hereinafter defined), Owner shall have the right to substitute the northernmost elementary school and adjacent park located on approximately 20 acres and shown on the Concept Plan with a middle school (without an adjacent park) on such acreage without the approval of the Director of Development Services or the City Council. The Concept Plan may be revised from time to time with the approval of Owner, the City, and the owners of the portions of the Property within the area being revised or as otherwise provided in this section. If the Concept Plan is revised as provided in this section, the revised Concept Plan shall be an amendment to this Agreement, and the City shall cause the revised Concept Plan to be attached to the official version of this Agreement on file with the City's Secretary's Office.

2.3 Planning Unit Preliminary Plats. The submittal of each preliminary plat within a Planning Unit (a "Preliminary Plat") shall be accompanied by a plan showing the approximate location of arterial and collector streets within that Planning Unit and a schedule showing, for that Preliminary Plat and on a cumulative basis for all Preliminary Plats submitted to date, the mean lot size, the number of lots to be developed in conformance with the SDF-45 standards and

the number of lots to be developed with the SDF-57.5 standards. Each Preliminary Plat will be prepared in accordance with the requirements of the City and the Governing Regulations. Each Preliminary Plat shall be reviewed by City staff to determine compliance with the Governing Regulations and shall be approved by the Planning and Zoning Commission if it determines the Preliminary Plat complies with the Governing Regulations.

2.4 Development Regulation Revisions. The Director of Development Services of the City shall have the authority to administratively approve the following “minor revisions” to the Development Regulations: (i) an increase in the height of any structure by five percent (5%) or less; (ii) a setback reduction of ten percent (10%) or less; (iii) an increase in lot coverage of five percent (5%) or less; and (iv) a reduction in off-street parking of five percent (5%) or less. The City Council may further authorize exceptions to strict compliance with the Development Regulations when Owner demonstrates, to the satisfaction of the City Council, that the requested exception: (A) is not contrary to the public interest; (B) does not cause substantial injury to adjacent property; and (C) does not materially and adversely affect the quality of development.

2.5 Building Code Amendments. The City shall have the right to amend the Building Codes, from time to time, to include changes, including local amendments to the Building Codes, that have been adopted by the City Council for uniform application throughout the corporate limits of the City.

2.6 State and Federal Requirements. In addition to the City’s rights to amend the Governing Regulations and Owner’s limited waiver under 2.1 above, Development of the Property shall also be subject to ordinances that the City is required to adopt, from time to time, by state or federal law. Notwithstanding the foregoing, however, nothing in this section constitutes a waiver of Owner’s right to claim that a City ordinance required by state or federal: (i) does not apply to the Property based on the “vested rights” of Owner, whether such rights arise under Chapter 43, as amended, or Chapter 245, as amended, Texas Local Government Code; (ii) does not apply to the Property based on any other legal or equitable theory, whether based on existing or future common-law or state or federal statutes; or (iii) constitutes an illegal exaction or a “taking” without compensation.

2.7 Interlocal Agreement. The City covenants, represents and warrants to Owner that, with respect to the Interlocal Agreement, (i) the City has and shall exercise sole and exclusive jurisdiction over the review and approval of preliminary and final plats, the design, construction, installation and inspection of Public Infrastructure, and the construction and occupancy of structures pursuant to the terms of this Agreement, (ii) the County shall have and exercise no jurisdiction over such matters during the term of this Agreement, and (iii) in the event of any conflict between this Agreement and the Interlocal Agreement, this Agreement shall control.

2.8 Conflicts.

2.8.1 In the event a court of competent jurisdiction determines there is a conflict between this Agreement and the application of any other ordinance, rule, regulation, standard, policy, order, guideline or other City-adopted or City-enforced requirement,



whether existing on the Effective Date or hereinafter adopted, then this Agreement shall control.

2.8.2 In the event a court of competent jurisdiction determines there is a conflict between the Special Regulations and any of the other Governing Regulations, then the Special Regulations shall control.

2.8.3 In the event of any conflict between any Approved Plat and any of the other Governing Regulations, the Approved Plat shall control.

### **ARTICLE III DEVELOPMENT PROCESS**

**3.1 Jurisdiction.** Pursuant to the terms of the Interlocal Agreement, the Parties intend that the City shall have and exercise exclusive jurisdiction over the review and approval of preliminary and final plats (including Record Plats as such are defined in the Subdivision Ordinance), the design, construction, installation and inspection of Public Infrastructure, and the construction and occupancy of structures; and that the County shall have and exercise no jurisdiction over such matters during the term of this Agreement.

**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. **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 MAINTAIN DRAINAGE PUBLIC INFRASTRUCTURE AS REQUIRED BY SECTION 5.1.4 OF THIS AGREEMENT.**
- (c) **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.**

- (d) **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.**
- (e) **THERE SHALL NOT BE A DEFAULT WITH RESPECT TO THE PAYMENT OF THE PARK FEE FUNDS AS REQUIRED BY EXHIBIT G OF THIS AGREEMENT.**
- (f) **THERE SHALL NOT BE A D\DEFAULT WITH RESPECT TO THE OBLIGATION TO PROVIDE POLICE SERVICES AS REQUIRED BY SECTION 3.8.1 OF THIS AGREEMENT.**
- (g) **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.**
- (h) **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.**
- (i) **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.**
- (j) **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.**
- (k) **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.**
- (l) **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.**

**3.3 Public Infrastructure.** Public Infrastructure shall be designed to comply with the Governing Regulations, and no construction or installation of Public Infrastructure shall begin until plans and specifications have been approved by the City. All Public Infrastructure shall be constructed, inspected, and installed in compliance with the Governing Regulations. Owner shall comply with all applicable TCEQ bond submittal requirements regarding any additional inspectors or additional inspections. TCEQ bond submittal inspections shall be performed by inspectors (certified and state-licensed, to the extent required by law) that have been approved by the District and that have agreed, in writing, to be bound by this Agreement (each, a “Certified Inspector”). The cost for any inspections by Certified Inspectors shall be paid for by the contractor performing the work (or by the owner of the property on which the work is being performed). For TCEQ bond submittals, Public Infrastructure inspection shall be made through

the administrative control of the District pursuant to procedures to be adopted by the District, and each Certified Inspector agrees to be bound by such procedures, in which event there shall be provided to the City a copy of the report of each such inspection.

3.4 Building Permits. No permanent structure (as such term may be defined, from time to time, by the District, but in any event, including every structure designed or intended for human occupancy and every accessory structure intended for human occupancy; a “Structure”) shall be constructed unless a building permit has been issued by the City certifying that the plans and specifications for the Structure are in compliance with the Building Codes and Development Regulations. Except for model homes built in conformity to the Development Regulations, no building permit shall be issued for a Structure unless a final plat has been recorded for the lot on which the Structure is being constructed. Building permits shall be issued for model homes prior to the recordation of a final plat only if water capacity for basic fire services to serve the model homes is available; however, no model home may be sold to any end buyer of a fully developed and improved lot within the Property (“End Buyer”) until a final plat has been recorded. Building inspections and permits shall be through the administrative control of the City. No building permit may be issued to a builder who does not own land within the Property unless such builder agrees in writing to be bound by this Agreement and delivers a copy of such writing to the City Secretary. All inspections and building permits shall be paid to the City by the builder performing the work (or by the owner of the property on which the work is being performed).

3.5 Certificate of Occupancy. No Structure shall be occupied until a certificate of occupancy has been issued by the City certifying that the Structure has been constructed in compliance with the Governing Regulations. Model homes may be occupied for the sole purpose of sales and marketing; however, no model home may be sold to, or occupied by, an End Buyer until a certificate of occupancy has been issued. All certificates of occupancy shall be paid for by the builder performing the work (or by the owner of the property on which the work is being performed).

3.6 Certified Inspector Records and Reports. Each Certified Inspector shall maintain a permanent record of all Public Infrastructure inspected. All such records shall be available for copying by the City or the District. All such records shall be kept in a form reasonably approved by the City and as otherwise required by the District, the TCEQ and the AG. Each Certified Inspector shall provide to the City and the District a copy of each Public Infrastructure inspection report with ten (10) days after the inspection is performed (including reports that identify deficiencies and subsequent corrective actions). Unless the City shall have objected in writing with reasonable specificity to the District within fifteen (15) days of the City’s receipt of copies of such certificates, records or reports, then such certificates, records or reports shall be deemed accepted and approved by the City for all purposes.

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 a “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 create any liability of the City to determine whether any Public Infrastructure or Structure is constructed in accordance with the Governing Regulations..

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).

3.9 Police and Fire Services. It is contemplated that adequate police and fire services shall be provided by contract with the City or County as provided in this section. During any period prior to the execution of any such contracts, Owner may cause the Districts to provide such services pursuant to Chapter 49, Texas Water Code. If any service is proposed to be provided by contract with any entity other than the City, notice of the terms and conditions of the contract shall be provided to the City, and the City shall be given the opportunity to provide the service on the same terms and conditions.

3.9.1 Police Services. Prior to the date upon which any developer, owner, or builder submits an application for the issuance of a building permit for the 934th Dwelling Unit, additional law enforcement officers (i.e., in addition to the law enforcement services provided by the City or the County) shall be provided by contract with the City or the County in accordance with the table below. The cost of such additional officers shall include, on an annual basis, salaries, benefits, and other forms of compensation customarily paid to such officers, the cost of equipment customarily required by such officers, and the cost of fuel, maintenance, and wear and tear for police vehicles used by such additional officers.

Number of Dwelling Unit Building Permits	Additional Law Enforcement Officers
934-1565	2
1566-2239	3
2240-2933	4
2934-3617	5
3618 and greater	6

"Dwelling Unit" means a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

3.9.2 Fire Services. The City shall provide fire protection (including EMS services) for the first 1,500 Dwelling Units within the Property. On February 1 of each year of this Agreement and until the provisions of Section 3.9.3 are satisfied, Owner shall pay for such services within the Property on an annual, per-household basis calculated based on the "operational" costs of similar services provided for residential and non-residential structures within the corporate limits of the City and within other areas, if any, served by the City, and taking into consideration all revenue sources available to the City to pay for such services. "Capital" costs shall be excluded. The City shall provide to Owner, as soon as reasonably possible after each annual budget of the City is approved (but in no event later than the next February 1 after each budget approval), the proposed operational costs of providing the fire protection (including EMS services) as described in this section, the revenues available to pay for such services, and the proposed per-household cost to provide services within the Property. Owner shall have 30 days within which to object to the proposed per-household cost, and the City will use all reasonable efforts to resolve Owner's objections. The failure of Owner to object within such 30-day period shall constitute Owner's approval of the City's proposed per-household cost. If the City and Owner are unable to resolve Owner's objections, the Parties agree to submit the objections to an independent, third-party professional consultant selected by the City from a list of at least three consultants submitted by Owner within Owner's 30-day review period, and the Parties agree to be bound by the decision of the consultant selected by the City.

3.9.3. Prior to the issuance of a building permit for the 1,501<sup>st</sup> Dwelling Unit: (i) a contract shall have been entered into with the City to provide fire protection services on terms and conditions approved by the City Council; or (ii) facilities and equipment having characteristics of size, quality and quantity as those existing in other parts of the City which serve similar land use/density conditions, reasonably approved by the Fire Chief to provide fire protection services to the Property shall have been constructed and purchased (with City participation, if any, based on the area to be served by such

facilities and equipment) and conveyed to the City, and on an annual basis thereafter payments shall be made to the City (with City participation, if any, based on the area to be served by such facilities and equipment) to pay for personnel and other costs to provide such service.

#### **ARTICLE IV** **DEVELOPMENT CHARGES**

4.1 Plat Review Fees. Development of the Property shall be subject to payment to the City of the reasonable fees and charges applicable to the City's preliminary and record plat review and approval process (the "Plat Review Fees") according to the fee schedule adopted by the City Council and in effect on the date of submittal of each plat application. The fee schedule applicable to the Property shall be uniformly applicable to all development within the corporate limits of the City.

4.2 Plan Review Fees. Development of the Property shall be subject to payment to the City of the fees and charges applicable to the City's review of plans and specifications (without regard to inspections) for Public Infrastructure (the "Plan Review Fees") according to the fee schedule adopted by the City Council and in effect on the date of submittal of each set of plans and specifications. The fee schedule applicable to the Property shall be uniformly applicable to all development within the corporate limits of the City.

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").

4.4 Impact Fees.

4.4.1 Development of the Property will be subject to the payment to the City of the capital recovery fees and charges for Public Infrastructure necessitated by and attributable to the development of the Property, as and to the extent listed and described on attached **Exhibit H** ("Impact Fees"), but only to the extent such fees and charges are adopted and applied to the Property in compliance with Chapter 395 of the Texas Local Government Code and subject to the provisions set forth elsewhere in this Section 4.4. With the exception of the Impact Fees, the City may not require the payment of any other impact fees or similar capital recovery fees, charges, or assessments of any kind in connection with the development of the Property unless authorized by the State and Federal Requirements or agreed to by the Parties in writing.

4.4.2 With respect to Impact Fees for water and sewer identified on **Exhibit H**, such Impact Fees shall be waived in an amount equal to the Qualifying Costs (herein defined)

incurred from time to time with respect to the applicable Public Improvements, i.e., water Impact Fees shall be waived to the extent of water Qualifying Costs and sewer Impact Fees shall be waived to the extent of sewer Qualifying Costs. For purposes of this section, water Qualifying Costs shall only be credited against water Impact Fees, and sewer Qualifying Costs shall only be credited against sewer Impact Fees. Over the term of this Agreement, applicable Qualifying Costs and applicable Impact Fees will accrue on a cumulative basis. The City will amend its capital improvement program to the extent necessary to allow the maximum amount of costs of Public Infrastructure required to be constructed by Owner to qualify as Qualifying Costs.

4.4.3 The following costs shall be deemed to be "Qualifying Costs."

4.4.3.1 that portion of costs for the infrastructure facilities set forth in Section 5.1.1.2 (with respect to water Public Infrastructure) and in Section 5.1.2.2 (with respect to sewer Public Infrastructure) which qualify for impact fee credits elsewhere in the City under the City's impact fee ordinance; and

4.4.3.2 that portion of costs for other water and sewer infrastructure facilities which may be constructed by Owner and which qualify for impact fee credits elsewhere in the City under the City's impact fee ordinance.

4.5 Fees. Except for Plat Review Fees, Plan Review Fees, Inspection Fees, Impact Fees, fees described in this Agreement, and other fees charged under the Governing Regulations that are uniformly applicable within the corporate limits of the City, no other fees or charges of any kind are due and payable to the City in connection with the Property.

**ARTICLE V**  
**PUBLIC INFRASTRUCTURE; RETAIL UTILITY SERVICE**

5.1 Description of Public Infrastructure. This Section 5.1 generally describes the on-Property and off-Property Public Infrastructure which will be designed, constructed and installed as set forth herein and within the time periods or milestones set forth herein. The failure by the City to perform any of its obligations under this Section 5.1, in whole or in part, shall not be the basis for denial of any plat request by Owner, and in the event of such failure, Owner shall be permitted to continue development of the Property notwithstanding such failure.

5.1.1 Water.

5.1.1.1 At no cost to Owner or the District, the City shall:

5.1.1.1.1 prior to the date of the request for the issuance of a building permit for the 2,200<sup>th</sup> 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;

5.1.1.1.2 use its best efforts to enter into necessary contracts and agreements to deliver adequate water supply to the City system to the extent necessary to provide uninterrupted, equitable and uniform retail water service to the Property; and

5.1.1.1.3 when reasonably determined by the City, if at all, design, acquire easements for, construct, cause to be dedicated to and accepted by the City, all upgrades and expansions to the City's off-Property water Public Infrastructure (excluding construction, upgrades, and expansions set forth as Owner's responsibility under Section 5.1.1.2 to the extent necessary to provide uninterrupted, equitable and uniform retail water service to the Property.

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 first 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). 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;

5.1.1.2.2 prior to the issuance of a building permit for the 100th 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 (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;

5.1.1.2.3 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 2,200<sup>th</sup> 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”);

5.1.1.2.4 design, acquire easements for, construct, and tender for dedication to and acceptance by the City, those additional on-Property water Public Infrastructure items described on the City's Water Master Plan or as otherwise required by the City Engineer, said additional water Public Infrastructure to be constructed prior to or at the time of need, depending on Property development phasing, or as may be necessitated due to concurrent construction of other improvements, such as roadways.

5.1.1.3 In the event the water Public Infrastructure, or a portion thereof, is constructed, or caused to be constructed, by parties other than Owner or the District, then the Owner shall be relieved of its obligations under this Agreement (excluding payment of applicable Impact Fees) with respect to such constructed water Public Infrastructure.

5.1.1.4 Upon request by Owner from time to time, but not more frequently than once every three months (and in addition to the Notice required at the issuance of the 1,000<sup>th</sup> building permit), the City shall deliver to Owner and the District a written status report summarizing the City's progress with respect to the City's obligations under Section 5.1.1.1. The City shall deliver to Owner and the District immediate Notice of any event or change in circumstances that would prevent the City's performance of its obligations under Section 5.1.1.1. Notwithstanding anything herein to the contrary, Owner reserves the right to seek alternatives for retail water service (including, but not limited to the use of water wells as permitted by Section 12.6) if, in Owner's judgment based on such reports or Notice the City will be unable to provide uninterrupted, equitable, and uniform retail water service to the Property.

5.1.1.5 The City and Owner acknowledge and agree that: (i) the City's master plan is subject to revision; (ii) the water Public Infrastructure requirements set forth under Section 5.1.1.2 may exceed the actual water Public Infrastructure requirements for the Property; (iii) water reclamation, reuse and conservancy facilities, if any, to be developed by Owner, may reduce the requirements related to such water Public Infrastructure; and (iv) such obligations may be modified, subject to mutual written agreement by the City and Owner, based on (A) revisions to the City's master plan, (B) water reclamation, reuse and conservancy facilities, if any, to be developed by Owner, (C) water wells, if any, to be developed by Owner, and/or (D) other matters which may affect such obligations.

## 5.1.2 Sewer.

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 upgrades and expansions set forth 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.

5.1.2.2 At no cost to the City, Owner will direct the District to cause the following to occur with respect to the sewer Public Infrastructure:

5.1.2.2.1 Prior to the issuance of the first building permit for any Dwelling Unit, design, acquire easements for, construct, and tender for dedication to and acceptance by the City, the sewer facility currently designated as "Future Line # 16" on the City's current Wastewater Master Plan and shown on **Exhibit C-5** (the "Off-Site Sewer") from the south boundary of the property to the existing NTMWD trunk sewer located near the confluence of East Fork Trinity River and Honey Creek; and

5.1.2.2.2 design, acquire easements for, construct, and tender for dedication to and acceptance by the City in accordance with the Subdivision Ordinance, those additional sewer Public Infrastructure items required to serve the Property, as typically required elsewhere in the City.

5.1.2.3 In the event the sewer Public Infrastructure, or a portion thereof, is constructed, or caused to be constructed, by parties other than Owner or the District, then Owner shall be relieved of its obligations under this Agreement (excluding payment of applicable Impact Fees) with respect to such constructed sewer Public Infrastructure.

5.1.3 Roadway Public Infrastructure. For purposes of this Section 5.1.3, the Parties agree that building permits will be issued by the City upon Owner's completion and approval by the City of required public infrastructure located on and off the Property as shown on **Exhibit C-3** and **Exhibit C-5**.

5.1.3.1 Building permits shall be issued by the City for up to 655 Dwelling Units based on the roadway Public Infrastructure located off the Property as of the Effective Date of this Agreement including, but not limited to, FM 543 and Melissa Road as they exist on the Effective Date of this Agreement. No additional off-property roadway Public Infrastructure shall be required prior to the issuance of the 655<sup>th</sup> building permit. Notwithstanding anything in this Section 5.1.3.1 to the contrary, prior to the issuance of any building permit for a Dwelling Unit within Planning Unit 3 as shown on **Exhibit C-2**, or if Melissa Road is in failing condition due to development-related traffic, Owner shall provide a "chip-

seal” surface to the existing portions of Melissa Road located between CR 206 and Telephone Road if permanent improvements to Melissa Road or roads permanently replacing existing Melissa Road have not been completed. The purpose of the surface is to provide dust control and wet-weather durability and not to improve structural integrity or traffic capacity.

5.1.3.2 Owner will provide Notice to the City when at least 200 building permits for Dwelling Units have been issued. After such Notice, the City will have 60 days within which to give Notice to Owner that the City either (i) elects not to contribute funds to the construction by Owner of improvements to FM 543, or (ii) has at least \$3,600,000 in immediately available funds to contribute to the construction by Owner of improvements to FM 543 as a four-lane, divided thoroughfare as shown on **Exhibit C-5** and in conformance with City standards and is prepared (within such 60-day period) to enter into a participation or reimbursement agreement with Owner. If the City fails to give Notice to Owner of its election, the City shall be deemed to have elected not to contribute funds.

5.1.3.3 If, pursuant to Section 5.1.3.2, the City gives Notice to Owner of the City's election not to contribute funds to the construction of the improvements to FM 543 (or by its failure to give Notice is deemed to have elected not to contribute funds), then Owner, in its sole discretion, may elect either of the following alternatives: (i) to construct improvements to FM 543 as a four-lane, divided thoroughfare as shown on **Exhibit C-5** and in conformance with City standards; or (ii) to construct either of the following alternatives: (A) two or more lanes of Melissa Road as shown on **Exhibit C-5** and in conformance with City of Melissa and City of McKinney standards as set forth below, or (B) two or more lanes of Hardin Boulevard as shown on **Exhibit C-5** and in conformance with City standards. Notwithstanding the foregoing, Owner may only elect the alternative to improve Hardin Boulevard if the City of Melissa fails or refuses to enter into an agreement with Owner for the construction of Melissa Road on terms and conditions approved by Owner, which approval shall not be unreasonably withheld, conditioned, or delayed. With respect to portions of Melissa Road, such as the bridge structure, that will be located in both the City and the City of Melissa, and which cannot be practically designed and constructed using two different design and construction standards, a single set of standards will be agreed upon by the City, the City of Melissa, and Owner, or the most restrictive standards between the City and the City of Melissa will be applied.

5.1.3.4 If, pursuant to Section 5.1.3.2, the City gives Notice to Owner that the City has at least \$3,600,000 to contribute to the construction by Owner of the improvements to FM 543, then Owner will enter into a participation or reimbursement agreement with the City to use the City's contribution to construct FM 543 as a four-lane, divided thoroughfare as shown on **Exhibit C-5** and in conformance with City standards.

5.1.3.5 If the construction of FM 543 has commenced as a four-lane, divided thoroughfare as shown on **Exhibit C-5** and in conformance with City standards (whether by Owner without City participation pursuant to Section 5.1.3.3 or by Owner with City participation pursuant to Section 5.1.3.4), Owner shall use all reasonable efforts to complete construction prior to the issuance of the 655<sup>th</sup> building permit; however, building permits shall continue to be issued for up to an aggregate total of 750 Dwelling Units so long as Owner is diligently pursuing completion of construction, as solely determined by City; and up to 1,760 Dwelling Units upon completion of construction and approval by the City. The City Engineer, at his discretion, may allow additional Dwelling Unit permits prior to approval of the construction if the road is safe for public use. Without limiting the items required for opening the road for public use, the following must be completed where applicable: pavement, striping, lighting, signage, guard rails, sidewalks, and other items the construction and installation of which would cause unsafe conditions if performed while the roadway is open.

5.1.3.6 If (in lieu of constructing FM 543 as a four-lane, divided thoroughfare) construction of at least two lanes of Melissa Road has commenced pursuant to either Section 5.1.3.3 or Section 5.1.3.4, Owner shall use all reasonable efforts to complete construction prior to the issuance of the 655<sup>th</sup> building permit; however, building permits shall continue to be issued for up to an aggregate total of 750 Dwelling Units so long as Owner is diligently pursuing completion of construction; and up to 1,760 Dwelling Units upon completion of construction and approval by the City. The City Engineer, at his discretion, may allow additional Dwelling Unit permits prior to approval of the construction if the road is safe for public use. Without limiting the items required for opening the road for public use, the following must be completed where applicable: pavement, striping, lighting, signage, guard rails, sidewalks, and other items the construction and installation of which would cause unsafe conditions if performed while the roadway is open.

5.1.3.7 Additional building permits beyond 1,760 through build out of the Dwelling Units allowed by this Agreement shall be issued (without further traffic impact analyses) when either of the following conditions is satisfied: (i) FM 543 as a four-lane, divided thoroughfare that complies with City standards and **Exhibit C-5** has been completed and approved and at least two lanes of Melissa Road that comply with City of Melissa standards and **Exhibit C-5** have been completed and approved; or (ii) at least four lanes of Melissa Road that comply with City of Melissa and City of McKinney standards and **Exhibit C-5** have been completed and approved. The City Engineer, at his discretion, may allow additional Dwelling Unit permits prior to approval of the construction if the road is safe for public use. Without limiting the items required for opening the road for public use, the following must be completed where applicable: pavement, striping, lighting, signage, guard rails, sidewalks, and other items the construction and installation of which would cause unsafe conditions if performed while the

roadway is open. With respect to portions of Melissa Road, such as the bridge structure, that will be located in both the City and the City of Melissa, and which cannot be practically designed and constructed using two different design and construction standards, a single set of standards will be agreed upon by the City, the City of Melissa, and Owner, or the most restrictive standards between the City and the City of Melissa will be applied.

5.1.3.8 Notwithstanding anything in this Section 5.1.3 to the contrary, Owner will provide Notice to the City when at least 1,000 building permits for Dwelling Units have been issued. The City will have 60 days within which to give Notice to Owner that the City has at least \$3,600,000 in immediately available funds to contribute to the construction by Owner of FM 543 as a four-lane, divided thoroughfare as shown on **Exhibit C-5** and in conformance with City standards and is prepared (within such 60-day period) to enter into a participation or reimbursement agreement with Owner. If such Notice by the City is timely given, and provided that as of the date of the Notice Owner has not entered into a contract for the design or construction of more than two lanes of Melissa Road, then Owner will enter into a participation or reimbursement agreement with the City to use the City's contribution to construct FM 543 as a four-lane, divided thoroughfare as shown on **Exhibit C-5** and in conformance with City standards.

5.1.3.9 If (in lieu of constructing FM 543 as a four-lane, divided thoroughfare and in lieu of constructing at least two lanes of Melissa Road) construction of at least two lanes of Hardin Boulevard has commenced pursuant to Section 5.1.3.3, building permits shall continue to be issued for up to an aggregate total number of Dwelling Units determined by a traffic impact analysis approved by the City (which approval shall not be unreasonably withheld, conditioned, or delayed) so long as Owner is diligently pursuing completion, as solely determined by City.

5.1.3.10 Additional building permits beyond 1,760 shall be issued when the following conditions are satisfied: (i) FM 543 as a four-lane, divided thoroughfare that complies with City standards has been completed and approved by the City; (ii) at least two lanes of Hardin Boulevard that comply with City standards have been completed and approved by the City; and (iii) the number of additional permits is supported by a traffic impact analysis approved by the City, which approval shall not be unreasonably withheld, conditioned, or delayed. The City Engineer, at his discretion, may allow additional Dwelling Unit permits prior to approval of the construction if the road is safe for public use. Without limiting the items required for opening the road for public use, the following must be completed where applicable: pavement, striping, lighting, signage, guard rails, sidewalks, and other items the construction and installation of which would cause unsafe conditions if performed while the roadway is open.

5.1.3.11 Owner shall design, dedicate right-of-way for, construct, and tender for dedication to and acceptance by the applicable jurisdiction(s), subject to City's

sole discretion to accept such dedication and improvements, all roadway Public Infrastructure required within the Property to serve development of the Property as shown on **Exhibit C-3** as and when any portion of the Property adjacent to such on-Property roadways is platted or when otherwise required under the Special Regulations.

5.1.3.12 Owner will use all reasonable efforts to acquire, by negotiated purchase, right-of-way located off-Property and needed under Section 5.1.3 with respect to roadway Public Infrastructure located off the Property. In the event Owner or the District is unable to acquire the needed right-of-way by negotiated purchase, the City will cooperate with the Owner and the District, at the sole cost and expense of Owner and the District, to acquire the needed right-of-way including, but not limited to, the exercise by the City of its power of eminent domain. The determination of a public purpose and any decision to exercise such power is, however, within the sole discretion of the City.

5.1.3.13 If Public Infrastructure to serve the Property is constructed, or caused to be constructed, by parties other than Owner, the Owner shall be relieved of its obligations under this Agreement with respect to such constructed roadway Public Infrastructure.

5.1.3.14 Notwithstanding anything in the Subdivision Ordinance or this Agreement to the contrary, Owner shall not be required to provide any roadway Public Infrastructure for the development of the Property other than as described in Section 5.1.3 or otherwise as a result of any current or future traffic impact analyses. The traffic impact analyses required by Section 5.1.3.9 and Section 5.1.3.10(iii) are solely for the purpose of determining the number of building permits that may be issued if Owner elects to construct improvements to Hardin Boulevard as permitted by Section 5.1.3.

5.1.3.15 The City acknowledges and agrees that the roadway Public Infrastructure constitute "Road Projects" within the meaning of the term as used in the District Legislation. The City Consents to the District undertaking the construction, acquisition, improvement, maintenance, and operation of the roadway Public Infrastructure described in Section 5.1.3 for all purposes authorized by the District Legislation.

#### 5.1.4 Operation and Maintenance of the Public Infrastructure.

5.1.4.1 If dedicated to and accepted by the City, the City shall at all times maintain the Public Infrastructure, or cause such Public Infrastructure to be maintained, in good condition and working order in compliance with all applicable laws and ordinances and all applicable regulations, rules, policies, standards, and orders of any governmental entity with jurisdiction over same. To the extent the City accepts and utilizes the water and sewer Public Infrastructure,

the City shall operate the water and sewer Public Infrastructure serving the Property and will use the Public Infrastructure to provide service to all customers within the Property in accordance with and subject to any and all applicable laws, ordinances, rules, regulations, policies or standards regarding the provision of water service and sanitary sewer service by the City.

5.1.4.2 To the extent none of the City, the County or the State accepts roadway Public Infrastructure within the Property, then such roadway Public Infrastructure shall be maintained to standard City maintenance standards by the District (and the District shall seek the necessary legislative powers to finance such maintenance) or by the City, under a contract between the City and the District, and funded through a PID, as described in Section 8.2, in good condition and working order, ordinary wear and tear excepted.

5.1.4.3 To the extent roadway Public Infrastructure outside the Property is not accepted by the applicable jurisdiction therefor, the District has the right, but not the obligation, to maintain such roadway Public Infrastructure.

5.1.4.4 To the extent none of the City, the County or the State accepts drainage Public Infrastructure within the Property, such drainage Public Infrastructure shall be maintained by the District in good condition and working order, ordinary wear and tear excepted.

## 5.2 Retail Water Provider.

5.2.1 The City shall provide uninterrupted, equitable, and uniform retail water service to the Property, and the City agrees to take, and to cooperate with the Owner and the District in taking, all reasonable efforts, as determined by City, necessary or desirable to provide such service. The City further agrees not to take any action or permit any action to be taken which would have a material adverse effect on uninterrupted, equitable, and uniform retail water service to the Property. In the event the City fails to provide uninterrupted, equitable, and uniform retail water service to the Property for any reason, or in the event Owner is exercising its right to seek retail water service alternatives pursuant to Section 5.1.1.4, Owner has the right to: (1) dig water wells in order to satisfy such service needs; (2) obtain such service from any other available source for such service; (3) obtain such permits (from the TCEQ and elsewhere, with the City's cooperation) as may be necessary or desirable in order that the Owner or the District may provide such service so long as the City's Water CCN for the Property is not affected; and/or (4) become the retail provider of such service under a contract acceptable to the City and Owner and the District. If Owner exercises such rights, Owner shall have the right to use the water Public Infrastructure for delivery of such water and shall adequately compensate the City for "take or pay" provisions in the NTMWD Supply Contract applicable to the Property. Retail customers within the Property shall pay the applicable water rates for customers outside the corporate limits of the City.

5.2.2 The City shall obtain the Water CCN for the entire Property from the NCWSC pursuant to the Settlement Agreement. Owner shall, or shall cause the District to, pay or reimburse the City for the costs of obtaining the Water CCN for the entire Property in an amount equal to One Hundred Twenty Five Dollars (\$125.00) per acre of the Property (the “Water CCN Costs”). Such reimbursement shall occur within thirty (30) days after the receipt by Owner of a Notice from the City Engineer certifying that the City has acquired (or upon payment will acquire) the Water CCN from NCWSC and confirming the obligation of the City to provide retail water service to the Property.

5.2.3 The City covenants, represents and warrants to Owner and the District that: (1) the NTMWD Supply Contract is in full force and effect; (2) the City is not in default nor are there circumstances in which, with the giving of Notice or passage of time, the City would be in default under the NTMWD Supply Contract; and (3) with respect to the Property, the City will take no action with respect to the NTMWD Supply Contract to terminate, amend, or modify same without the consent of Owner and the District.

5.2.4 The letter dated December 4, 2006 attached hereto as **Exhibit I** is incorporated herein by reference.

5.3 Retail Sewer Provider. The City is the retail sewer provider to the Property sufficient to serve all Dwelling Units provided Owner or District constructs adequate sewer Public Infrastructure under this Agreement. Retail customers within the Property shall pay the applicable sewer rates for customers outside the city limits. The City agrees to take, and to cooperate with the Owner and the District in taking, such actions as may be necessary or desirable to Owner or the District to ensure uninterrupted, equitable and uniform retail sewer service by the City as the retail sewer provider to the Property. The City agrees not to take any action or to permit any action to be taken which would have a material adverse effect on uninterrupted, equitable and uniform retail sewer service by the City as the retail sewer provider to the Property. The City covenants, represents and warrants to Owner and the District that: the Sewer Contract is in full force and effect; the City is not in default nor are there circumstances in which, with the giving of Notice or passage of time, the City would be in default under the Sewer Contract; and with respect to the Property, the City will take no action with respect to the Sewer Contract to terminate, amend or modify same without the consent of Owner and the District.

## **ARTICLE VI** **TERM OF AGREEMENT**

The term of this Agreement shall be 15 years after the Effective Date unless extended by mutual agreement of Owner and the City (as extended, the “Term”). The Term shall not be affected by any limited purpose annexation pursuant to Section 7.3.



**ARTICLE VII**  
**JURISDICTIONAL STATUS**

**7.1 Immunity from Full Purpose Annexation.** Except as provided in Section 7.2 and Section 12.18, the Property shall remain in the ETJ of the City and be immune from full purpose annexation by the City for the Term.

**7.2 Full Purpose Annexation.** The City shall have the right, but not the obligation, to full purpose annex a portion of the Property as provided in Section 12.18. The City shall also have the right, but not the obligation, to full purpose annex the Property or portions thereof prior to the expiration of the Term if Owner's construction of the Public Infrastructure to serve full development of the Property is complete and the District has issued bonds to reimburse the cost of the Public Infrastructure, whereupon the City shall assume the obligations of the District, including the obligation for payment of the District's outstanding bond obligations as described hereinafter. Upon full purpose annexation of the Property or the applicable portion thereof prior to the expiration of the Term (and the resulting dissolution of the District and City assumption of District obligations as required by law), the Term shall terminate upon the effective date of the full purpose annexation for such portion of the Property. OWNER AND ALL FUTURE OWNERS OF THE PROPERTY (INCLUDING END-BUYERS) AND DEVELOPERS IRREVOCABLY AND UNCONDITIONALLY CONSENT TO THE FULL PURPOSE ANNEXATION OF THE PROPERTY INTO THE CORPORATE LIMITS OF THE CITY IN ACCORDANCE WITH THIS AGREEMENT AND WAIVE ALL OBJECTIONS AND PROTESTS TO SUCH ANNEXATION. THIS AGREEMENT SHALL SERVE AS THE PETITION OF OWNER AND ALL FUTURE OWNERS AND DEVELOPERS TO FULL PURPOSE ANNEXATION OF THE PROPERTY IN ACCORDANCE WITH THIS AGREEMENT AND THE CONSENT AGREEMENT.

**7.3 Limited Purpose Annexation.** Owner agrees that the City shall have the right to annex the Property for the sole and limited purpose of allowing the City to impose sales and use taxes within the boundaries of such retail areas pursuant to Section 43.0751 of the Texas Local Government Code. The terms and conditions upon which such limited purpose annexations may occur are set forth in the "Strategic Partnership Agreement" attached as **Exhibit J**. No limited purpose annexation pursuant to the Strategic Partnership Agreement shall affect, in any way, the ETJ status of the Property; and, notwithstanding any limited purpose annexation, the Property, shall continue to be located within the ETJ of the City for purposes of this Agreement.

**7.4 Notice to Homeowner.** At the time each prospective homebuyer contracts for the purchase of a home in the District, and at the time each home buyer closes the purchase of a home in the District, the homebuyer shall be given a disclosure notice in the form required by the Texas Water Code, as amended.

**7.5 McKinney ISD Agreement.** Owner has entered into an agreement (the "MISD Agreement") with the McKinney Independent School District (the "MISD") setting forth the terms and conditions upon which: (i) up to three (3) school sites shall be developed and dedicated to the MISD; and (b) funds contributed to an account (the "Education Fund") to be

held by the Property's homeowner association (the "HOA") will be spent by the HOA on behalf of the MISD to offset or repay Owner for the acquisition and development costs of such school sites, with the balance donated to the MISD to offset construction costs for school buildings, parking and schoolyard enhancements on such sites. Owner shall cause deed restrictions to be recorded against the Property prior to the time any lot becomes eligible for homestead status. The deed restrictions shall require that upon the original sale of each residential lot with improvements thereon (i.e., the sale of such lot with a house or townhouse) within the Property to an End-Buyer, the seller of such lot and improvements shall pay to the HOA an amount equal to one-half of one percent (0.5%) of the gross sales price of the residential lot and improvements (the "Education Fund Payment"). The deed restrictions shall create a lien upon each residential lot and improvements to secure payment of the Education Fund Payment. The title company or escrow agent handling the closing shall deduct the Education Fund Payment from the amount otherwise due the seller and shall forward the Education Fund Payment directly to the HOA. Notwithstanding anything in this Section 7.5 to the contrary, the foregoing payment requirements and deed restrictions shall not apply to any sale of a residential lot after the original sale of such lot to an End-Buyer, any non-residential property, or age-restricted residential lots located within the Property, as such developments shall be determined and identified by Owner; provided, however, in the event such lot is sold other than as an age-restricted residential lot, or the owner thereof uses such lot in violation of applicable age restrictions, then the foregoing payment requirements and deed restrictions shall be applicable to such lot at such time and such seller or such owner, as applicable, shall be responsible for such payment.

## **ARTICLE VIII** **CONSENT TO DISTRICT/PID**

**8.1 Consent to the District Creation.** This Agreement constitutes the irrevocable and unconditional consent of the City to the creation of the District covering the Property or any portion thereof pursuant to the authority of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54, Texas Water Code, as amended. The City further consents to expansions, from time to time, of the authority of the District (by special acts of the Texas legislature or otherwise, the text of such special acts to be approved by the City) to include road powers (both within and outside the boundaries of the District) authorized by the Texas Constitution or by the laws of the State of Texas, as amended.

**8.2 Consent to the PID Creation.** Upon satisfaction of the requisites of Texas Local Government Code Chapter 372, the City shall consent to the creation of one or more public improvement districts (a "PID") covering the Property or any portion thereof. The purposes of the PID are: (i) to design, construct, install, operate, maintain, and repair roadway improvements to serve the Property (both within and outside the boundaries of the PID); (ii) to the extent the District does not have or acquire the authority to do so, to design, construct, install, operate, maintain, and repair other public improvements authorized by Chapter 372 and hereafter approved by the City Council; (iii) to the extent the District does not have or acquire the authority to do so, to operate, maintain and repair parks, open space, and other common areas and amenities within the PID; and (iv) to finance and pay for any of the foregoing activities

through the levy and collection of special assessments against the Property, including the issuance of PID bonds through a local government corporation.

8.3 Consent Ordinances; Other Documents. The City agrees to execute such further documents as may reasonably be requested by Owner, the TCEQ, the AG, or the District to evidence the City's consents as set forth in this Agreement and in the Consent Ordinance.

8.4 No Limitation of Powers. Nothing in this Article VIII is intended to limit, impair, or conflict with the authority of or powers granted to a District or PID by the Texas Constitution, Texas Water Code, Texas Local Government Code, or any other current or future statute applicable to such districts except where such authority or power is exercised in contravention to the terms of this Agreement.

8.5 Full Satisfaction. The consents contained in this Article VIII and in the Consent Ordinance (the "District Consents") are given by the City: (i) in full satisfaction of any requirements for district consents contained in any statute or otherwise required by law, rule, regulation or policy including, but not limited to, consents required by the Texas Water Code, as amended, the Texas Local Government Code, as amended, any rules, regulations, or policies of the TCEQ, or any rules, regulations, or policies of the AG; (ii) with the understanding that, save and except fraud in the inducement or misrepresentation, the District Consents are irrevocable and cannot be withdrawn or modified in any way by the City or by any action of the City Council without the prior written approval of Owner; (iii) with the understanding that Owner has relied on the District Consents to Owner's material detriment and but for the District Consents Owner would not have entered into this Agreement; and (iv) with the understanding that the District Consents shall not be affected by: (A) any default under this Agreement, whether by Owner or any other person or entity that is or hereafter becomes bound by this Agreement; (B) any other act or omission by Owner or any other person or entity, whether or not related to this Agreement or the Property, save and except fraud in the inducement or misrepresentation; or (C) any act or omission by the District, whether or not related to this Agreement or the Property.

## **ARTICLE IX** **EVENTS OF DEFAULT; REMEDIES**

9.1 Events of Default. No Party shall be in default under this Agreement ("Default") unless and until (i) Notice of the alleged failure of such Party to perform has been given (which Notice shall set forth in reasonable detail the nature of the alleged failure), and (ii) such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than twenty (20) days after written Notice of the alleged failure has been given). In addition, there shall be no Default if, within the applicable cure period, the Party to whom the Notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. Notwithstanding the foregoing, however, a Party shall be in Default with respect to its obligation to make any payment required under this Agreement if such payment is not made within five (5) business days after it is due.

9.2 Remedies. If a Party is in Default, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus, and injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL:

9.2.1 entitle the aggrieved Party to terminate this Agreement; or

9.2.2 except as provided by Section 3.2, entitle the aggrieved Party to suspend performance under this Agreement unless the portion of the Property for which performance is suspended is the subject of the Default;

9.2.3 adversely affect or impair the current or future obligations of the City to provide water or sewer service (whether wholesale or retail) or any other service to any developed portion of the Property or to any undeveloped portion of the Property unless the undeveloped portion of the Property is the subject of the Default; or

9.2.4 entitle the aggrieved Party to seek or recover monetary damages or attorney's fees of any kind; or

9.2.5 adversely affect or impair the validity of any consents given by the City in this Agreement or in the Consent Ordinance to the creation of the District or PID; or

9.2.6 adversely affect or impair the current or future rights, powers or authority of the District or PID (including, but not limited to, the issuance of bonds) or the day-to-day administration of the District or PID; or

9.2.7 adversely affect or impair the continuation of the ETJ status of the Property and its immunity from annexation as provided by this Agreement and the Consent Ordinance; or

9.2.8 limit the Term; or

9.2.9 allow the City to annex the Property for full-purpose annexation unless there exists an ongoing Default under Section 3.2 which remains uncured after applicable Lender cure periods and for eighteen (18) months thereafter and upon the City's agreement to assume all outstanding debt obligations on the Property (for an affected District) incurred under Section 5.03 of the Consent Agreement.

9.3 Default by Non-Affiliated Owner/Sub-Developer. Notwithstanding the City's rights under Section 3.2 or any Notice provisions of Section 9.1 to the contrary, in the event of a default by a non-affiliated owner/sub-developer in the construction of subdivision infrastructure within approved plats, plat approval shall continue so long as Owner or the District provides the City with the following: a) a corrective work plan and cost of cure within 60 days of the default and b) unless the default is cured within 120 days, Owner or the District escrows funds with the City the amount of the cost of cure within 120 days from the date of Owner's or District's receipt

of notice of default. The continuation of plat application processing and approvals incident to a default in this Section 9.3 does not include a default by Owner or any assignee in obligations for Major Infrastructure (including but not limited to arterials shown on Ex. C-5 and all collectors), whether constructed by Owner, District or an assignee, and this Section 9.3 shall not limit Owner's and the District's obligations for Major Infrastructure and all other obligations of Owner or the District under this Agreement, which defaults shall remain subject to the City's remedies in Section 9.2 and 9.2.2 above. If the default is timely cured or the escrow is funded pursuant to this Section 9.3, plat applications and approvals shall continue within the affected Planning Unit and other Planning Units; however, until the default is cured, such continuation shall cease on the earlier of one (1) year from the date default or upon the approval of plats containing an aggregate of 350 lots. Owner or District shall have the right, with the City's approval, to use any escrowed funds to cure the default.

**9.4 Governmental Powers; Waivers of Immunity.** By its execution of this Agreement, the City does not waive or surrender any of its governmental powers, immunities, or rights except as follows:

**9.4.1** The City waives its governmental immunity from suit as to any action brought by a Party to pursue the remedies available under this Agreement, but only to the extent necessary to pursue such remedies. Nothing in this section shall waive any claims, defenses or immunities that the City has with respect to suits against the City by persons or entities other than a Party to this Agreement.

**9.4.2** Nothing in this Agreement is intended to delegate or impair the performance by the City of its governmental functions; provided however, the City waives any claim or defense that any provision of this Agreement is unenforceable on the grounds that it constitutes an impermissible delegation or impairment of the City's performance of its governmental functions.

## **ARTICLE X** **ASSIGNMENT AND ENCUMBRANCE**

**10.1 Assignment by Owner to the District.** Owner has the right to assign to the District those portions of this Agreement concerning the provision of water and/or sewer service to the Property and the design, construction, installation, maintenance and repair of any Public Infrastructure. Thereafter, for the limited purposes of such assignment, the District shall be considered an "Assignee," and therefore a Party, for purposes of this Agreement. Each assignment shall be in writing executed by Owner and the District and shall obligate the District to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. A copy of each assignment shall be provided to all Parties within fifteen (15) days after execution. From and after such assignment, the City agrees to look to the District for the performance of all obligations assigned to the District and agrees that Owner shall be released from subsequently performing the assigned obligations and from any liability that results from the District's failure to perform the assigned obligations; provided, however, if a copy of the assignment is not given to the City within fifteen (15) days after

execution, Owner shall not be released until the City receives the assignment; further provided, however, that with respect to obligations of Owner to construct the Major Infrastructure (as defined in Section 10.3), Owner shall not be released from subsequently performing such assigned obligations unless such obligations are secured as set forth in Section 10.3 or Owner is otherwise released from such obligations under the terms of Section 10.3. No assignment by Owner shall release Owner from any liability resulting from an act or omission by Owner that occurred prior to the effective date of the assignment unless the City approves the release in writing. Owner shall maintain written records of all assignments made by Owner to the District, 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.

10.2 Assignment by Owner to Successor Owners or Entities. Owner has the right (from time to time without the consent of the City, but upon written Notice to the City) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Owner under this Agreement, to any person or entity (an “Assignee”) that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with Owner. Each assignment shall be in writing executed by Owner and the Assignee and shall obligate the Assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. A copy of each assignment shall be provided to all Parties within fifteen (15) days after execution. Except as otherwise provided in Section 10.3 of this Agreement, from and after such assignment, the City agrees to look solely to the Assignee for the performance of all obligations assigned to the Assignee and agrees that Owner shall be released from subsequently performing the assigned obligations and from any liability that results from the Assignee’s failure to perform the assigned obligations; provided, however, if a copy of the assignment is not received by the City within fifteen (15) days after execution, Owner shall not be released until the City receives such assignment. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment unless the City approves the release in writing. Owner shall maintain written records of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee’s Notice information as required by this Agreement, and, upon written request from any Party or Assignee, shall provide a copy of such records to the requesting person or entity.

10.3 Obligations for Major Infrastructure. Notwithstanding the provisions of Section 10.2 and without limiting the generality of Section 10.2, Owner shall have the right to assign to Assignee all or any part of the obligations of Owner under this Agreement to construct or cause the District to construct: (i) the East and West Feed water lines; (ii) the Trinity South Elevated Tank; (iii) the Off-Site Sanitary Sewer; (iv) the FM 543 Improvements; (v) the Melissa Road Improvements; and (vi) the arterials within and perimeter to the Property; all of the foregoing shown on **Exhibit C-5** and all “collector streets” within and perimeter to the Property (collectively, the “Major Infrastructure”). “Collector Streets” shall be synonymous with such term as contained in the Subdivision Ordinance, currently 142-9(4) of the Code of Ordinances. In the event the obligation to construct all or any part of the Major Infrastructure is assigned to Assignee, such Assignee shall secure its obligation (e.g., payment, performance bonds, bonds securing construction contracts or other form of security acceptable to and in favor of the City) in

accordance with the Applicable Regulations. Notwithstanding an assignment by Owner under Section 10.3, Owner shall continue to be obligated for completion of the construction of the Major Infrastructure in the event Assignee fails to complete construction in accordance with this Agreement; however, Owner shall not be required to provide any security for Owner's performance, and Owner's liability shall be limited to the actual cost to complete construction (and Owner shall have no other liability to the City arising out of any breach of this Agreement by Assignee), and in the event and at such time that Owner has sold, dedicated or otherwise conveyed its interest in all or substantially all of the Property, and assigned all of Owner's obligations to construct the Major Infrastructure to one or more Assignees, then Owner shall be released from any continuing obligations under this Agreement for completion of the construction of the Major Infrastructure. When construction of the Major Infrastructure, or any part thereof, has been completed in accordance with this Agreement, Owner shall be released from any continuing obligations under this Agreement with respect to the completed Major Infrastructure, and the City agrees to look solely to Assignee. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment unless the City approves the release in writing. Owner shall maintain written records of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee's Notice information as required by this Agreement, and, upon written request from any Party or Assignee, shall provide a copy of such records to the requesting person or entity.

10.4 Assignment by Owner to Non-Owners. Subject to the City's prior written approval, 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 any person or entity that is not an owner of any portion of the Property (a "Non-Owner Assignee"). Each assignment shall be in writing executed by Owner and the Non-Owner Assignee and shall obligate the Non-Owner Assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. A copy of each assignment shall be provided to all Parties within fifteen (15) days after execution. If the City approves the Non-Owner Assignee in writing, then the City agrees to look solely to the Non-Owner Assignee for the performance of all obligations assigned to the Non-Owner Assignee and agrees that Owner shall be released from subsequently performing the assigned obligations and from any liability that results from the Non-Owner Assignee's failure to perform the assigned obligations. If the City fails or refuses to approve the Non-Owner Assignee, the assignment shall nevertheless be effective; however, the Owner shall continue to be responsible, jointly and severally, with the Non-Owner Assignee for the performance of all obligations assigned. No assignment by Owner shall release Owner from any liability resulting from an act or omission by Owner that occurred prior to the effective date of the assignment unless the City approves the release in writing. Owner shall maintain written records of all assignments made by Owner to Non-Owner Assignees, including a copy of each executed assignment and the Non-Owner Assignee's Notice information as required by this Agreement, and, upon written request from any Party or Non-Owner Assignee, shall provide a copy of such records to the requesting person or entity.

10.5 Assignment by the City. The City shall not assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of the City under this Agreement, without the prior written approval of Owner and the District.

10.6 Encumbrance by Owner and Assignees. Owner and Assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, or interest under this Agreement for the benefit of their respective lenders (each, a “Lender”) without the consent of but with prompt Notice to, the City. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any Lender to perform any obligations or incur any liability under this Agreement unless the Lender agrees in writing to perform such obligations or incur such liability. Provided the City has been given a copy of the documents creating the Lender’s interest, including Notice (hereinafter defined) information for the Lender, then the City shall deliver Notice to the Lender of any failure to perform at the same time such Notice is delivered to a defaulting Party to this Agreement.

10.7 Lender Rights. Lender shall have the right, but not the obligation, to cure any defaults under this Agreement and shall be given the same amount of time to cure such default as the applicable cure period provided to a defaulting Party by this Agreement (with such cure period, however, commencing upon delivery of Notice to Lender) before such default becomes a Default. Notwithstanding the foregoing, if an alleged default involves the failure to perform any of the obligations set forth in Section 3.2, Lender shall be given an additional reasonable time (not to exceed 60 days) to cure the alleged default. The City agrees to accept a cure offered by the Lender as if offered by the defaulting Party. A Lender is not a Party to this Agreement unless this Agreement is amended, with the consent of the Lender, to add the Lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a Lender, whether judicial or non-judicial. Any purchaser from or successor owner through a Lender of any portion of the Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the Property until all defaults under this Agreement with respect to the acquired portion of the Property have been cured

10.8 Assignees as Parties. An Assignee shall be considered a “Party” for the purposes of this Agreement.

**ARTICLE XI**  
**RECORDATION, RELEASES, AND ESTOPPEL CERTIFICATES**

11.1 Binding Obligations. Pursuant to the requirements of Section 212.172(f) of the Texas Local Government Code, this Agreement and all amendments hereto (including amendments to the Concept Plan) shall be recorded in the deed records of Collin County, Texas. In addition, all assignments of this Agreement shall be recorded in the deed records of the County. This Agreement, when recorded, shall be a covenant running with the land and binding upon the Property, the Parties and their grantees, successors, trustees and assigns and all others holding



any interest in the Property now or in the future; however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any End-Buyer of a fully developed and improved lot except for land use and development regulations that apply to specific lots. For purposes of this Agreement, the Parties agree: (i) that the term “End-Buyer” means any owner, developer, tenant, user, or occupant; (ii) that the term “fully developed and improved lot” means any lot, regardless of proposed use, for which a final plat has been approved by the City and recorded in the deed records of the County; and (iii) that the term “land use and development regulations that apply to specific lots” means all of the Governing Regulations except the Public Infrastructure and Retail Utility Service provisions of Article V.

11.2 Releases. From time to time upon written request of Owner, the City Manager of the City shall execute, in recordable form, a release of this Agreement as to an End-Buyer of a fully developed and improved lot.

11.3 Estoppel Certificates. From time to time upon written request of Owner and at Owner's cost, the City Manager of the City will execute a written estoppel certificate identifying any obligations of a Party under this Agreement that are in default or, with the giving of Notice or passage of time, would be in default; and stating, to the extent true, that to the best knowledge and belief of the City, a Party is in compliance with its duties and obligations under this Agreement

## **ARTICLE 12** **ADDITIONAL PROVISIONS**

12.1 Recitals. The recitals contained in this Agreement: (i) are true and correct as of the Effective Date; (ii) form the basis upon which the Parties negotiated and entered into this Agreement; (iii) are legislative findings of the City Council; and (iv) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

12.2 Notices. All notices required or contemplated by this Agreement (or otherwise given in connection with this Agreement) (a “Notice”) shall be in writing, shall be signed by or on behalf of the Party giving the Notice, and shall be effective as follows: (i) on or after the tenth (10th) business day after being deposited with the United States mail service, Certified Mail, Return Receipt Requested with a confirming copy sent by FAX; (ii) on the day delivered by a private delivery or private messenger service (such as FedEx or UPS) as evidenced by a receipt signed by any person at the delivery address (whether or not such person is the person to whom the Notice is addressed); or (iii) otherwise on the day actually received by the person to whom the Notice is addressed, including, but not limited to, delivery in person and delivery by regular mail or by E-mail (with a confirming copy sent by FAX). Notices given pursuant to this section shall be addressed as follows:

To the City: **City of McKinney, Texas**  
Attn: City Manager  
222 N. Tennessee  
McKinney, Texas 75069  
E-Mail: 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  
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  
FAX: 512-381.6131

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

12.3 Reservation of Rights. This Agreement constitutes a “permit” within the meaning of Chapter 245, Texas Local Government Code.

12.4 Vested Rights. Except as provided in this section, Owner does not, by entering into this Agreement, waive (and Owner expressly reserves) any right that Owner may now or hereafter have with respect to any claim: (i) of “vested” or “protected” development or other property rights arising from Chapters 43 or 245, Texas Local Government Code, as amended, or otherwise arising from common law or other state or federal laws; or (ii) that an action by the City constitutes a “taking” or inverse condemnation of all or any portion of the Property, (in either event, a “Claim”). Notwithstanding the foregoing, Owner does waive any such property rights and Claims to the extent they are based on an action taken by the City under the authority of this Agreement (excluding, however, any action taken by the City that constitutes a Default under this Agreement). The City may amend any Governing Regulation not otherwise subject to Chapter 245 of the Texas Local Government Code and apply such amendments to the Property unless otherwise stated in this Agreement. The Parties agree that an approved preliminary-final plat shall constitute the first “permit” for any end-user lot on the Property.

12.5 Indemnification/Continuing Obligation. Except for those matters for which Owner has been released by the City under Article X, CH-B Trinity Falls, LP, a Texas limited partnership, (“CH-B”), agrees to indemnify and hold harmless the City against claims or suits (including the City’s reasonable attorney’s fees, damages, and judgments) against the City by any Assignee and arising out of any obligation, right, title, or interest assigned by Owner to the Assignee under this Agreement. This indemnity and hold harmless obligation (i) shall be limited solely to claims against the City by the Assignee (but not to any person or entity claiming by, through, or under the Assignee), (ii) shall not apply to claims where the City is found by a court to be in Default under this Agreement, and (iii) shall not apply to claims against the City that are unrelated to the obligations, right, title, or interest assigned to the Assignee under this Agreement.

12.6 Manufactured Housing. Notwithstanding any other provision of this Agreement to the contrary, HUD-certified manufactured homes may be located within the Property, from time to time, for any purpose necessary for the creation or administration of the District (including, but not limited to, providing qualified voters within the District or qualifying persons to serve on the Board of Directors of the District). Owner will notify the City of the location of, make and model of, HUD number for, and 911 address of each home within thirty (30) days after the home is occupied. Manufactured homes permitted by this Agreement: (i) are not required to be located on a platted lot; (ii) do not require a building permit; (iii) do not require a certificate of substantial completion; (iv) do not otherwise have to comply with the Governing Regulations; (v) do not require any permit or other approval by the City; and (vi) will be promptly removed when no longer needed for the creation or administration of the District. Manufactured homes permitted by this section shall, however, be subject to all permits or approvals otherwise required by the County; and the City shall cooperate in good faith to assist Owner in obtaining such permits and approvals and in obtaining water, sewer, and utility service for such homes.

12.7 Water Wells. Owner shall be permitted to dig water wells to satisfy service needs (including, but not limited to, irrigation purposes) that Owner and/or the District deems necessary or desirable; however, such wells may not be used to provide potable water without the consent of the City unless: (1) Owner is exercising its right to seek retail water service alternatives pursuant to Section 5.1.1.4; or (2) the City otherwise fails to provide retail water service as required by this Agreement. Such wells shall be subject to all applicable rules and regulations of the TCEQ. In the event Owner or the District dedicate any such wells to the City, the City shall allow Owner or the District, as applicable, to reserve the right to use water from such wells for irrigation purposes.

12.8 Interpretation. The Parties acknowledge that each of them has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for or against any Party, regardless of which had Party originally drafted the provision.

12.9 Authority and Enforceability. The City represents and warrants that this Agreement has been approved by ordinance duly adopted by the City Council in accordance with all applicable

public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been duly authorized to do so. Owner represents and warrants that this Agreement has been approved by the appropriate action of Owner, that the individual executing this Agreement on behalf of Owner has been duly authorized to do so. Each Party acknowledges and agrees that this Agreement is binding upon such Party and enforceable against such Party in accordance with its terms and conditions and that the performance by the Parties is authorized by Section 212.171 of the Texas Local Government Code.

12.10 Entire Agreement; Severability. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties. The provisions of this Agreement are severable and, in the event any 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 is a dependent substantive term the removal of which affects the intent and effect of the remaining provisions. Without limiting the generality of the foregoing, (i) if it is determined that, as of the Effective Date, Owner does not own any portion of the Property, this Agreement shall remain in full force and effect with respect to all of the Property that Owner does then own, and (ii) if it is determined, as of the Effective Date, that any portion of the Property is not within the City's ETJ, this Agreement shall remain in full force and effect with respect to all of the Property that is then within the City's ETJ. If at any time after the Effective Date it is determined that any portion of the Property is no longer within the City's ETJ, this Agreement shall remain in full force and effect with respect to all of the Property that remains within the City's ETJ.

12.11 Director Qualifying Lots. Notwithstanding any other provision of this Agreement to the contrary, the conveyance, from time to time, by metes and bounds or otherwise of any portion of the Property to any person for the purpose of qualifying such person to be a member of the board of directors of the District shall not be considered a subdivision of land requiring a plat or otherwise requiring the approval of the City; provided, however, no Structure, other than manufactured housing authorized by Section 12.6, shall be constructed on any property conveyed for such purpose unless and until a plat of such portion has been approved by the City in accordance with this Agreement.

12.12 Applicable Law; Venue. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Collin County, Texas. Venue for any action to enforce or construe this Agreement shall be Collin County, Texas.

12.13 Non Waiver. Any failure by a Party to insist upon strict performance by another Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

12.14 No Third Party Beneficiaries. Except as otherwise provided in this Section 12.14 this Agreement only inures to the benefit of and may only be enforced by, the Parties. If the District is not an Assignee, the District shall be considered a third-party beneficiary of this Agreement. An End-Buyer shall be considered a third-party beneficiary of this Agreement, but only for the limited purposes for which an End-Buyer is bound by this Agreement. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

12.15 Force Majeure. Each Party shall use good faith, due diligence, and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three (3) business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance, shall give Notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term "force majeure" shall include events or circumstances that are not within the reasonable control of the Party whose performance is suspended and that could not have been avoided by such Party with the exercise of good faith, due diligence, and reasonable care, including without limiting, a delay or failure of performance caused by any act of God, war, natural disaster, strike, lockout, labor dispute, work stoppage, fire, third-party criminal act, or quarantine restriction.

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

12.17 Further Documents. Each Party shall, upon request of the other Party, execute and deliver such further documents and perform such further acts as may reasonably be requested to effectuate the terms of this Agreement and achieve the intent of the Parties.

12.18 Collin County Outer Loop.

12.18.1 CCOL Deed. Owner agrees to convey approximately 85 acres of land near the northern boundary of the Property as depicted on the Concept Plan Land Use Plan attached as **Exhibit C-1** (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"). Within 60 days after the Effective Date of this Agreement, Owner will deliver to a third-party escrow agent approved by Owner and the City (the "Escrow Agent") a special warranty deed (the "CCOL Deed") in substantially the form of **Exhibit L** 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 will reflect an alignment preferred by Owner and supported by the City but may vary from the 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.

12.18.2 Escrow Instructions. Delivery of the CCOL Deed to the Escrow Agent shall be accompanied by written escrow instructions approved by Owner and the City (the "Escrow Instructions") in substantially the form of **Exhibit M** 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 shall 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**.

**12.18.3 Reserved Land.** Owner agrees to reserve for development approximately 35.6 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** (the "**Reserved Land**"). If the CCOL Deed is returned to Owner as provided in subsection "(a)" above, 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**.

**12.18.4 Water, Sanitary, and Drainage Facilities.** All water, sanitary sewer, and drainage facilities located within the CCOL ROW will be designed and constructed in a manner that will not preclude the use of the CCOL ROW as part of the CCOL. Reasonable consideration will be made in the design of the facilities to minimize the probability or extent of future adjustments to the facilities during the construction of the CCOL, and the City shall not unreasonably withhold its approval of such facilities. If the CCOL is constructed before the Reserved Land is developed, the City will allow for adequate utility extensions, stubs, sleeves, etc. to facilitate development of the Reserved Land.

**12.18.5 Full-Purpose Annexation.** The City consents to the division of MUD No. 2, resulting in MUD No. 2 and a new municipal utility district (the "**New MUD**") in accordance with the provisions of the Texas Water Code and the District Legislation. The New MUD shall initially include the CCOL ROW and the Reserved Land (collectively, the "**New MUD Land**"). Within 30 days after the creation of the New MUD, the City and the New MUD shall enter into an agreement (the "**New MUD Consent Agreement**"); except that the New MUD Consent Agreement will provide that the New MUD will not issue any bonded indebtedness without the City's consent unless the CCOL Deed is returned to Owner, in which case the New MUD may issue bonded indebtedness subject only to the requirements and limitations in the New MUD Consent Agreement in substantially the form of the MUD No. 1 Consent Agreement and MUD No. 2 Consent Agreement. The Reserved Land may be developed for non-residential purposes while the CCOL Deed is being held by the Escrow Agent. If the CCOL Deed is delivered to the City, the Owner shall petition for full purpose annexation of the New MUD Land, and the City, at its option at any time thereafter, may full-purpose annex the New MUD Land into the corporate limits of the City, whereupon the New MUD will be dissolved as provided by law; however, upon such annexation and dissolution, Owner waives all rights to be reimbursed by the City for costs and expenses related to the development of the New MUD Land. If the CCOL Deed is returned to Owner for any reason, the New MUD Land cannot be full-purpose annexed by the City for the period set forth in the New MUD Consent Agreement.

12.18.6 MUD Annexations. The City consents to one or more annexations by MUD No. 1 or MUD No. 2, and/or the New MUD of areas that will be served by the Public Infrastructure, which consent is effective upon the Effective Date of this Agreement regardless of whether the Escrow Agent delivers the CCOL Deed to the City or returns it to Owner. The consent to annexation provided in this subsection is unconditional and irrevocable. The New MUD Consent Agreement will provide that the New MUD will not issue any bonded indebtedness without the City's consent unless the CCOL Deed is returned to Owner, in which case the New MUD may issue bonded indebtedness subject only to the requirements and limitations in the New MUD Consent Agreement. The areas encompassing any annexations by MUD No. 1 or MUD No. 2 shall be entirely within one-half (1/2) mile of the existing boundary of the Property. Upon any annexation into either MUD No. 1 or MUD No. 2, the aggregate number of residential units allowed within the area contained in MUD No. 1, MUD No.2 and the annexed area shall be 4,176 units.

12.18.7 Amendment of Development Agreement. Property annexed into the MUDs as provided in Section 12.18.6 will be considered part of the Property for purposes of this Agreement and as such shall be bound by all provisions hereof. Upon annexation into the MUDs, this Agreement shall be amended to identify the Public Infrastructure required to be constructed and maintained by affected MUD.

12.19 Prior Agreement. Upon full execution, this Agreement replaces, in its entirety, the Prior Agreement, whereupon the Prior Agreement is unconditionally terminated and of no further force and effect. The Parties acknowledge that upon execution of this Agreement there are no events of default under the Prior Agreement and no facts or circumstances which with the giving of Notice or passage of time would constitute an event of default under the Prior Agreement. The City unconditionally and fully releases Owner from any and all claims that the City had or may have against Owner directly or indirectly arising under or related to the Prior Agreement. Owner unconditionally and fully releases the City from any and all claims that Owner had or may have against the City directly or indirectly arising under or related to the Prior Agreement. The City Secretary of the City is authorized and directed to record a fully executed original of this Agreement in the real property records of Collin County, Texas. Concurrently with the recordation of this Agreement, the City Secretary is authorized and directed to record in the real property records of Collin County, Texas, a full and unconditional release of the Prior Agreement in form and content approved by the City Attorney and Owner.

12.20 Exhibits. The following Exhibits are as part of this Agreement for all purposes:

Exhibit A	Overall Location Map and District M.U.D. Map
Exhibit B-1	Legal Description of the Property - 673.759 acres
Exhibit B-2	Legal Description of the Property - 202.330 acres
Exhibit B-3	Legal Description of the Property - 423.553 acres
Exhibit B-4	Legal Description of the Property - 407.211 acres
Exhibit C-1	Concept Plan - Land Use



Exhibit C-1A	Concept Plan Alternate - Land Use
Exhibit C-2	Concept Plan - Planning Units
Exhibit C-2A	Concept Plan Alternate - Planning Units
Exhibit C-3	Concept Plan - Thoroughfare Plan
Exhibit C-3A	Concept Plan Alternate - Thoroughfare Plan
Exhibit C-4	Concept Plan - Trinity Falls Park Phasing
Exhibit C-4A	Concept Plan Alternate - Trinity Falls Park Phasing
Exhibit C-5	Concept Plan – Major Infrastructure
Exhibit D	City Ordinances
Exhibit D-1	Floodplain Exhibit
Exhibit E	Building Codes
Exhibit F	Special Regulations
Exhibit G	Development Regulations
Exhibit H	Impact Fees
Exhibit I	Letter
Exhibit J	Strategic Partnership Agreement
Exhibit L	Form of CCOL Deed
Exhibit M	Form of Escrow Instructions

**SIGNATURE PAGES TO FOLLOW**

ATTEST:

City of McKinney, Texas

\_\_\_\_\_  
Name: Sandy Hart, TRMC, MMC  
Title: City Secretary

By: \_\_\_\_\_  
Name: Jason Gray \_\_\_\_\_  
Title: City Manager \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Name: Mark Houser  
Title: City Attorney

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN §

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 2012, by Jason Gray, City Manager 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

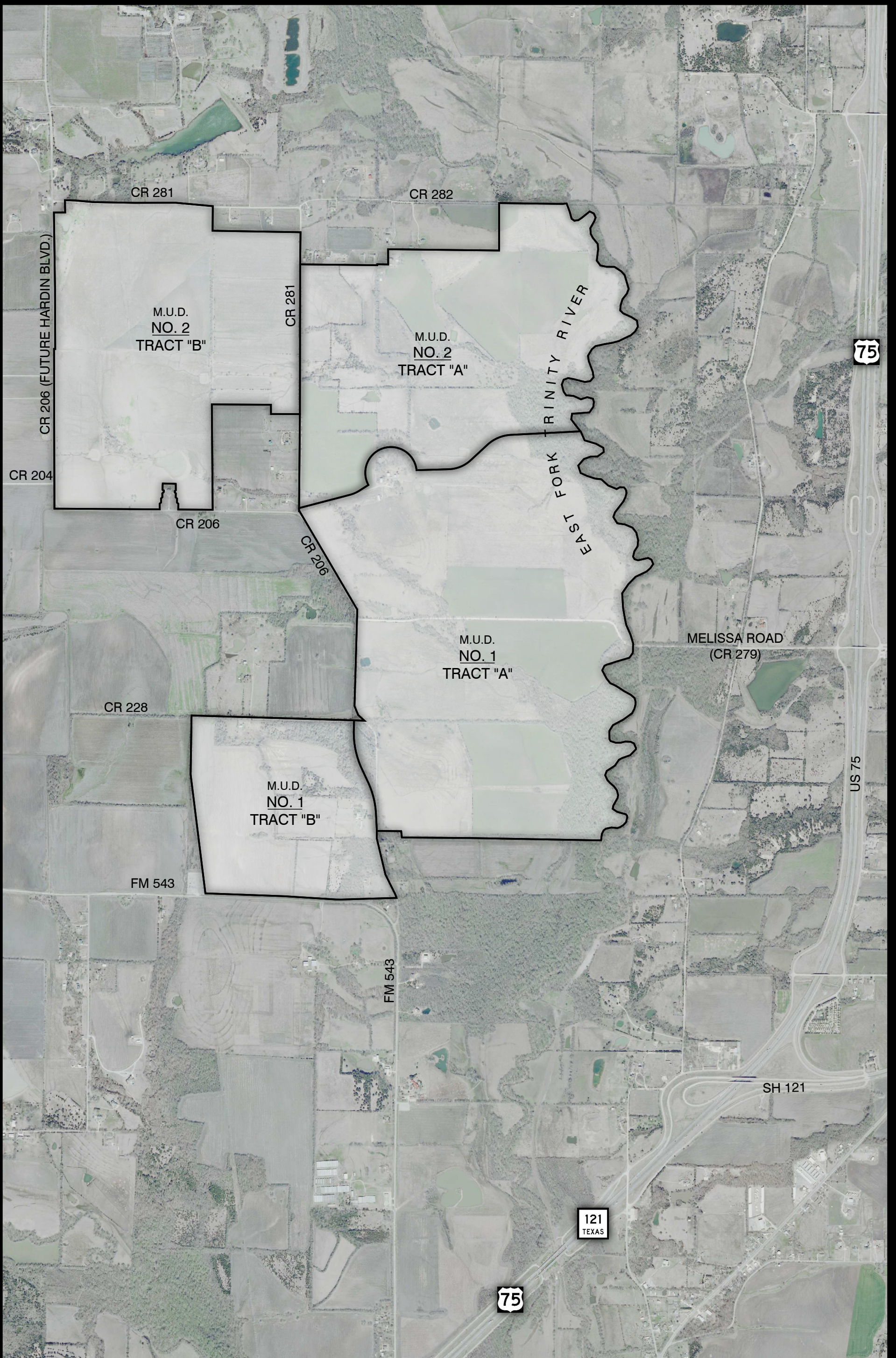
By: \_\_\_\_\_  
Leisha Ehlert, Vice President

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

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

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 2012, 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



**Trinity Falls**  
McKinney E.T.J.  
Collin County, Texas

Exhibit A District M.U.D. Map



DATE: 11-28-2012

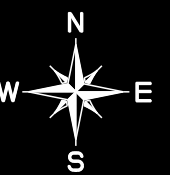


Exhibit B-1  
Legal Description  
673.759 acres  
(MUD 1/TRACT A)

BEING A 673.759 ACRE TRACT OF LAND SITUATED IN THE THOMAS BRUCE SURVEY, ABSTRACT NO. 103, THE JOHN EMBERSON SURVEY, ABSTRACT NO. 294 AND THE THOMAS LINDSAY SURVEY, ABSTRACT NO. 521, 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, AND BEING PART OF A CALLED 182.711 ACRE TRACT OF LAND CONVEYED AS "TRACT 1", AND BEING ALL OF A CALLED 0.469 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060918001344730, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING PART OF A CALLED 26.423 ACRE TRACT OF LAND CONVEYED AS "TRACT 1", AND BEING PART OF A CALLED 0.653 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060918001344720, OFFICIAL PUBLIC RECORD, COLLIN COUNTY, TEXAS, SAID 673.759 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 3/8 INCH IRON ROD FOUND FOR AN OUTSIDE ELL CORNER OF SAID 1113.084 ACRE TRACT AND BEING THE SOUTHEAST CORNER OF A CALLED 1 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO PROVINCE RES ESTATE HOLDING BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2002-0005148, LAND RECORDS, COLLIN COUNTY, TEXAS, SAME BEING ON THE NORTH LINE OF A CALLED 57 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO PROVINCE RES ESTATE HOLDING BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2002-0005148, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, NORTH 06 DEGREES 29 MINUTES 28 SECONDS WEST, ALONG A WEST LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON EAST LINE OF AFORESAID 1 ACRE TRACT A DISTANCE OF 105.30 FEET TO A 3/8 INCH IRON ROD FOUND FOR AN INSIDE ELL CORNER OF SAID 1113.084 ACRE TRACT AND BEING THE NORTHEAST CORNER OF SAID 1 ACRE TRACT;

THENCE, NORTH 89 DEGREES 19 MINUTES 40 SECONDS WEST, ALONG A SOUTH LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON NORTH LINE OF AFORESAID 1 ACRE TRACT, PASSING AT A DISTANCE OF 381.99 FEET A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 408.28 FEET TO A POINT FOR A SOUTHWEST CORNER OF SAID 1113.084 ACRE TRACT AND THE NORTHWEST CORNER OF SAID 1 ACRE TRACT, SAID POINT ALSO BEING ON THE EAST LINE OF SAID 26.423 ACRE TRACT AND THE COMMON APPROXIMATE CENTERLINE OF COLLIN COUNTY ROAD NO. 206 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, NORTH 00 DEGREES 34 MINUTES 35 SECONDS WEST, ALONG THE WEST LINE OF SAID 1113.084 ACRE TRACT, THE EAST LINE OF SAID 26.423 ACRE TRACT AND THE

COMMON APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206, A DISTANCE OF 41.52 FEET TO A POINT FOR CORNER;

THENCE, OVER AND ACROSS SAID 26.423 ACRE TRACT, SAID 0.653 ACRE TRACT AND SAID 182.711 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 02 DEGREES 57 MINUTES 15 SECONDS WEST, A DISTANCE OF 237.94 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 22 DEGREES 02 MINUTES 58 SECONDS, A RADIUS OF 1450.00 FEET, A LONG CHORD THAT BEARS, NORTH 13 DEGREES 58 MINUTES 44 SECONDS WEST, A DISTANCE OF 554.58 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 558.01 FEET TO A POINT FOR CORNER;

NORTH 25 DEGREES 00 MINUTES 13 SECONDS WEST, A DISTANCE OF 241.04 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 26 DEGREES 38 MINUTES 26 SECONDS, A RADIUS OF 1450.00 FEET, A LONG CHORD THAT BEARS, NORTH 11 DEGREES 41 MINUTES 00 SECONDS WEST, A DISTANCE OF 668.15 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 674.20 FEET TO A POINT FOR CORNER;

NORTH 01 DEGREES 38 MINUTES 13 SECONDS EAST, A DISTANCE OF 160.00 FEET TO A POINT FOR CORNER ON THE NORTH LINE OF SAID 182.711 ACRE TRACT AND BEING ON THE SOUTH LINE OF A CALLED 361.66 ACRE TRACT OF LAND CONVEYED TO HERITAGE FARM TRUST BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 98-0084317, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, SOUTH 88 DEGREES 16 MINUTES 45 SECONDS EAST, ALONG THE NORTH LINE OF AFORESAID 182.711 ACRE TRACT AND ALONG THE COMMON SOUTH LINE OF SAID 361.66 ACRE TRACT, A DISTANCE OF 172.26 FEET TO A PK NAIL SET ON THE WEST LINE OF AFORESAID 1113.084 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206;

THENCE, ALONG THE WEST LINE OF SAID 1113.084 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID COLLIN COUNTY ROAD NO. 206, THE FOLLOWING COURSES AND DISTANCES:

NORTH 47 DEGREES 40 MINUTES 01 SECONDS WEST, A DISTANCE OF 140.42 FEET TO A PK NAIL SET FOR CORNER;

NORTH 22 DEGREES 24 MINUTES 21 SECONDS WEST, A DISTANCE OF 161.50 FEET TO A PK NAIL SET FOR CORNER;

NORTH 01 DEGREES 38 MINUTES 13 SECONDS EAST, A DISTANCE OF 1615.59 FEET TO A 3/4 INCH IRON ROD FOUND FOR CORNER;

NORTH 30 DEGREES 25 MINUTES 03 SECONDS WEST, A DISTANCE OF 1907.40 FEET TO A PK NAIL SET FOR CORNER IN COLLIN COUNTY ROAD NO. 281 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

NORTH 88 DEGREES 57 MINUTES 17 SECONDS WEST, A DISTANCE OF 8.67 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER IN THE APPROXIMATE CENTERLINE OF SAID COLLIN COUNTY ROAD NO. 281;

NORTH 00 DEGREES 31 MINUTES 40 SECONDS EAST, A DISTANCE OF 53.37 FEET TO A POINT FOR CORNER;

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

NORTH 75 DEGREES 20 MINUTES 45 SECONDS EAST, A DISTANCE OF 877.21 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17 DEGREES 46 MINUTES 00 SECONDS, A RADIUS OF 570.00 FEET, A LONG CHORD THAT BEARS, NORTH 66 DEGREES 27 MINUTES 46 SECONDS EAST, A DISTANCE OF 176.04 FEET,

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

NORTH 57 DEGREES 34 MINUTES 46 SECONDS EAST, A DISTANCE OF 177.27 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 202 DEGREES 43 MINUTES 24 SECONDS, A RADIUS OF 430.00 FEET, A LONG CHORD THAT BEARS, NORTH 72 DEGREES 56 MINUTES 30 SECONDS EAST, A DISTANCE OF 843.15 FEET;

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

NORTH 88 DEGREES 18 MINUTES 14 SECONDS EAST, A DISTANCE OF 536.71 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 41 DEGREES 03 MINUTES 11 SECONDS, A RADIUS OF 570.00 FEET, A LONG CHORD THAT BEARS, NORTH 67 DEGREES 46 MINUTES 38 SECONDS EAST, A DISTANCE OF 399.73 FEET;

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

NORTH 47 DEGREES 15 MINUTES 03 SECONDS EAST, 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 39 DEGREES 50 MINUTES 38 SECONDS, A RADIUS OF 630.00 FEET, A LONG CHORD THAT BEARS, NORTH 67 DEGREES 10 MINUTES 22 SECONDS EAST, A DISTANCE OF 429.33 FEET;

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

NORTH 87 DEGREES 05 MINUTES 41 SECONDS EAST, A DISTANCE OF 1162.77 FEET TO A POINT FOR CORNER IN THE CENTERLINE OF THE EAST FORK OF THE TRINITY RIVER;

THENCE ALONG THE CENTERLINE OF AFORESAID EAST FORK OF THE TRINITY RIVER THE FOLLOWING COURSES AND DISTANCES:

SOUTH 38 DEGREES 12 MINUTES 58 SECONDS EAST, A DISTANCE OF 14.58 FEET TO A POINT FOR CORNER;

SOUTH 23 DEGREES 36 MINUTES 46 SECONDS EAST, A DISTANCE OF 152.22 FEET TO A POINT FOR CORNER;

SOUTH 73 DEGREES 18 MINUTES 32 SECONDS EAST, A DISTANCE OF 197.85 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 18 MINUTES 14 SECONDS EAST, A DISTANCE OF 140.67 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 50 MINUTES 35 SECONDS EAST, A DISTANCE OF 70.23 FEET TO A POINT FOR CORNER;

SOUTH 54 DEGREES 16 MINUTES 01 SECONDS WEST, A DISTANCE OF 128.08 FEET TO A POINT FOR CORNER;

SOUTH 88 DEGREES 46 MINUTES 36 SECONDS WEST, A DISTANCE OF 114.66 FEET TO A POINT FOR CORNER;

SOUTH 70 DEGREES 15 MINUTES 18 SECONDS WEST, A DISTANCE OF 121.85 FEET TO A POINT FOR CORNER;

SOUTH 40 DEGREES 45 MINUTES 34 SECONDS WEST, A DISTANCE OF 145.62 FEET TO A POINT FOR CORNER;

SOUTH 18 DEGREES 00 MINUTES 30 SECONDS EAST, A DISTANCE OF 129.56 FEET TO A POINT FOR CORNER;

SOUTH 65 DEGREES 18 MINUTES 02 SECONDS EAST, A DISTANCE OF 118.06 FEET TO A POINT FOR CORNER;

SOUTH 71 DEGREES 54 MINUTES 16 SECONDS EAST, A DISTANCE OF 144.48 FEET TO A POINT FOR CORNER;

SOUTH 83 DEGREES 52 MINUTES 48 SECONDS EAST, A DISTANCE OF 100.92 FEET TO A POINT FOR CORNER;

SOUTH 47 DEGREES 56 MINUTES 19 SECONDS EAST, A DISTANCE OF 156.94 FEET TO A POINT FOR CORNER;

SOUTH 67 DEGREES 38 MINUTES 56 SECONDS EAST, A DISTANCE OF 153.79 FEET TO A POINT FOR CORNER;



NORTH 61 DEGREES 13 MINUTES 24 SECONDS EAST, A DISTANCE OF 64.37 FEET TO A POINT FOR CORNER;

SOUTH 85 DEGREES 51 MINUTES 50 SECONDS EAST, A DISTANCE OF 65.53 FEET TO A POINT FOR CORNER;

SOUTH 41 DEGREES 34 MINUTES 58 SECONDS EAST, A DISTANCE OF 40.91 FEET TO A POINT FOR CORNER;

SOUTH 19 DEGREES 54 MINUTES 49 SECONDS EAST, A DISTANCE OF 29.69 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 11 MINUTES 20 SECONDS EAST, A DISTANCE OF 37.94 FEET TO A POINT FOR CORNER;

SOUTH 14 DEGREES 05 MINUTES 13 SECONDS WEST, A DISTANCE OF 62.62 FEET TO A POINT FOR CORNER;

SOUTH 24 DEGREES 25 MINUTES 18 SECONDS WEST, A DISTANCE OF 81.96 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 40 MINUTES 18 SECONDS WEST, A DISTANCE OF 234.69 FEET TO A POINT FOR CORNER;

SOUTH 18 DEGREES 54 MINUTES 14 SECONDS WEST, A DISTANCE OF 81.98 FEET TO A POINT FOR CORNER;

SOUTH 31 DEGREES 46 MINUTES 10 SECONDS EAST, A DISTANCE OF 104.64 FEET TO A POINT FOR CORNER;

SOUTH 56 DEGREES 34 MINUTES 36 SECONDS EAST, A DISTANCE OF 34.72 FEET TO A POINT FOR CORNER;

SOUTH 81 DEGREES 42 MINUTES 01 SECONDS EAST, A DISTANCE OF 110.27 FEET TO A POINT FOR CORNER;

SOUTH 67 DEGREES 09 MINUTES 59 SECONDS EAST, A DISTANCE OF 138.27 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 29 MINUTES 50 SECONDS EAST, A DISTANCE OF 105.30 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 20 MINUTES 33 SECONDS EAST, A DISTANCE OF 131.83 FEET TO A POINT FOR CORNER;

SOUTH 05 DEGREES 36 MINUTES 33 SECONDS WEST, A DISTANCE OF 102.37 FEET TO A POINT FOR CORNER;

SOUTH 33 DEGREES 06 MINUTES 41 SECONDS WEST, A DISTANCE OF 97.83 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 16 MINUTES 04 SECONDS WEST, A DISTANCE OF 92.57 FEET TO A POINT FOR CORNER;

SOUTH 30 DEGREES 25 MINUTES 24 SECONDS EAST, A DISTANCE OF 39.87 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 06 MINUTES 56 SECONDS EAST, A DISTANCE OF 33.44 FEET TO A POINT FOR CORNER;

SOUTH 73 DEGREES 18 MINUTES 22 SECONDS EAST, A DISTANCE OF 35.43 FEET TO A POINT FOR CORNER;

NORTH 76 DEGREES 47 MINUTES 02 SECONDS EAST, A DISTANCE OF 171.81 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 02 MINUTES 58 SECONDS EAST, A DISTANCE OF 64.49 FEET TO A POINT FOR CORNER;

SOUTH 22 DEGREES 03 MINUTES 32 SECONDS EAST, A DISTANCE OF 76.90 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 33 MINUTES 13 SECONDS WEST, A DISTANCE OF 85.11 FEET TO A POINT FOR CORNER;

SOUTH 48 DEGREES 39 MINUTES 03 SECONDS WEST, A DISTANCE OF 86.15 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 28 MINUTES 51 SECONDS WEST, A DISTANCE OF 59.05 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 31 MINUTES 40 SECONDS WEST, A DISTANCE OF 142.65 FEET TO A POINT FOR CORNER;

SOUTH 44 DEGREES 15 MINUTES 01 SECONDS WEST, A DISTANCE OF 173.52 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 24 MINUTES 08 SECONDS WEST, A DISTANCE OF 183.38 FEET TO A POINT FOR CORNER;

SOUTH 03 DEGREES 40 MINUTES 02 SECONDS EAST, A DISTANCE OF 250.70 FEET TO A POINT FOR CORNER;

SOUTH 09 DEGREES 55 MINUTES 21 SECONDS EAST, A DISTANCE OF 203.25 FEET TO A POINT FOR CORNER;

SOUTH 12 DEGREES 33 MINUTES 26 SECONDS EAST, A DISTANCE OF 84.94 FEET TO A POINT FOR CORNER;

SOUTH 23 DEGREES 50 MINUTES 50 SECONDS EAST, A DISTANCE OF 173.87 FEET TO A POINT FOR CORNER;

SOUTH 16 DEGREES 37 MINUTES 27 SECONDS EAST, A DISTANCE OF 153.46 FEET TO A POINT FOR CORNER;

SOUTH 02 DEGREES 31 MINUTES 58 SECONDS WEST, A DISTANCE OF 62.97 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 10 MINUTES 42 SECONDS EAST, A DISTANCE OF 67.93 FEET TO A POINT FOR CORNER;

SOUTH 08 DEGREES 58 MINUTES 15 SECONDS WEST, A DISTANCE OF 31.06 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 59 MINUTES 35 SECONDS WEST, A DISTANCE OF 95.76 FEET TO A POINT FOR CORNER;

SOUTH 73 DEGREES 34 MINUTES 06 SECONDS WEST, A DISTANCE OF 219.32 FEET TO A POINT FOR CORNER;

SOUTH 72 DEGREES 18 MINUTES 27 SECONDS WEST, A DISTANCE OF 181.66 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 14 MINUTES 18 SECONDS WEST, A DISTANCE OF 39.13 FEET TO A POINT FOR CORNER;

SOUTH 26 DEGREES 02 MINUTES 25 SECONDS WEST, A DISTANCE OF 76.21 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 15 MINUTES 13 SECONDS EAST, A DISTANCE OF 15.43 FEET TO A POINT FOR CORNER;

SOUTH 27 DEGREES 46 MINUTES 10 SECONDS EAST, A DISTANCE OF 146.70 FEET TO A POINT FOR CORNER;

SOUTH 38 DEGREES 38 MINUTES 48 SECONDS EAST, A DISTANCE OF 98.77 FEET TO A POINT FOR CORNER;

SOUTH 65 DEGREES 28 MINUTES 12 SECONDS EAST, A DISTANCE OF 90.87 FEET TO A POINT FOR CORNER;

SOUTH 58 DEGREES 46 MINUTES 14 SECONDS EAST, A DISTANCE OF 89.05 FEET TO A POINT FOR CORNER;

SOUTH 55 DEGREES 38 MINUTES 18 SECONDS EAST, A DISTANCE OF 81.34 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 13 MINUTES 57 SECONDS EAST, A DISTANCE OF 131.93 FEET TO A POINT FOR CORNER;

SOUTH 50 DEGREES 02 MINUTES 00 SECONDS EAST, A DISTANCE OF 83.53 FEET TO A POINT FOR CORNER;

SOUTH 15 DEGREES 41 MINUTES 08 SECONDS EAST, A DISTANCE OF 65.63 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 25 MINUTES 17 SECONDS WEST, A DISTANCE OF 38.95 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 46 MINUTES 24 SECONDS WEST, A DISTANCE OF 78.87 FEET TO A POINT FOR CORNER;

SOUTH 26 DEGREES 57 MINUTES 48 SECONDS WEST, A DISTANCE OF 85.04 FEET TO A POINT FOR CORNER;

SOUTH 53 DEGREES 42 MINUTES 03 SECONDS WEST, A DISTANCE OF 103.78 FEET TO A POINT FOR CORNER;

SOUTH 54 DEGREES 31 MINUTES 27 SECONDS WEST, A DISTANCE OF 81.58 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 55 MINUTES 50 SECONDS WEST, A DISTANCE OF 124.05 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 26 MINUTES 59 SECONDS WEST, A DISTANCE OF 70.28 FEET TO A POINT FOR CORNER;

SOUTH 32 DEGREES 20 MINUTES 11 SECONDS WEST, A DISTANCE OF 99.01 FEET TO A POINT FOR CORNER;

SOUTH 10 DEGREES 50 MINUTES 27 SECONDS WEST, A DISTANCE OF 37.28 FEET TO A POINT FOR CORNER;

SOUTH 01 DEGREES 02 MINUTES 10 SECONDS EAST, A DISTANCE OF 113.13 FEET TO A POINT FOR CORNER;

SOUTH 29 DEGREES 02 MINUTES 49 SECONDS EAST, A DISTANCE OF 36.57 FEET TO A POINT FOR CORNER;

SOUTH 71 DEGREES 45 MINUTES 23 SECONDS EAST, A DISTANCE OF 91.85 FEET TO A POINT FOR CORNER;

NORTH 89 DEGREES 05 MINUTES 15 SECONDS EAST, A DISTANCE OF 84.92 FEET TO A POINT FOR CORNER;

NORTH 75 DEGREES 55 MINUTES 22 SECONDS EAST, A DISTANCE OF 78.29 FEET TO A POINT FOR CORNER;

SOUTH 87 DEGREES 29 MINUTES 47 SECONDS EAST, A DISTANCE OF 86.59 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 37 MINUTES 20 SECONDS EAST, A DISTANCE OF 61.40 FEET TO A POINT FOR CORNER;

SOUTH 24 DEGREES 13 MINUTES 36 SECONDS EAST, A DISTANCE OF 83.75 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 51 MINUTES 21 SECONDS EAST, A DISTANCE OF 22.63 FEET TO A POINT FOR CORNER;

SOUTH 43 DEGREES 56 MINUTES 54 SECONDS WEST, A DISTANCE OF 138.97 FEET TO A POINT FOR CORNER;

SOUTH 70 DEGREES 14 MINUTES 33 SECONDS WEST, A DISTANCE OF 148.31 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 57 MINUTES 04 SECONDS WEST, A DISTANCE OF 54.03 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 32 MINUTES 38 SECONDS WEST, A DISTANCE OF 119.53 FEET TO A POINT FOR CORNER;

SOUTH 56 DEGREES 50 MINUTES 51 SECONDS WEST, A DISTANCE OF 164.17 FEET TO A POINT FOR CORNER;

SOUTH 20 DEGREES 09 MINUTES 48 SECONDS WEST, A DISTANCE OF 75.03 FEET TO A POINT FOR CORNER;

SOUTH 24 DEGREES 31 MINUTES 58 SECONDS EAST, A DISTANCE OF 91.04 FEET TO A POINT FOR CORNER;

SOUTH 43 DEGREES 08 MINUTES 09 SECONDS EAST, A DISTANCE OF 65.53 FEET TO A POINT FOR CORNER;

SOUTH 48 DEGREES 45 MINUTES 48 SECONDS EAST, A DISTANCE OF 86.33 FEET TO A POINT FOR CORNER;

SOUTH 36 DEGREES 37 MINUTES 04 SECONDS EAST, A DISTANCE OF 80.56 FEET TO A POINT FOR CORNER;

SOUTH 14 DEGREES 39 MINUTES 59 SECONDS EAST, A DISTANCE OF 83.23 FEET TO A POINT FOR CORNER;

SOUTH 09 DEGREES 30 MINUTES 21 SECONDS WEST, A DISTANCE OF 47.73 FEET TO A POINT FOR CORNER;

SOUTH 29 DEGREES 12 MINUTES 38 SECONDS WEST, A DISTANCE OF 148.32 FEET TO A POINT FOR CORNER;

SOUTH 10 DEGREES 23 MINUTES 51 SECONDS WEST, A DISTANCE OF 54.05 FEET TO A POINT FOR CORNER;

SOUTH 54 DEGREES 54 MINUTES 18 SECONDS EAST, A DISTANCE OF 74.80 FEET TO A POINT FOR CORNER;

SOUTH 68 DEGREES 03 MINUTES 59 SECONDS EAST, A DISTANCE OF 45.10 FEET TO A POINT FOR CORNER;

SOUTH 74 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 120.98 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 58 MINUTES 42 SECONDS EAST, A DISTANCE OF 30.84 FEET TO A POINT FOR CORNER;

SOUTH 09 DEGREES 47 MINUTES 01 SECONDS EAST, A DISTANCE OF 26.13 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 19 MINUTES 51 SECONDS WEST, A DISTANCE OF 84.18 FEET TO A POINT FOR CORNER;

SOUTH 43 DEGREES 24 MINUTES 44 SECONDS WEST, A DISTANCE OF 68.56 FEET TO A POINT FOR CORNER;

SOUTH 58 DEGREES 05 MINUTES 12 SECONDS WEST, A DISTANCE OF 63.97 FEET TO A POINT FOR CORNER;

SOUTH 71 DEGREES 39 MINUTES 45 SECONDS WEST, A DISTANCE OF 48.06 FEET TO A POINT FOR CORNER;

NORTH 84 DEGREES 13 MINUTES 05 SECONDS WEST, A DISTANCE OF 97.44 FEET TO A POINT FOR CORNER;

SOUTH 78 DEGREES 06 MINUTES 14 SECONDS WEST, A DISTANCE OF 96.50 FEET TO A POINT FOR CORNER;

SOUTH 52 DEGREES 36 MINUTES 49 SECONDS WEST, A DISTANCE OF 47.07 FEET TO A POINT FOR CORNER;

SOUTH 26 DEGREES 13 MINUTES 00 SECONDS WEST, A DISTANCE OF 68.00 FEET TO A POINT FOR CORNER;

SOUTH 07 DEGREES 14 MINUTES 06 SECONDS WEST, A DISTANCE OF 107.55 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 1113.084 ACRE TRACT AND BEING THE NORTHEAST CORNER OF AFORESAID 57 ACRE TRACT;

THENCE, ALONG THE SOUTH LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 57 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 88 DEGREES 57 MINUTES 19 SECONDS WEST, PASSING AT A DISTANCE OF 100.00 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 2153.25 FEET TO A 60D NAIL FOUND FOR CORNER;

NORTH 89 DEGREES 29 MINUTES 57 SECONDS WEST, A DISTANCE OF 1179.76 FEET TO THE **POINT OF BEGINNING**, AND CONTAINING 673.759 ACRES OF LAND, MORE OR LESS.

Exhibit B-2  
Legal Description  
202.330 acres  
(MUD 1/TRACT B)

BEING A 202.362 ACRE TRACT OF LAND SITUATED IN THE JOHN EMBERSON SURVEY, ABSTRACT NO. 294, AND THE MEREDITH HART SURVEY, ABSTRACT NO. 371, COLLIN COUNTY, TEXAS, AND BEING PART OF A 0.469 ACRE TRACT CONVEYED AS "TRACT 2" AND A 182.711 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060718001344730, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND PART OF A 26.423 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" AND A 0.653 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060918001344720, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS. SAID 202.362 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-DF8982), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT A 3/8 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF AFORESAID 182.711 ACRE TRACT AND BEING THE NORTHEAST CORNER OF A CALLED 20.300 ACRE TRACT OF LAND CONVEYED TO TOM B. WILSON BY DEED RECORDED IN VOLUME 935, PAGE 598, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING ON THE SOUTH LINE OF A CALLED 361.66 ACRE TRACT OF LAND CONVEYED TO HERITAGE FARM TRUST BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 98-0084317, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, SOUTH 88 DEGREES 16 MINUTES 45 SECONDS EAST, ALONG THE NORTH LINE OF AFORESAID 182.711 ACRE TRACT AND ALONG THE COMMON SOUTH LINE OF AFORESAID 361.66 ACRE TRACT, A DISTANCE OF 2721.12 FEET TO A POINT FOR CORNER;

THENCE, OVER AND ACROSS SAID 182.711 ACRE TRACT, SAID 0.469 ACRE TRACT AND SAID 26.423 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 01 DEGREES 38 MINUTES 13 SECONDS WEST, A DISTANCE OF 160.00 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 26 DEGREES 38 MINUTES 26 SECONDS, A RADIUS OF 1450.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 11 DEGREES 41 MINUTES 00 SECONDS EAST, A DISTANCE OF 668.15 FEET;



ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC LENGTH OF 674.20 FEET TO A POINT FOR CORNER;

SOUTH 25 DEGREES 00 MINUTES 13 SECONDS EAST, A DISTANCE OF 241.04 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 22 DEGREES 02 MINUTES 58 SECONDS, A RADIUS OF 1450.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 13 DEGREES 58 MINUTES 44 SECONDS EAST, A DISTANCE OF 554.58 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC LENGTH OF 558.01 FEET TO A POINT FOR CORNER;

SOUTH 02 DEGREES 57 MINUTES 15 SECONDS EAST, A DISTANCE OF 237.94 FEET TO A POINT FOR CORNER ON THE EAST LINE OF SAID 26.423 ACRE TRACT AND BEING IN COLLIN COUNTY ROAD NO. 206 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, SOUTH 00 DEGREES 34 MINUTES 35 SECONDS EAST, ALONG THE EAST LINE OF SAID 26.423 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206 A DISTANCE OF 169.57 FEET TO A PK NAIL SET FOR THE SOUTHEAST CORNER OF SAID 26.423 ACRE TRACT AND A COMMON EAST CORNER OF SAID 182.711 ACRE TRACT;

THENCE, ALONG THE EAST LINE OF SAID 182.711 ACRE TRACT, AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206 THE FOLLOWING COURSES AND DISTANCES:

SOUTH 13 DEGREES 23 MINUTES 32 SECONDS EAST, A DISTANCE OF 619.60 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 26 DEGREES 26 MINUTES 21 SECONDS EAST, A DISTANCE OF 308.47 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 12 DEGREES 30 MINUTES 28 SECONDS, A RADIUS OF 570.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 23 DEGREES 04 MINUTES 21 SECONDS EAST, A DISTANCE OF 124.18 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC LENGTH OF 124.43 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 182.711 ACRE TRACT;

THENCE, ALONG THE SOUTH LINE OF AFORESAID 182.711 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY OF F.M. 543 (A VARIABLE WIDTH RIGHT-OF-WAY), THE FOLLOWING COURSES AND DISTANCES:

SOUTH 88 DEGREES 19 MINUTES 01 SECONDS WEST, PASSING AT A DISTANCE OF 21.52 FEET, A PK NAIL FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 887.99 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 05 DEGREES 16 MINUTES 00 SECONDS, A RADIUS OF 1870.34 FEET, A CHORD BEARING OF NORTH 89 DEGREES 02 MINUTES 59 SECONDS WEST, AND A CHORD LENGTH OF 171.86 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 171.92 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 86 DEGREES 24 MINUTES 59 SECONDS WEST, A DISTANCE OF 819.32 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 87 DEGREES 54 MINUTES 59 SECONDS WEST, A DISTANCE OF 1322.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF AFORESAID 182.711 ACRE TRACT AND BEING THE SOUTHEAST CORNER OF A CALLED 6.72 ACRE TRACT OF LAND CONVEYED TO GRAYSON-COLLIN ELECTRIC COOPERATIVE BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2000-0133812, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, ALONG THE WEST LINE OF AFORESAID 182.711 ACRE TRACT THE FOLLOWING COURSES AND DISTANCES:

NORTH 07 DEGREES 04 MINUTES 31 SECONDS WEST, ALONG THE EAST LINE OF AFORESAID 6.72 ACRE TRACT, A DISTANCE OF 2005.98 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTH CORNER OF SAID 6.72 ACRE TRACT AND BEING ON THE EAST LINE OF AFORESAID 20.300 ACRE TRACT;

NORTH 00 DEGREES 53 MINUTES 45 SECONDS EAST, ALONG THE EAST LINE OF AFORESAID 20.300 ACRE TRACT, A DISTANCE OF 986.32 FEET TO THE **POINT OF BEGINNING**, AND CONTAINING 202.362 ACRES OF LAND, MORE OR LESS.

**SAVE AND EXCEPT** A 0.032 ACRE TRACT OF LAND, BEING ALL OF A CALLED 0.03 ACRE TRACT OF LAND DESCRIBED AS "FAMILY BURIAL GROUNDS" IN DEED RECORDED IN VOLUME 294, PAGE 43, DEED RECORDS, COLLIN COUNTY, TEXAS.

SAID 0.032 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** AT 3/8 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF AFORESAID 182.82 ACRE TRACT AND BEING THE NORTHEAST CORNER OF AFORESAID 20.300 ACRE TRACT AND BEING ON THE SOUTH LINE OF AFORESAID 361.66 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 16 MINUTES 45 SECONDS EAST, ALONG THE NORTH LINE OF SAID 182.82 ACRE TRACT AND ALONG THE COMMON SOUTH LINE OF SAID 361.66 ACRE TRACT, A DISTANCE OF 618.15 FEET TO A POINT;

THENCE, SOUTH 01 DEGREES 05 MINUTES 01 SECONDS WEST, OVER AND ACROSS SAID 182.82 ACRE TRACT, A DISTANCE OF 31.10 FEET TO A FENCE CORNER POST FOUND FOR THE **POINT OF BEGINNING**;

THENCE, CONTINUING OVER AND ACROSS SAID 182.82 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 39 MINUTES 44 SECONDS EAST, A DISTANCE OF 39.36 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

SOUTH 00 DEGREES 24 MINUTES 46 SECONDS EAST, A DISTANCE OF 35.96 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

NORTH 88 DEGREES 50 MINUTES 03 SECONDS WEST, A DISTANCE OF 40.28 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

NORTH 01 DEGREES 05 MINUTES 01 SECONDS EAST, A DISTANCE OF 34.92 FEET TO THE **POINT OF BEGINNING**, AND CONTAINING 0.032 ACRES OF LAND, MORE OR LESS, LEAVING A NET ACREAGE OF 202.330 ACRES OF LAND, MORE OR LESS.

Exhibit B-3  
Legal Description  
(MUD 2/TRACT A)

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.

Exhibit B-4  
Legal Description  
407.211 acres  
(MUD 2/TRACT B)

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;

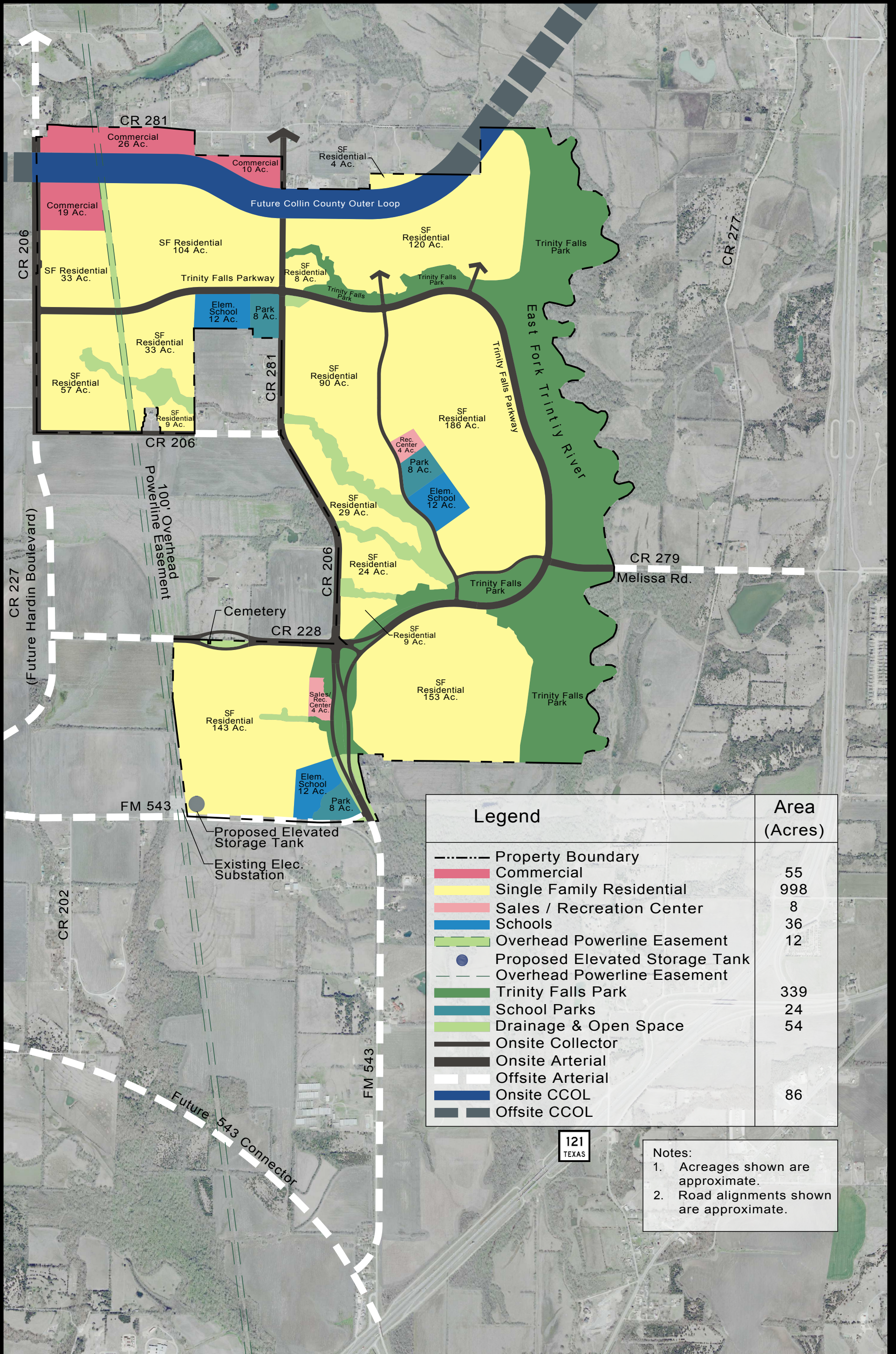
THENCE, SOUTH 88 DEGREES 53 MINUTES 46 SECONDS EAST, A DISTANCE OF 19.61 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 1113.084 ACRE TRACT;

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.





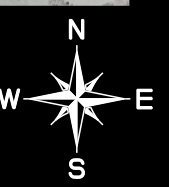
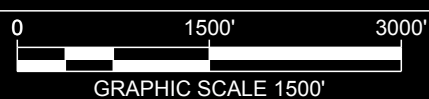
Legend	Area (Acres)
----- Property Boundary	
Commercial	55
Single Family Residential	998
Sales / Recreation Center	8
Schools	36
Overhead Powerline Easement	12
Proposed Elevated Storage Tank	
Overhead Powerline Easement	
Trinity Falls Park	339
School Parks	24
Drainage & Open Space	54
Onsite Collector	
Onsite Arterial	
Offsite Arterial	
Onsite CCOL	86
Offsite CCOL	

Notes:  
 1. Acreages shown are approximate.  
 2. Road alignments shown are approximate.

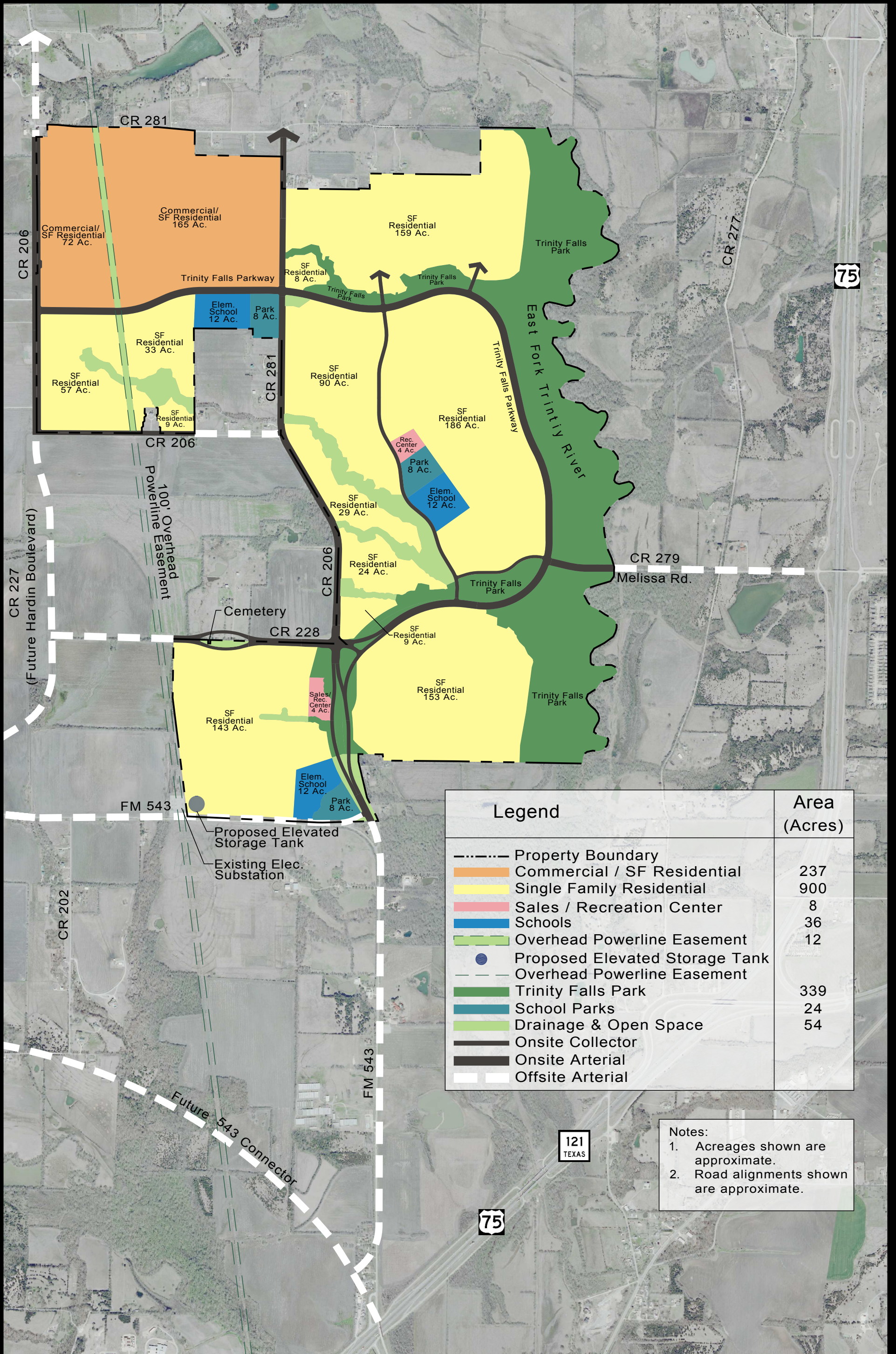
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**Trinity Falls**  
 McKinney E.T.J.  
 Collin County, Texas

**Exhibit C-1 Concept Plan- Land Use**



DATE: 11-28-2012

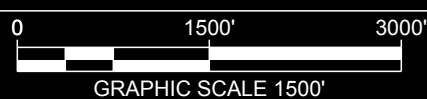


Legend	Area (Acres)
----- Property Boundary	
Commercial / SF Residential	237
Single Family Residential	900
Sales / Recreation Center	8
Schools	36
Overhead Powerline Easement	12
Proposed Elevated Storage Tank	
Overhead Powerline Easement	
Trinity Falls Park	339
School Parks	24
Drainage & Open Space	54
Onsite Collector	
Onsite Arterial	
Offsite Arterial	

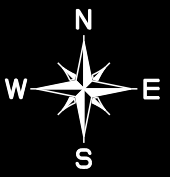
Notes:  
 1. Acreages shown are approximate.  
 2. Road alignments shown are approximate.

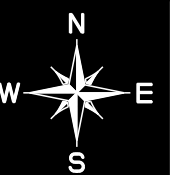
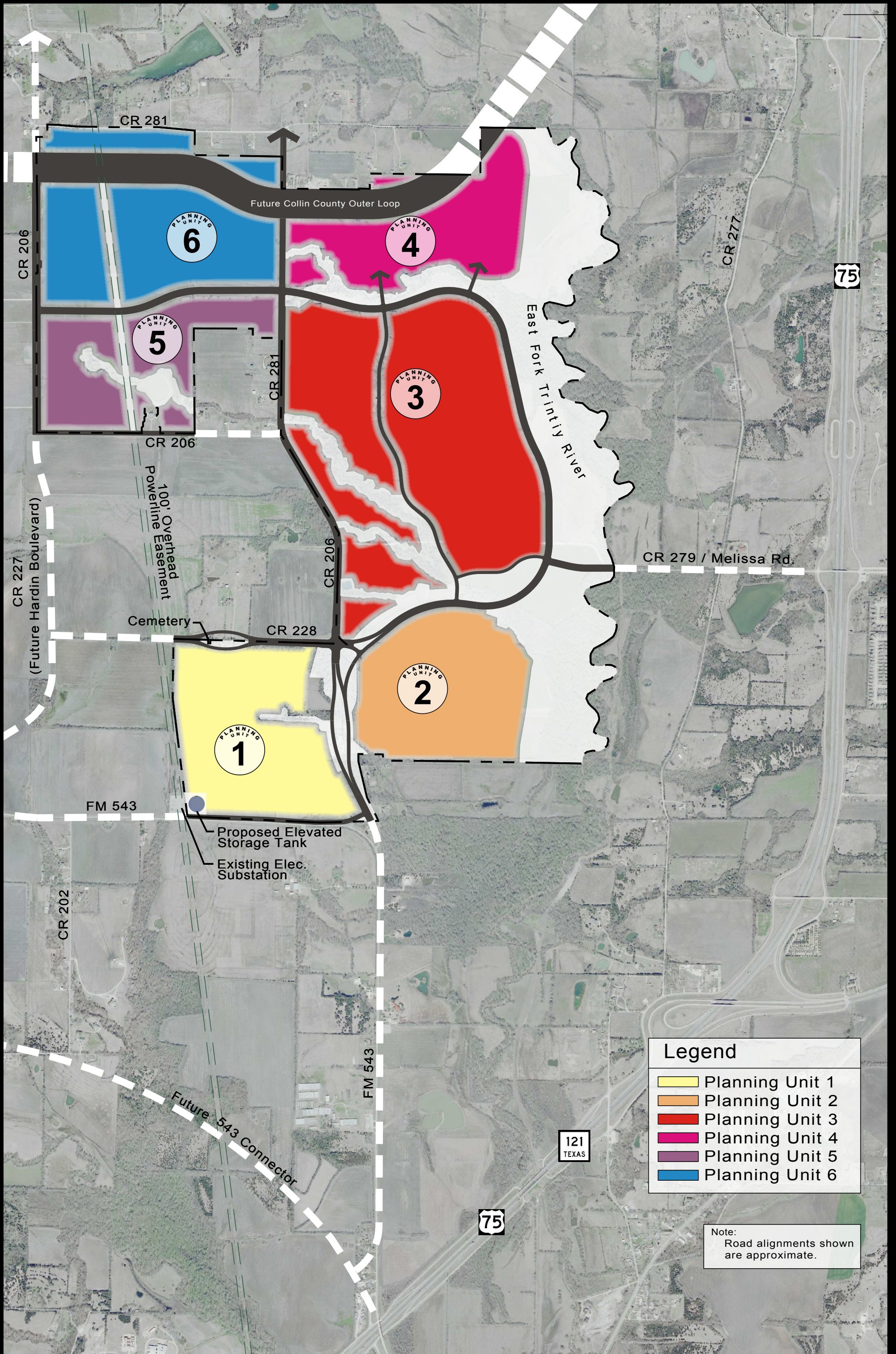
**Trinity Falls**  
 McKinney E.T.J.  
 Collin County, Texas

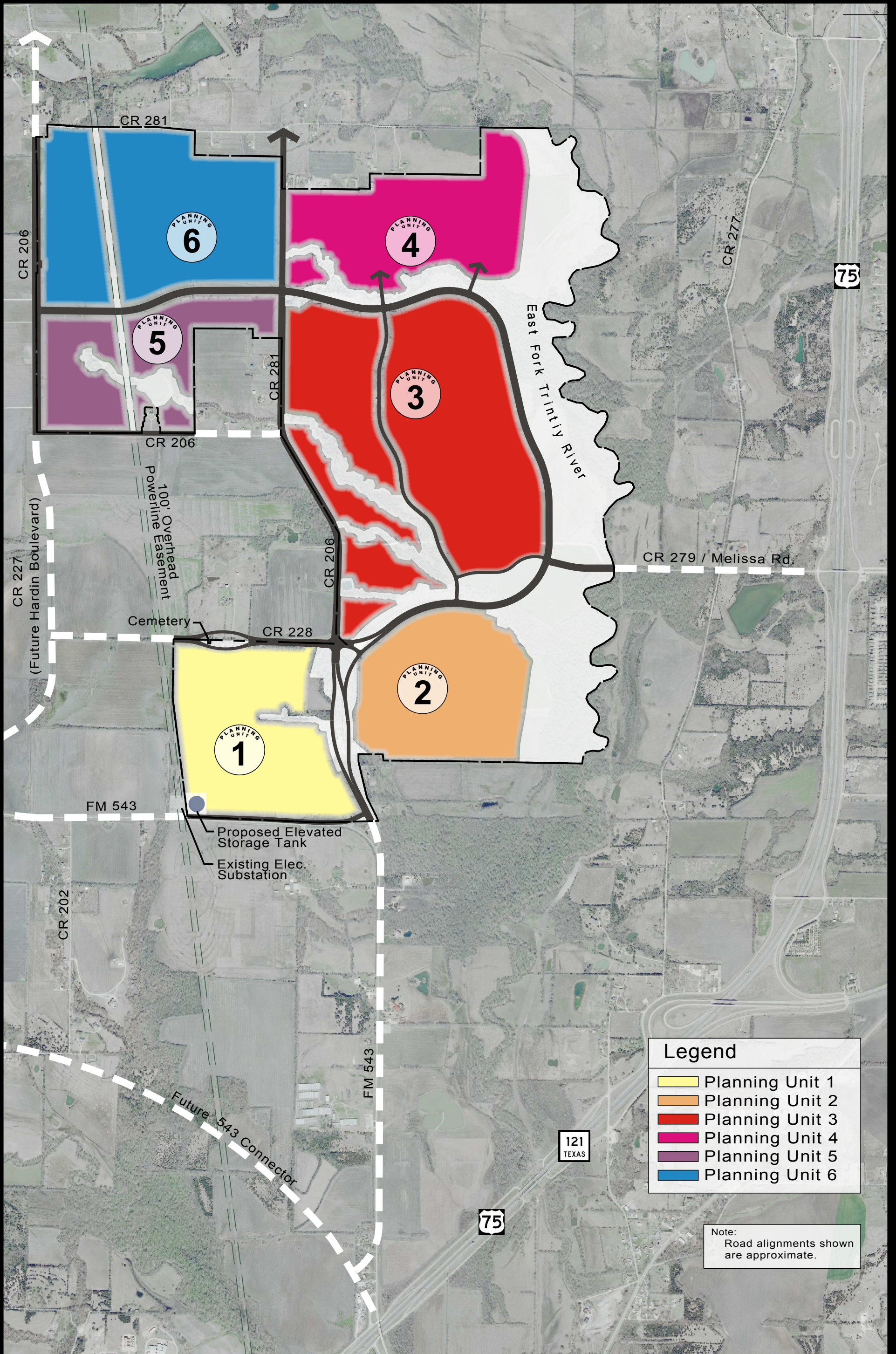
**Exhibit C-1A Concept Plan Alternate- Land Use**



DATE: 11-28-2012



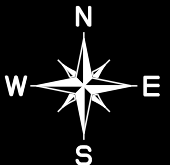


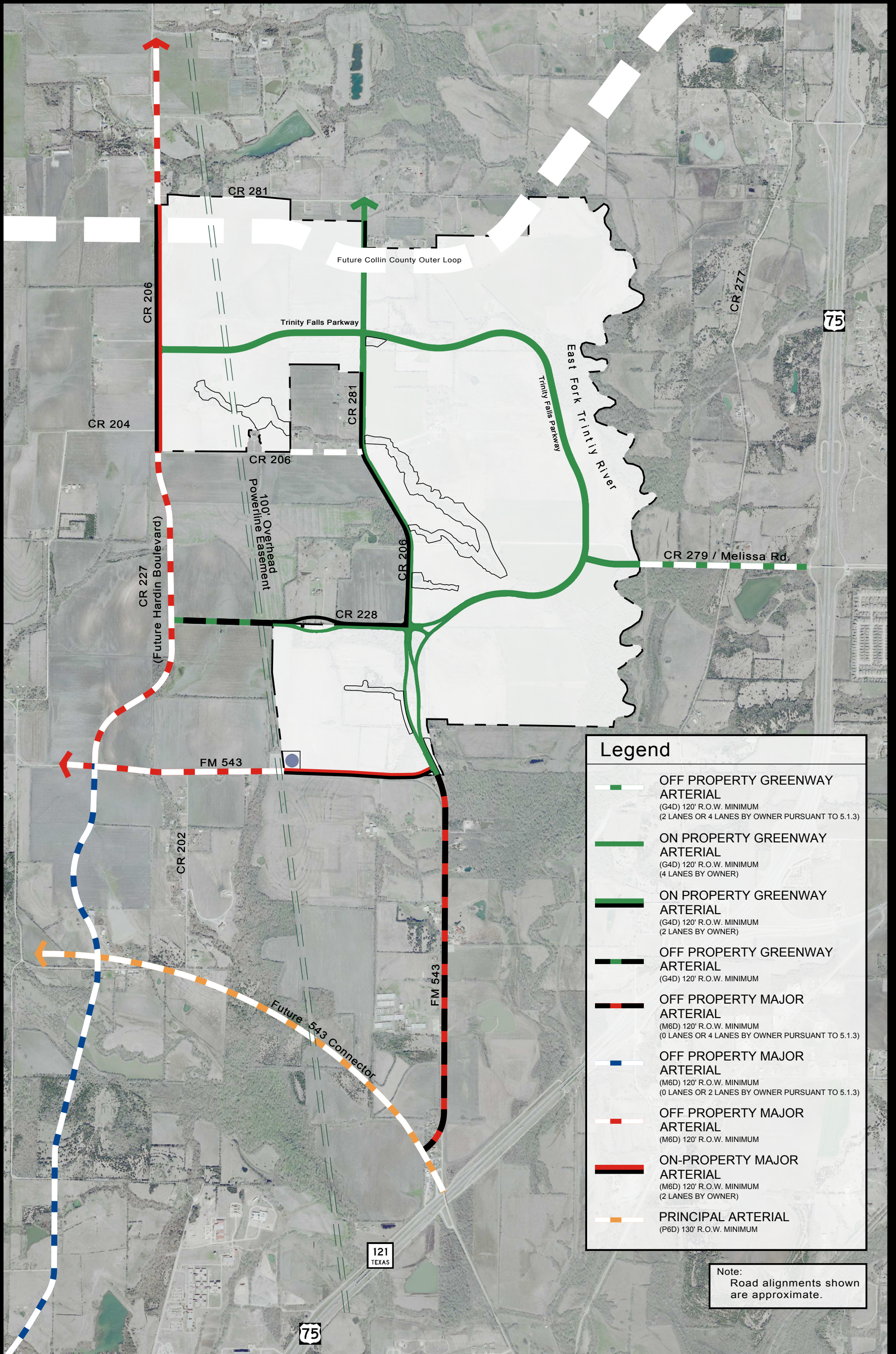


**Legend**

- Planning Unit 1
- Planning Unit 2
- Planning Unit 3
- Planning Unit 4
- Planning Unit 5
- Planning Unit 6

Note:  
Road alignments shown are approximate.





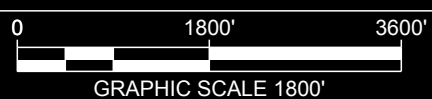
**Legend**

- OFF PROPERTY GREENWAY ARTERIAL  
(G4D) 120' R.O.W. MINIMUM  
(2 LANES OR 4 LANES BY OWNER PURSUANT TO 5.1.3)
- ON PROPERTY GREENWAY ARTERIAL  
(G4D) 120' R.O.W. MINIMUM  
(4 LANES BY OWNER)
- ON PROPERTY GREENWAY ARTERIAL  
(G4D) 120' R.O.W. MINIMUM  
(2 LANES BY OWNER)
- OFF PROPERTY GREENWAY ARTERIAL  
(G4D) 120' R.O.W. MINIMUM
- OFF PROPERTY MAJOR ARTERIAL  
(M6D) 120' R.O.W. MINIMUM  
(0 LANES OR 4 LANES BY OWNER PURSUANT TO 5.1.3)
- OFF PROPERTY MAJOR ARTERIAL  
(M6D) 120' R.O.W. MINIMUM  
(0 LANES OR 2 LANES BY OWNER PURSUANT TO 5.1.3)
- OFF PROPERTY MAJOR ARTERIAL  
(M6D) 120' R.O.W. MINIMUM
- ON-PROPERTY MAJOR ARTERIAL  
(M6D) 120' R.O.W. MINIMUM  
(2 LANES BY OWNER)
- PRINCIPAL ARTERIAL  
(P6D) 130' R.O.W. MINIMUM

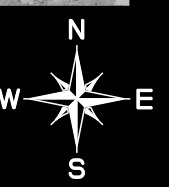
Note:  
Road alignments shown are approximate.

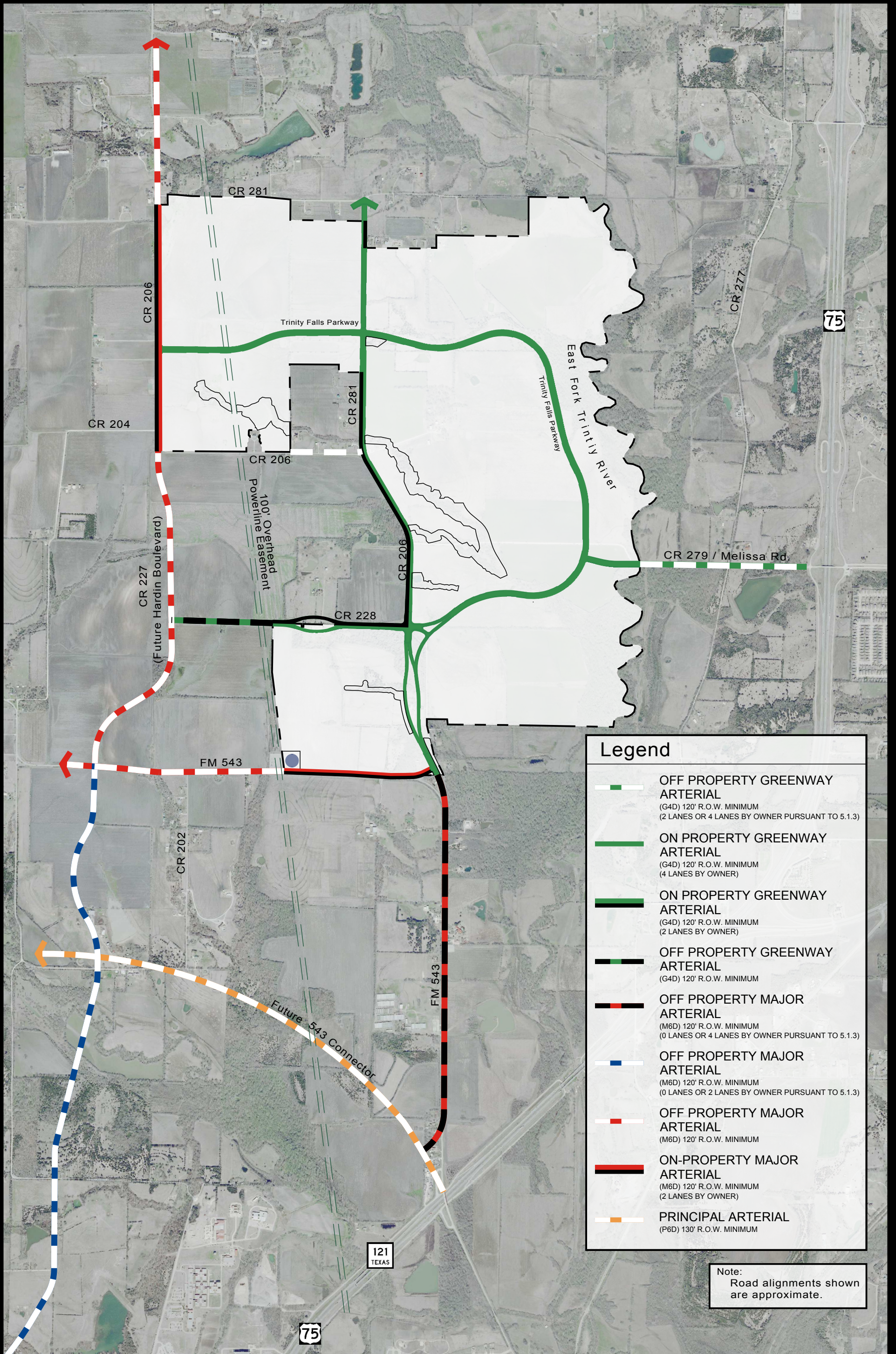
**Trinity Falls**  
McKinney E.T.J.  
Collin County, Texas

**Exhibit C-3 Concept Plan-Thoroughfare Plan**


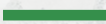






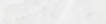


DATE: 11-28-2012

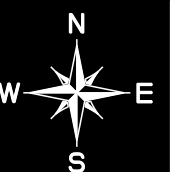


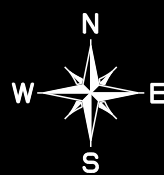
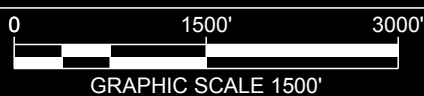
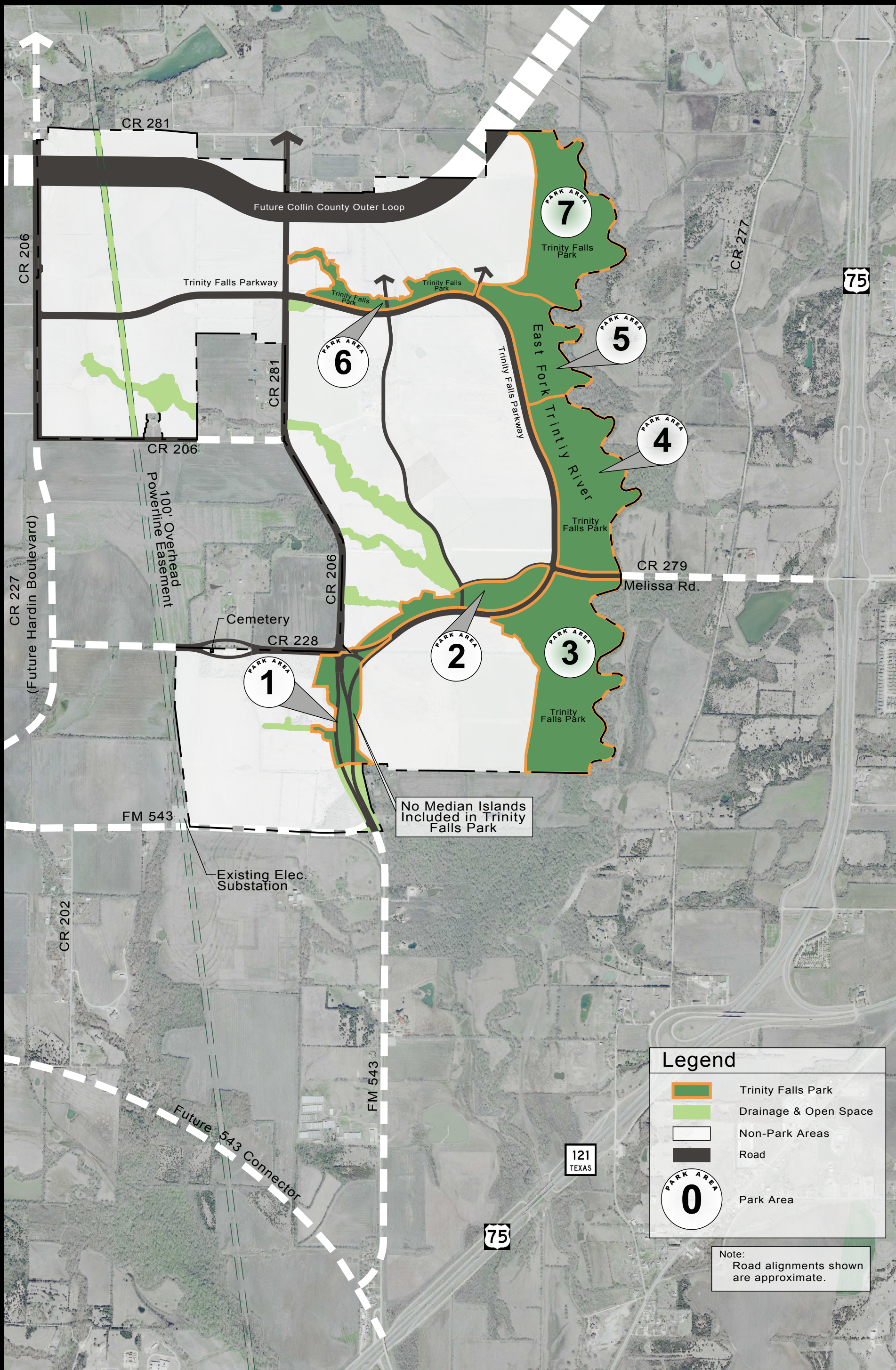


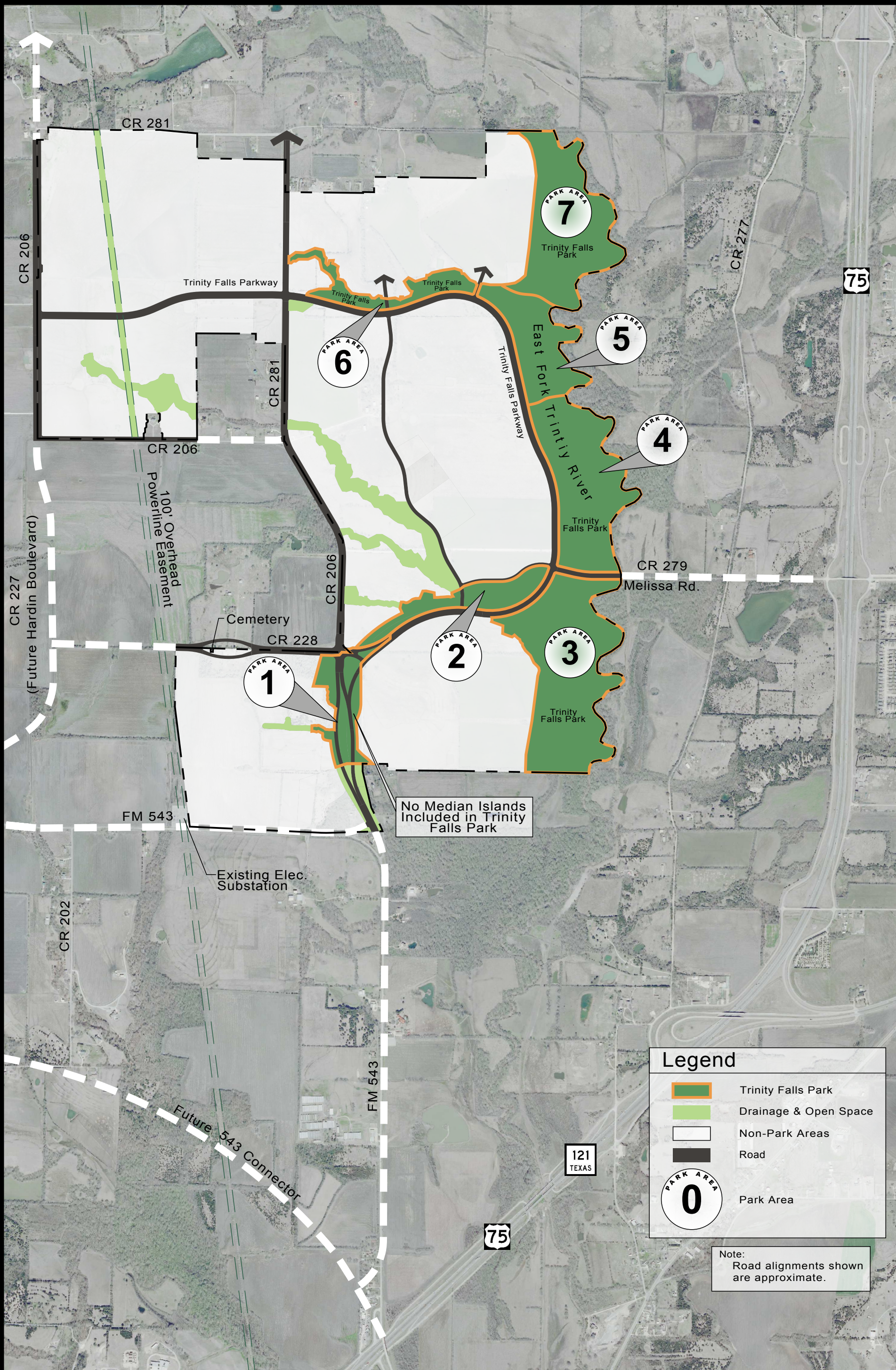
**Legend**

-  OFF PROPERTY GREENWAY ARTERIAL  
(G4D) 120' R.O.W. MINIMUM  
(2 LANES OR 4 LANES BY OWNER PURSUANT TO 5.1.3)
-  ON PROPERTY GREENWAY ARTERIAL  
(G4D) 120' R.O.W. MINIMUM  
(4 LANES BY OWNER)
-  ON PROPERTY GREENWAY ARTERIAL  
(G4D) 120' R.O.W. MINIMUM  
(2 LANES BY OWNER)
-  OFF PROPERTY GREENWAY ARTERIAL  
(G4D) 120' R.O.W. MINIMUM
-  OFF PROPERTY MAJOR ARTERIAL  
(M6D) 120' R.O.W. MINIMUM  
(0 LANES OR 4 LANES BY OWNER PURSUANT TO 5.1.3)
-  OFF PROPERTY MAJOR ARTERIAL  
(M6D) 120' R.O.W. MINIMUM  
(0 LANES OR 2 LANES BY OWNER PURSUANT TO 5.1.3)
-  OFF PROPERTY MAJOR ARTERIAL  
(M6D) 120' R.O.W. MINIMUM
-  ON-PROPERTY MAJOR ARTERIAL  
(M6D) 120' R.O.W. MINIMUM  
(2 LANES BY OWNER)
-  PRINCIPAL ARTERIAL  
(P6D) 130' R.O.W. MINIMUM

Note:  
Road alignments shown are approximate.



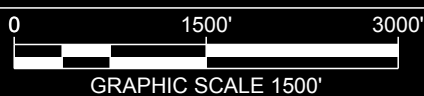




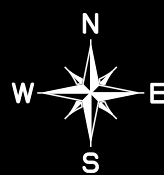
# Trinity Falls

McKinney E.T.J.  
Collin County, Texas

## Exhibit C-4A Concept Plan Alternate- Trinity Falls Park Phasing



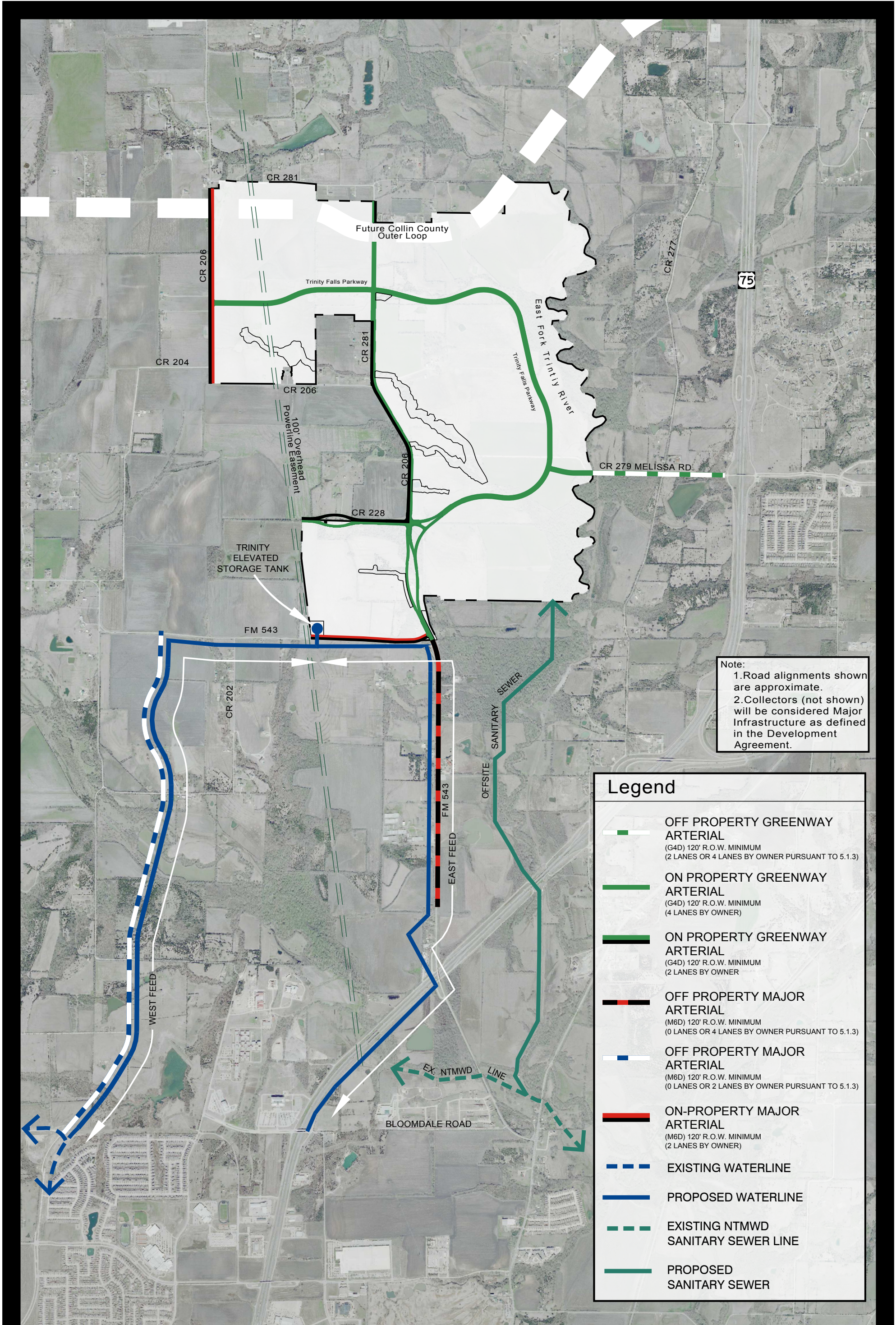
DATE: 11-28-2012



Legend	
	Trinity Falls Park
	Drainage & Open Space
	Non-Park Areas
	Road
	Park Area

Note:  
Road alignments shown  
are approximate.





Note:  
 1. Road alignments shown are approximate.  
 2. Collectors (not shown) will be considered Major Infrastructure as defined in the Development Agreement.

Legend	
	OFF PROPERTY GREENWAY ARTERIAL (G4D) 120' R.O.W. MINIMUM (2 LANES OR 4 LANES BY OWNER PURSUANT TO 5.1.3)
	ON PROPERTY GREENWAY ARTERIAL (G4D) 120' R.O.W. MINIMUM (4 LANES BY OWNER)
	ON PROPERTY GREENWAY ARTERIAL (G4D) 120' R.O.W. MINIMUM (2 LANES BY OWNER)
	OFF PROPERTY MAJOR ARTERIAL (M6D) 120' R.O.W. MINIMUM (0 LANES OR 4 LANES BY OWNER PURSUANT TO 5.1.3)
	OFF PROPERTY MAJOR ARTERIAL (M6D) 120' R.O.W. MINIMUM (0 LANES OR 2 LANES BY OWNER PURSUANT TO 5.1.3)
	ON-PROPERTY MAJOR ARTERIAL (M6D) 120' R.O.W. MINIMUM (2 LANES BY OWNER)
	EXISTING WATERLINE
	PROPOSED WATERLINE
	EXISTING NTMWD SANITARY SEWER LINE
	PROPOSED SANITARY SEWER

**Trinity Falls**  
 McKinney E.T.J.  
 Collin County, Texas

Exhibit C-5 Concept Plan - Major Infrastructure



DATE: 11-28-2012

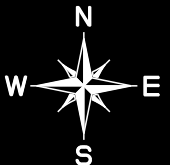
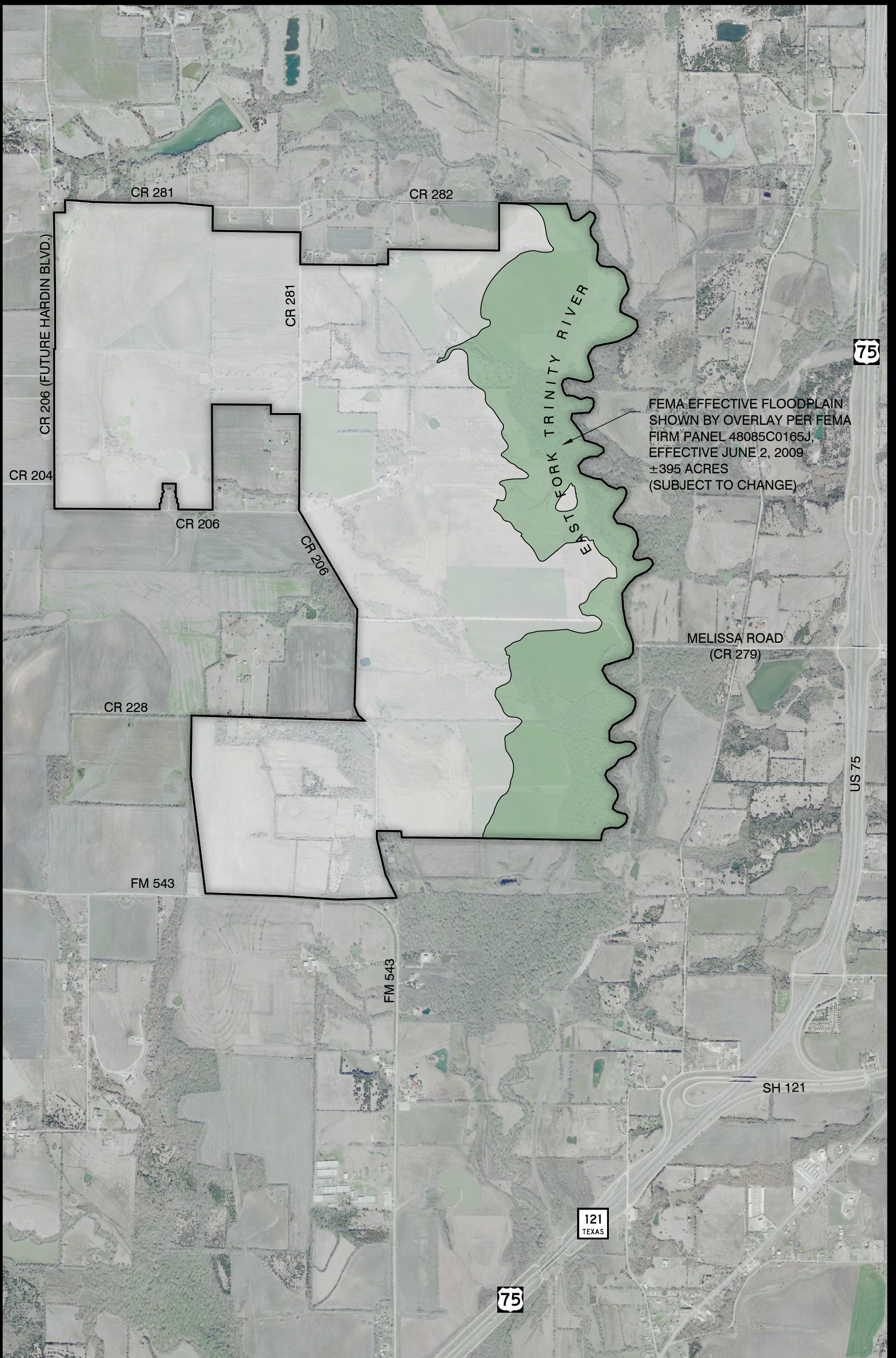


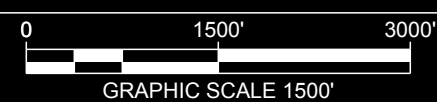
EXHIBIT D  
City Ordinances

1. With respect to the area within the Trinity River floodplain generally identified on Exhibit D-1 attached hereto, Chapter 130 “Land Development Regulations-General” of the City of McKinney Code of Ordinances shall apply to floodplain reclamation only as it is in effect as of the Effective Date and for a period of twenty-four (24) months thereafter without amendment except as is required due to applicable state or federal regulations.
2. Chapter 110 “Utilities” of the City of McKinney Code of Ordinances.
3. Chapter 130 “Land Development Regulations-General” of the City of McKinney Code of Ordinances.

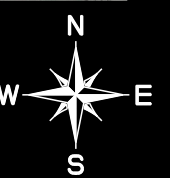


**Trinity Falls**  
 McKinney E.T.J.  
 Collin County, Texas

Exhibit D-1 Floodplain Exhibit



DATE: 11-28-2012



## **Exhibit E – Building Codes**

### Residential:

- A. 2005 National Electrical Code
- B. 2006 International Building Code
- C. 2006 International Plumbing Code
- D. 2006 International Mechanical Code
- E. 2009 International Energy Conservation Code

### Commercial:

- A. 2005 National Electrical Code
- B. 2006 International Building Code
- C. 2006 International Plumbing Code
- D. 2006 International Mechanical Code
- E. 2009 International Energy Conservation Code
- F. 2006 International Fire Code

Local amendments apply.

Exhibit F  
Special Regulations

1. Each preliminary final plat shall include the right-of-way necessary to connect to an existing roadway or right-of-way. CR 206 roadway from FM 543 to CR 228 ("South 206") and CR 206 roadway from CR 228 to CR 281 ("North 206") (collectively, the "Existing Roadways") currently exist on or adjacent to the Property. Owner agrees to repair and maintain (to existing conditions, ordinary wear and tear excepted) the Existing Roadways due to damage caused by construction within the Property beginning December 4, 2012, and continuing until the Existing Roadways, or portions thereof, are redeveloped concurrently with the development of the Property, or portions thereof, adjacent thereto. Owner shall regularly inspect and examine the Existing Roadways to identify damage caused by construction within the Property, and upon discovering such damage, will notify the City of the nature and extent of the damage and proceed to complete repairs and maintenance within a reasonable time based on the nature and extent of the damage. If the Existing Roadways, or portions thereof, are constructed of non-concrete or substandard surfaces, then such portions (a) will be reconstructed in accordance with City subdivision standards at such time as the portion of the Property adjacent thereto is developed, or (b) may be reconstructed by the City in accordance with City subdivision standards in advance of development of the portion of the Property adjacent thereto in which event the City shall be permitted to obtain reimbursement for the City's costs for such reconstruction from proceeds of bonds issued by the District, to the extent permitted by law and the rules of the TCEQ and pursuant to the terms of a reimbursement agreement agreed upon by the City and the District.

2. The Subdivision Regulations are hereby modified as follows:

a. Article I, Sec. 142-7 (Zoning) of the Subdivision Regulations, as may be amended, modified or recodified, shall not apply to the Property.

b. Article III, Sec. 142-73 (General Development Plan) of the Subdivision Regulations, as may be amended, modified or recodified, shall not apply to the Property.

c. Article III, Sec. 142-74(b)(9)(c) of the Subdivision Regulations: The beginning of the third paragraph shall be revised to read "When a preliminary-final plat has been approved by the Commission, a record plat, for all or a part of the area shall be submitted within thirty-six (36) months thereafter ...". It is the intent of the parties that a preliminary-final plat shall be valid for thirty-six (36) months after Commission approval.

d. Article IV, Sec. 142-99 of the Subdivision Regulations - The following language in the first section of said Section shall not apply to the Property: "Lot dimensions shall be determined by the appropriate zoning classification. However, for lots within the extraterritorial jurisdiction of the city, no lot shall be less than 5,000 square feet." In addition, lots with a width of less than 60 feet may have a ratio of depth to width that exceeds 2.5 to 1.

e. Article VI, (Conveyance of Land for Recreational Areas and Facilities), as may be amended, modified or recodified, shall not apply to the Property.

3. The following provisions of the City's comprehensive zoning code, as amended, shall apply:

- Section 146-45 – Site Plan
- Section 146-130 – Vehicle Parking
- Section 146-131 – Off-Street Loading
- Section 146-132 – Fences, Walls, and Screening Requirements
- Section 146-135 – Landscape Requirements

4. Landscaping/Hardscaping: Street and parking lot lighting shall consist of poles and fixtures which shall be selected by Owner from among those available from the electric service provider. Unless approved by the City Engineer in writing, all utilities shall be underground.

5. Public Safety Notice to Purchasers: Owner shall disclose to purchasers (in its District Notice, notice required by the Property Code, or otherwise) the source of police, fire, and EMS services.

Exhibit G  
Development Regulations

**1. Land Use Areas.** The Concept Plan divides the Property into "Single Family Residential" and "Commercial" land use areas ("Land Use Areas"). The Concept Plan identifies other areas, including drainage and floodplain areas, amenity centers, parks, schools, and thoroughfares located on or off the Property. The sizes and configurations of the Land Use Areas and other areas shown on the Concept Plan are approximations and subject to change.

a. Single-Family Residential. Single-Family Residential Land Use Areas shown on the Concept Plan allow the following single-family lot types (by reference to Chapter 146 of the City's Code of Ordinances in effect on the effective date of the Agreement) anywhere within the Property subject to the following standards.

i. SFD-45

- minimum lot size 4,500 square feet;
- minimum lot width 40 feet;
- minimum lot depth 100 feet
- minimum front yard setback 20 feet;
- minimum rear yard setback 20 feet;
- minimum side yard setback five feet;
- minimum corner side setback 15 feet; and
- all lots must be served by alleys.

ii. SFD-57.5

- minimum lot size 5,750 square feet;
- minimum lot width 50 feet;
- minimum lot depth 100 feet
- minimum front yard setback 25 feet;
- minimum rear yard setback 15 feet;
- minimum side yard setback five feet; and
- minimum corner side setback 15 feet.

iii. SFD-65

- minimum lot size 6,500 square feet;
- minimum lot width 60 feet;
- minimum lot depth 100 feet
- minimum front yard setback 25 feet;
- minimum rear yard setback 15 feet;
- minimum side yard setback five feet; and
- minimum corner side setback 15 feet.

b. Commercial. Commercial Land Use Areas allow commercial development in accordance with the development regulations for "C Planned Center" under Chapter 146 of the City's Code of Ordinances, as amended.

c. Multi-Family. Multi-family Land Use Areas are not shown on the Concept Plan; however, multi-family development is allowed with the approval of the City Council.

**2. Residential Lot Type**. Any Residential Lot Type may be located anywhere within a Single Family Area.

**3. Single Family Area**. Development within Single Family Areas is subject to the following:

a. No block face may be longer than 1,200 feet; however Open Space with a width greater than 50 feet will be deemed to terminate a block face. A block face may be extended to 1,500 feet without a waiver request or amendment to this Agreement when any of the following conditions is present:

- i. the block is adjacent to non-residential uses;
- ii. the block is adjacent to a floodplain, creek, or other natural feature through which a crossing is not desirable or feasible;
- iii. the block is adjacent to a subdivision that has not provided sufficient street connections;
- iv. the block is adjacent to an arterial roadway; or
- v. other property conditions (including, but not limited to, natural conditions) would result in an undue hardship unless the block length is extended.

b. Each Residential Lot must be within a 1,320 foot radius of Open Space or Common Area as defined below.

c. Residential Lots less than 50 feet wide must be alley entry.



**4. Agricultural Uses.** Agricultural uses are permitted within the Property subject to the following:

- a. Permitted Uses.
  - i. Agriculture, including the raising of field crops and horticulture, but excluding animal husbandry, feedlots, poultry farms, and kennels.
  - ii. Ranch and farm dwellings pertaining to agricultural operations.
  - iii. Parks and recreation areas operated by the City.
  - iv. Riding academies.
  - v. Country clubs.
  - vi. Recreational camps operated by public, charitable or religious organizations.
  - vii. Buildings and installations geographically necessary to operate a public utility, but not including general office, material yards or repair shops. Such facilities shall observe yard space rules, but shall not be required to provide the full lot size and lot width requirement.
  - viii. Greenhouses.
- b. Permitted accessory uses.
  - i. Living quarters for persons regularly employed on the premises; but not including labor camps or dwellings for transient labor.
  - ii. Guest houses, not rented or otherwise conducted as a business.
  - iii. Home occupations.
  - iv. Offices incidental to and necessary for conducting a permitted use.
  - v. Private garages, stables, and barns.
  - vi. Roadside stands not exceeding 400 square feet in floor area, for the sale of agricultural products grown on the premises.
  - vii. Nameplates and non-illuminated signs not to exceed 20 square feet in area identifying the premises, but not containing over 20 percent brand advertising.
  - viii. The keeping of not more than two roomers or boarders.
  - ix. Other accessory uses and buildings customarily appurtenant to a permitted use, including, but not limited to, associational meetings, religious gatherings, and social activities.

- c. Miscellaneous.
  - i. Off-street parking shall be provided.
- d. Space limits.
  - i. Minimum lot area: 10 acres.
  - ii. Minimum width of lot: 150 feet.
  - iii. Maximum height of building: 35 feet.
  - iv. Minimum front yard: 35 feet.
  - v. Minimum rear yard: 35 feet.
  - vi. Minimum side yard: 20 feet.
  - vii. Minimum side yard at corner: 25 feet.

**5. Open Space / Recreational Facilities.**

- a. Definitions:
  - i. “Drainage/Floodplain Areas” mean those areas identified as such on the Concept Plan, including, but not limited to, such areas located within the Trinity River Common Area.
  - ii. “Floodplain Adjacency Area” means the common boundary line of a Drainage Floodplain Area and a Single Family Area.
  - iii. “Neighborhood Park” means an area not less than eight acres and not located within a FEMA floodplain area, each adjacent to an elementary school, designed and constructed by Owner to conform to applicable ADA standards and being substantially equivalent in quality to Inspiration Park, Ledbetter Park and Whisenant Park (being parks developed by and located within corporate limits of the City) and which include the following facilities: (1) one facility from the following: baseball/softball field (including backstop), football/soccer field, sand volleyball court(s), Miracle playground equipment or equivalent (inclusive of shade canopies), or multi-purpose paved jogging trails; however, any field(s) provided will not be lighted; (2) picnic tables (Legacy model #1122 or approved equivalent) and litter receptacles (Renaissance custom city design with liner); (3) landscape development (including associated irrigation to City standards) and beautification including color beds, screening, shade, ornamental trees, benches (Legacy site furnishings model #1272-I or approved equivalent), sidewalks, and signage; (4) drinking fountains; (5) parking to include ten (10) parking spaces and lighting; and (6) one facility from the following: Vortex splash pads or equivalent, climbing boulders, outdoor classrooms, basketball court, or handball court. All improvements shall comply with City standards. Park names shall be selected in accordance with the City protocol.
  - iv. “Open Space” means areas consisting of one or more of the following: the Trinity River Common Area, Neighborhood Parks, Drainage/Floodplain

Areas, Community Open Space, arterial landscape buffers, other improved and unimproved parks, playgrounds, common areas, greenbelts, landscape areas and buffers, creeks, community gardens, the entire area of roadway medians and esplanades. Open Space does not include the area of lots, unless such lots are platted for uses associated with recreational or landscape related uses.

- v. “Common Area” means any Open Space that is not owned by the City.
- vi. “Trinity River Common Area” means the area containing at least 200 acres located primarily in the areas of post-reclamation floodplain adjacent to the East Fork of the Trinity River.

b. At least 83 acres of Open Space shall be provided within the Property. Only 33% of this requirement may be satisfied with floodplain and erosion hazard setback areas, as defined in the Floodplain Ordinance.

c. The Owner shall construct the improvements described in Paragraph 5(a)(iii) above and subsequently dedicate each Neighborhood Park to the City, at no cost to the City, which dedication shall be not later than the opening of the adjacent school site. The City shall maintain the Neighborhood Parks at the City’s expense; however, the District shall have the right, but not the obligation, to provide additional maintenance at the District’s expense.

d. Owner will cause the Trinity River Common Area to be maintained by the District, a PID, a homeowner association or other entity such that: (i) turf is mowed at the appropriate height for the type of grass used and the time of the season; (ii) electrical systems and components are operational and in compliance with appropriate building codes; (iii) structures are in good repair and free of graffiti; and (iv) trails are in good repair.

e. The Trinity River Common Area will be a privately owned (by Owner, the District, or a homeowner association) park and recreation area that will be open at all times to the public. The Trinity River Common Area shall be developed in phases (Area 1 through Area 7) as shown on Exhibits C-4 and C-4A attached hereto and will include improvements from the following list of park components, constructed within Area 1 through Area 7 in phases as described below. All park Areas shall be completed within two (2) years of any required commencement date or event.

- Parking facilities
- Viewpoints or overlooks
- Natural trails and interpretive trails
- Ponds or lakes with fishing piers and boating/canoeing capability
- Water features including water falls/cascades
- Open air pavilions and picnic tables
- Playgrounds
- 12 foot wide hard surface (concrete) primary hike/bike trails. Secondary hike/bike trails may be decomposed granite or similar material.
- Passive open play fields

- Connectivity to trails systems within the Property
- Amphitheater
- Frisbee golf facility

Area 1: Commence construction within Area 1 not later than 30 days after the completion and acceptance of the first phase of residential development within Planning Unit 1 of the following improvements: (1) nature trails and interpretive trails; (2) 12 foot wide hard surface (concrete) primary hike and bike trails; and (3) connectivity to trails systems within the Property.

Area 2: Commence construction within Area 2 not later than 30 days after the completion and acceptance of the adjacent/contiguous sections of the north half of Trinity Falls Parkway of the following improvements: (1) nature trails and interpretive trails; (2) 12 foot wide hard surface (concrete) primary hike and bike trails; and (3) connectivity to trails systems within the Property; and (4) optional playground equipment.

Area 3: Commence construction within Area 3 not later than 30 days after the issuance of the 400<sup>th</sup> building permit for a Dwelling Unit in Planning Unit 2 of the following improvements: (1) nature trails and interpretive trails; (2) 12 foot wide hard surface (concrete) primary hike and bike trails; and (3) connectivity to trails systems within the Property; (4) parking facilities; (5) viewpoints or overlooks; (6) ponds or lakes with fishing piers and boating/canoeing capability; (7) water features including optional water falls/cascades; (8) open air pavilions; (9) picnic tables; (10) passive open play fields; (11) optional amphitheater (may be deferred to Area 4); (12) frisbee golf facility; (13) restroom facilities; and (14) playground equipment. Owner may request to substitute any component in within this Area, which substitution shall be subject to the approval of the City in its sole discretion.

Area 4: Commence construction within Area 4 not later than 30 days after the issuance of the 675<sup>th</sup> building permit for a Dwelling Unit in Planning Unit 3 of the following improvements: (1) nature trails and interpretive trails; (2) 12 foot wide hard surface (concrete) primary hike and bike trails; and (3) connectivity to trails systems within the Property; (4) parking facilities; (5) ponds or lakes with fishing piers and boating/canoeing capability; (6) water features including optional water falls/cascades; (7) open air pavilions; (8) picnic tables; (9) passive open play fields; (10) amphitheater (if not already constructed in Area 3); (11) extension of the frisbee golf; (12) restroom facilities; and (13) playground equipment. Owner may request to substitute any component in within this Area, which substitution shall be subject to the approval of the City in its sole discretion.

Area 5: Commence construction within Area 5 not later than 30 days after the issuance of the 1,000<sup>th</sup> building permit for a Dwelling Unit in Planning unit 3 of the following improvements: (1) nature trails and interpretive trails; (2) 12 foot wide hard surface (concrete) primary hike and bike trails; and (3) connectivity to trails systems within the Property; (4) viewpoints or overlooks; (5) picnic tables; (6) extension of the frisbee golf; and (7) playground equipment. Owner may request to substitute any component in within this Area, which substitution shall be subject to the approval of the City in its sole discretion.

Area 6: Commence construction of portions of Area 6 not later than 30 days after the earlier of completion and acceptance of (i) adjacent/contiguous development phases or (ii) adjacent/contiguous sections of the north half of Trinity Falls Parkway of the following improvements: (1) nature trails and interpretive trails; (2) 12 foot wide hard surface (concrete) primary hike and bike trails; and (3) connectivity to trails systems within the Property; and (4) optional playground equipment.

Area 7: Commence construction within Area 7 not later than 30 days after the issuance of the 250<sup>th</sup> building permit for a Dwelling Unit in Planning Unit 4 of the following improvements: (1) nature trails and interpretive trails; (2) 12 foot wide hard surface (concrete) primary hike and bike trails; and (3) connectivity to trails systems within the Property; (4) ponds or lakes with fishing piers and boating/canoeing capability; (5) water features including water falls/cascades; (6) picnic tables; (7) passive open play fields; and (8) playground equipment. Owner may request to substitute any component in within this Area, which substitution shall be subject to the approval of the City in its sole discretion.

f. Linear floodplain/drainage Open Space (including non-floodplain/drainage Open Space adjacent thereto) in Single Family Areas shall not be required to have more than 1/3 of the length of the Open Space abut a roadway or to be located on both sides of abutting roadways.

g. Linear floodplain/drainage Open Space (including non-floodplain/drainage Open Space adjacent thereto) shall not be required in any Commercial Area.

h. Owner shall cause to be collected within the Property a tax, assessment, or fee in an amount equal to two cents (\$0.02) per \$100 valuation on each Residential Lots (both land and improvements) as determined by the approved tax rolls (the "Park Fee"), which fee shall be paid to the City to supplement the City's Parks and Recreation Department's park and recreational facilities. The Park Fee is in lieu of any requirement, other than as specified in this Agreement, for additional park or recreational facilities within the Property. The City shall maintain all City-owned parks and recreational facilities within the Property to standards that meet or exceed the following:

- seven-day mowing/weed eating cycle during mowing season and weekly litter removal;
- trash removal as needed, but no less frequently than weekly;
- inspect irrigation systems at least once every two weeks and repair as needed;
- trim trees and shrubs at least three times a year;
- apply fertilizer and herbicide at least four times a year;
- inspect playground equipment at least monthly and repair as needed;
- inspect splashpads at least every two weeks and repair as needed;
- inspect hardscape at least annually and repair as needed; and
- repair vandalism as needed.

If the City fails to fulfill its maintenance obligations, Owner, upon written notice to the City, shall have the right to perform the City's obligations and be reimbursed by City.

**6. Signage.** Owner shall be permitted to locate a maximum of six (6) non-premises signs off the Property to advertise the Property (or portions thereof) and each such sign shall have a maximum of 32 square feet per face. Such non-premises signs shall otherwise comply with the City's Sign Ordinance.

**7. Land Use Area Regulations.** All land, buildings and structures located within the Property which are occupied, used, erected, altered, removed, placed, demolished, or converted shall be done so in conformance with the following regulations:

a. Single Family Areas.

i. Permitted Uses

1. Single-family attached and detached dwellings.
2. Public, parochial, and private schools and colleges offering courses of general instruction when located on sites of at least five acres, and including convents, monasteries, dormitories, and other related living structures when located on the same site as the school or college.
3. Churches, synagogues, chapels, and similar places of religious worship and instruction of a quiet nature.
4. Utility substations necessary to the functioning of the utility, but not including general business offices, maintenance facilities and other general system facilities, when located according to the yard space rules set forth in this Exhibit G for dwellings and have a landscaped or masonry barrier on all sides.
5. Public and quasi-public buildings for cultural use.
6. Country clubs.
7. Crop and tree farming, but not including the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises, except as provided for as a permitted home occupation.
8. Parks, Open Space and recreation areas including swimming pool facilities, water parks, clubhouses, sport courts and other similar facilities operated by public or private entities.
9. Public or private golf course and related facilities.
10. Cemeteries in existence prior to 2006.
11. Other accessory uses and buildings customarily appurtenant to a master plan community, including, but not limited to, association meetings, religious gatherings, marketing activities, dining activities and social activities.
12. One or more private homeowner association amenity centers.

ii. Permitted Accessory Uses

1. Private garage and parking areas.
2. Real estate lease or "for sale" signs relating to the property on which the sign is located.
3. Other accessory uses and buildings customarily appurtenant to a permitted use, including, but not limited to, associational meetings, religious gatherings, and social activities.
4. swimming pools and below-ground spas.

**8. Additional Uses:** The following uses shall be allowed only within portions of the Property designated as Common Area or Open Space:

- a. Equestrian and riding facilities, provided that private stables, corrals and paddocks are located no closer than 20 feet from any property line, no closer than 50 feet from a street and no closer than 150 feet from any dwelling located on adjoining property. No horse shall be kept on a lot containing less than one acre. Two (2) horses may be kept on a lot containing at least one acre. For each horse above two horses on a lot, there shall be an additional 20,000 square feet in lot area (in addition to the initial one acre minimum).
- b. Buildings and installations necessary to operate a public utility excluding, however, general office use, material yards or repair shops. Such facilities shall observe yard space requirements, but shall not be required to satisfy lot size or lot width requirements.
- c. Parks and recreation areas operated by the City of McKinney, any utility district or any homeowner association.
- d. Private garages and barns to house maintenance equipment of any utility district or any homeowner association.

**9. Use and Area Regulations for Accessory Buildings.**

- a. Accessory Buildings shall be permitted in Single Family areas on lots greater than 40 feet in width at the front building line or permitted on any lot greater than 80 feet in width at the front building line.
- b. "Accessory Buildings" mean a subordinate building or structure, detached or attached by a breezeway and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, greenhouse, home workshop, guest/caretaker quarters or office for a home business, so long as such business is not adverse to the use and enjoyment of adjacent residential property and does not include the employment of additional persons, and does not increase parking and does not involve customers or clients visiting the premises. Such Accessory Buildings are subject to the following area regulations:
  - i. Front Yard - Attached Accessory Buildings shall have a front yard not less than that required for the main building. Detached Accessory Buildings shall be located in the area defined as the rear yard.

- ii. Side Yard – There shall be a side yard for any detached Accessory Building of not less than three (3) feet from any side lot line, alley line or easement line, except that adjacent to a side street the side yard requirement shall be the same as that required for the main building. A detached Accessory Building on a corner lot with garage doors which open directly to and is entered from the side street shall provide a side yard of not less than twenty (20) feet. Maximum overhang of roof an Accessory Building into the required side yard is eighteen (18) inches.
- iii. Rear Yard – There shall be a rear yard for any Accessory Building of not less than three (3) feet from the rear property lot line, or easement line, except that if no alley exists the rear yard shall not be less than eight (8) feet as measured from the rear property lot line. Garages or other detached Accessory Buildings located within the rear portion of the lot as heretofore described shall not be located closer than ten (10) feet to the main building not nearer than three (3) feet to any side lot line, except that a breezeway not exceeding fifteen (15) feet in height shall be permitted connecting the dwelling structure to an Accessory Building, provided it is open on all sides from the eaves of the roof to the ground. Garages which open directly to and are entered from an alley shall not be located nearer than ten (10) feet to the rear lot line. Maximum overhang for roofs of Accessory Buildings into the required rear yard is eighteen (18) inches.
- iv. Height – No accessory structure may be of a height that exceeds the main building

**10. Swimming Pools and Spas.** All swimming pools and below ground spas shall be located behind the front building line and in no case shall the pool proper shall be closer than five (5) feet to any bounding property line of the lot or tract on which it is situated.

**11. Maximum Single Family Lots.** The maximum number of single family lots allowed within the Property shall be 4,176. For purposes of this Paragraph 11, the “Property” shall mean only MUD No.1, MUD No.2 and any annexed land; and it shall not include the New MUD Land, as such is described in Section 12.18.5 of the Agreement. If, however, pursuant to Section 12.18.2 of the Agreement, the CCOL Deed for the CCOL ROW is returned to the Owner, the New MUD Land may be developed in accordance with the Alternative Concept Plan Land Use Plan attached as Exhibit C-1A to the Agreement; whereupon, an additional 520 single-family lots may be developed. The maximum number of lots allowed to be developed in accordance with the SFD-57.5 standards, or with a smaller lot size shall be 2,500, of which no more than 1,000 may be developed in accordance with the SFD-45 standards.

**12. Residential Area Design Requirements.** The following design standards shall apply to Single Family Areas.

a. Standards for Approval.

- 1. Large residential developments must be segmented into smaller, more distinct neighborhoods and villages through the use of common areas and open



spaces (natural and improved), screening and buffering improvements, street layout, and lot orientation. These smaller neighborhoods shall be no larger than 60 acres with no fewer than two of the Single-Family Residential lot types described in Paragraph 1.a of this Exhibit G. The 60-acre maximum shall not include the area of the elements creating the segmentation, including the area of non-loaded collector roads with screening and buffering improvements. The 60-acre maximum may be increased with the approval of the Planning and Zoning Commission if the plan meets the intent of this paragraph but site conditions and constraints, including but not limited to geometry, acreage, and adjacent uses, preclude segmentation of the development into 60 acres or less, or the 60-acre maximum requirement would otherwise cause a less desirable plan to be implemented.

2. For neighborhoods that exceed 50 lots, at least one of the entrances to the neighborhood shall feature a divided entrance containing a landscaped median separating the traffic entering the neighborhood from the traffic exiting the neighborhood. The divided entrance, including the required median, shall meet all safety standards of the City's Fire Marshal. The required median shall be provided within a common area that is owned and maintained by the homeowners' association and shall feature all of the following:

a. The required median shall be at least 10 feet wide and at least 50 feet long (measured from back of curb to back of curb). The median and its plantings shall not be permitted to interfere with necessary sight visibility lines;

b. The required median shall include at least one canopy tree for every 50 linear feet that the median extends (in length

c. A The required median shall include at least two ornamental trees for every 50 linear feet that the median extends (in length); and

d. The required median shall be completely covered with living plant materials and shall be provided with an automatic underground irrigation system as specified in Section 146-135(e)(2) of the City's Code of Ordinances, as amended. Non-living materials including, but not limited to, concrete, pavers, stone, decomposed granite, or similar materials may be used for secondary design elements, sidewalks, and/or crosswalks.

3. A minimum of 60 percent of a property's frontage on a natural area, such as a creek or lake, that includes public participation under the Drainage Ordinance (e.g.: NRCS lakes) shall have single loaded streets adjacent to them.

4. Cul-de-sacs shall not be perfectly round. Instead, they must be more off-center in nature. A landscaped common area island within the cul-de-sac is encouraged.

5. Lots that are less than 50 feet in width shall not provide any front-entry off-street parking (including drives, garages, and carports).

b. Meritorious Exceptions.

- i. If unique circumstances that exist on the Property or an innovative design prevents strict adherence with this paragraph, City staff, upon the request of the applicant, may consider the approval or disapproval of a meritorious exception from identified portions of this paragraph. City staff, in its discretion, may, however, forward the request (with a staff recommendation) to the Planning and Zoning Commission for consideration. In addition, if an application is denied by City staff, the applicant may appeal the denial to the Planning and Zoning Commission.
- ii. Prior to any consideration of a meritorious exception by the Planning and Zoning Commission, written notice of a required public hearing shall be mailed to all property owners within 200 feet of the affected property according to the procedures for a change in a zoning district location or boundary. Notices may be mailed by regular United States mail, postage paid, to "Property Owner" at the addresses shown on the most recent tax roll.
- iii. The applicant for a meritorious exception shall prove that a meritorious exception from the requirements of this paragraph is warranted under the circumstances presented. A meritorious exception may be granted by City staff or by the Planning and Zoning Commission based on findings that:
  1. Unique circumstances exist on the Property or an innovative design is proposed that make the application of this paragraph unduly burdensome on the applicant;
  2. The meritorious exception will have no adverse impact on current or future development;
  3. The meritorious exception is in keeping with the spirit of the Development Agreement and will have a minimal impact, if any, on the surrounding land uses;
  4. The meritorious exception shall not reduce the quality of the development; and
  5. The meritorious exception will have no adverse impact on the public health, safety and general welfare.
  6. A financial hardship shall not be considered a basis for the granting of a meritorious exception.

- iv. Action by the Planning and Zoning Commission regarding a requested meritorious exception may be appealed to the City Council. Within 14 calendar days of the action by the Commission, the appellant shall notify the Director of Planning in writing of the desire to appeal the decision of the Commission to the City Council. The Director of Planning shall prepare a report and place the appeal on the agenda for consideration by the Council.

**13. Residential Architectural and Site Standards.** The following architectural and site standards shall apply to Single Family Areas.

- a. The following exterior finishing materials shall be required:
  - i. Front Elevation: 100% of this elevation shall be finished with masonry materials including, but not limited to, brick, stone, synthetic stone, or stucco; however, no more than 50 percent of this elevation shall be finished with stucco.
  - ii. Side Elevation. 75% of this elevation shall be finished with masonry materials including, but not limited to, brick, stone, synthetic stone, or stucco; however, no more than 50% of this elevation shall be finished with stucco. The remaining 25 percent may be finished with wood lap siding, vinyl siding, cast concrete modular siding, or EIFS. Sheet siding fabricated to look like wood lap siding is prohibited.
  - iii. Rear Elevation. 50% of this elevation shall be finished with masonry materials including, but not limited to, brick, stone, synthetic stone, or stucco; however, no more than 50% of this elevation shall be finished with stucco. The remaining 50% may be finished with wood lap siding, vinyl siding, cast concrete modular siding, or EIFS. Sheet siding fabricated to look like wood lap siding is prohibited.
  - iv. Walls Above the Roof Line. Walls provided in conjunction with an architectural element located above the roof line (example: walls for dormers) may only be finished with brick, stone, synthetic stone, stucco, wood lap siding, vinyl siding, cast concrete modular siding, or EIFS. Sheet siding fabricated to look like wood lap siding is prohibited.
  - v. Calculation of Percentages. The percentages set forth above are calculated exclusive of doors and windows.
- b. All single family residential units shall be required to provide at least three of the following architectural elements:
  - i. 100 percent of each wall is finished with a masonry finishing material, excluding stucco;

- ii. The front facade contains two types of complementary masonry finishing materials, excluding stucco, with each of the materials being used on at least 25 percent of the front façade;
  - iii. A minimum of 10 percent of the unit's front facade features patterned brick work, excluding soldier or sailor brickwork provided in association with a door or window;
  - iv. No pitched roof plane with a horizontal length longer than 20 feet exists;
  - v. The unit only features one-car garage doors that have a carriage style design. These doors typically feature vertical slats, high windows, antiqued hardware, and additional detailing to give the appearance of swinging or sliding doors;
  - vi. The unit's chimney is finished on all sides with 100 percent masonry finishing materials (excluding stucco);
  - vii. A minimum of three offsets in the front façade measuring at least two feet deep are provided or a minimum of one offset in the front façade measuring at least five feet is provided.
  - viii. The unit features an articulated front entrance through the use of lintels, pediments, keystones, pilasters, arches, columns, or other similar architectural elements;
  - ix. A covered front porch which is at least 100 square feet in area is provided;
  - x. A covered back porch which is at least 200 square feet in area is provided;
  - xi. At least one dormer is provided for each roof plane over 500 square feet in area that faces a public street. The dormer must be appropriately scaled for the roof plane and shall not be wider than the windows on the building elevation below;
  - xii. All windows facing a street feature shutters. The shutters provided must be operational or appear operational and must be in scale with the corresponding window; or
  - xiii. All ground level mechanical, heating, ventilation, and air conditioning equipment opaque screening device that is at least six feet tall.
- c. The "Meritorious Exceptions" process described in Paragraph 12.b. shall apply to this Paragraph 13.b.

**EXHIBIT H**

Impact Fees

Applicable water and wastewater impact fees pursuant to City of McKinney Utility Impact Fee Ordinance, as amended from time to time.

## Exhibit I

### Letter



MARLIN ATLANTIS

December 4, 2006

Statement of Purpose to the City of McKinney  
RE: Trinity Falls, Master Planned Community

Marlin Atlantis has committed to the City of McKinney that the Trinity Falls Master Planned Community will be a Class "A" quality development. Our commitment not only addresses the quality of the community but also the use of natural resources.

Water Conservancy is of paramount importance to all citizens of North Texas. The opportunity exists to implement a number of programs within Trinity Falls to make it an exemplary community for water conservancy. To accomplish this objective will require the City and Marlin Atlantis to work closely together to define and determine the most effective ways in which to direct our resources. As a developer, we can commit to the following:

- We will address conservancy through the use of drought tolerant plant material used for landscaping that will be specified in our Architectural Control documents and Design Guidelines.
- We can address peak demand through the use of well water for irrigation of public parks, medians and extensive open space.
- We will further address peak demand through our Deed Restrictions requiring that private irrigation be allowed only at "off-peak" times.
- The potential use of run-off water and/or water catchments may provide an opportunity to conserve water.
- The use of more efficient irrigation systems may also assist in reducing the overall water demand.
- We are willing to make land available in the Trinity River open space area for the study of plant natural by "TAES."

It has come to our attention that the City of McKinney may undertake a study with the Texas Agricultural Experiment Station "TAES" to evaluate ways to improve urban water use efficiency. Marlin Atlantis would like to participate with the City in this undertaking. Many of the design and engineering elements of conservancy need to be addressed early in the development process because it is virtually impossible to effectively "retrofit" a

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13455 North Road | 23rd Floor | Dallas, TX 75240  
TEL: 972-715-8400 | FAX: 972-392-4257

major community for water conservancy. Since a significant portion of residential water consumption is outdoor water use, perhaps the approach we are talking with Trinity Falls and the opportunity that presents itself to work with the City can set a standard for future development in the region.

Respectfully,

A handwritten signature in cursive script, appearing to read "James R. Baker".

James R. Baker  
Chief Operating Officer  
Marlin Atlantis

JRB/sl

cc: File

## **EXHIBIT J**

### **STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE CITY OF MCKINNEY, TEXAS AND MCKINNEY MUNICIPAL UTILITY DISTRICT NO. 1 OF COLLIN COUNTY**

This Strategic Partnership Agreement (this "Agreement") is entered into by and between the City of McKinney, Texas (the "City") and McKinney Municipal Utility District No. 1 of Collin County (the "District").

## **RECITALS**

WHEREAS, the City is a home-rule municipal corporation created and existing under the laws of the State of Texas and situated in Collin County, Texas; and

WHEREAS, the District is a municipal utility district created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59 of the Texas Constitution and the applicable provisions of Chapters 49 and 54 of the Texas Water Code, as amended; and

WHEREAS, the City and the District are individually referred to as a "Party" and collectively as the "Parties"; and

WHEREAS, Section 43.0751 of the Texas Local Government Code (the "Act") authorizes the City and the District to negotiate and enter into this Agreement; and

WHEREAS, the District encompasses approximately 876.089 acres, more or less, located within the extraterritorial jurisdiction of the City as depicted as M.U.D. No. 1 Tracts "A" and "B" on Exhibit A and more fully described on Exhibit B attached to this Agreement (the "Development"); and

WHEREAS, CH-B Trinity Falls, a Texas limited partnership ("Owner"), owns the Development; and

WHEREAS, certain areas within the Development may be developed for commercial uses; and

WHEREAS, the City desires to annex the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within such area, including sales and use taxes authorized by elections creating Type A and Type B economic development corporations under Section 5190.6 of the Texas Civil Statutes (hereinafter the "Type A and Type B Sales Tax"); and

WHEREAS, subject to the terms and conditions of this Agreement, the District is willing to allow the City to annex the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within such area; and



WHEREAS, subject to the terms and conditions of this Agreement, Owner is willing to allow the City to annex the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within such area; and

WHEREAS, to facilitate the limited purpose annexation by the City of the Development, Owner submitted to the City a petition (the "Limited Purpose Petition") requesting and consenting to the limited purpose annexation, for the sole, exclusive and limited purpose of imposing sales and use taxes, of the Development; and

WHEREAS, the sales and use taxes collected within the Development is referred to herein as the "Sales and Use Tax Revenues"; and

WHEREAS, in the Limited Purpose Petition Owner, on behalf of itself and all present and future owners of land within the Development, has requested that the City annex the Development solely for the purposes provided in this Agreement and has consented to such annexations, from time to time, and to the collection of Sales and Use Tax Revenues by the City; and

WHEREAS, pursuant to the Act and the Limited Purpose Petition, the Parties desire to enter into this Agreement to accomplish the annexation by the City of the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within the Development; and

WHEREAS, the District provided notice of two public hearings in accordance with all applicable laws and the board of directors of the District (the "Board") conducted such public hearings in accordance with all applicable laws at which members of the public who wished to present testimony or evidence regarding this Agreement were given the opportunity to do so; and

WHEREAS, the Board approved and adopted this Agreement on \_\_\_\_\_, 201\_, in open session at a meeting held in accordance with all applicable laws; and

WHEREAS, the City provided notice of two public hearings in accordance with all applicable laws and the City Council of the City (the "City Council") conducted such public hearings in accordance with all applicable laws at which members of the public who wished to present testimony or evidence were given the opportunity to do so; and

WHEREAS, the City Council approved and adopted this Agreement on \_\_\_\_\_, 201\_, in open session in accordance with all applicable laws, which approval and adoption occurred after the Board approved and adopted this Agreement; and

WHEREAS, all notices, hearings and other procedural requirements imposed by law for the adoption of this Agreement have been met; and

WHEREAS, in accordance with the requirements of Subsection (p)(1) of the Act, this Agreement does not require the District to provide revenue to the City solely for the purpose of obtaining an agreement with the City to forego annexation of the District; and

WHEREAS, in accordance with the requirements of Subsection (p)(2) of the Act, this Agreement provides benefits for the City and the District that are reasonable and equitable.

NOW THEREFORE, for and in consideration of the mutual agreements contained in this Agreement, and for the good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the City and the District agree as follows:

## **ARTICLE I. RECITALS**

The recitals set forth above are true and correct and are incorporated herein and made a part hereof as findings for all purposes.

## **ARTICLE II. ADOPTION OF AGREEMENT AND LIMITED PURPOSE ANNEXATION OF PROPERTY**

Section 2.1 Public Hearings. The Parties acknowledge and agree that prior to the execution of this Agreement, the Board and the City Council conducted public hearings to consider the adoption of this Agreement and that such hearings were noticed and conducted in accordance with all applicable laws.

Section 2.2 Effective Date. The effective date of this Agreement (the "Effective Date") is the date this Agreement is approved and adopted by the City Council.

Section 2.3 Filing in Property Records. This Agreement shall be filed in the Real Property Records of Collin County, Texas.

Section 2.4 Limited Purpose Annexation of the Development. The Parties agree that the City may annex the Development for the sole and limited purpose of collecting sales and use taxes authorized by Chapter 321 of the Texas Tax Code (the "Tax Code"), including the Type A and Type B Sales Tax, to be imposed by the City on sales consummated within the Development. The District acknowledges and agrees that the City Council may adopt a limited purpose annexation ordinance applicable to the Development at a meeting conducted in accordance with Chapter 551 of the Texas Government Code and that no further notices, hearings, or other procedures shall be required to adopt such limited purpose annexation ordinance. The City may commence limited purpose annexation of the Development upon the Effective Date.

Section 2.5 Consent to Limited Purpose Annexations. THE DISTRICT ON BEHALF OF ITSELF AND ALL PRESENT AND FUTURE OWNERS OF LAND WITHIN THE DEVELOPMENT, HEREBY REQUESTS THAT THE CITY ANNEX THE DEVELOPMENT SOLELY FOR THE PURPOSES PROVIDED IN THIS AGREEMENT. THE DISTRICT CONSENTS TO SUCH ANNEXATIONS, FROM TIME TO TIME, AND TO THE COLLECTION OF SALES AND USE TAX REVENUES BY THE CITY WITHIN THE DEVELOPMENT. SUCH CONSENT SHALL BIND THE DISTRICT AND EACH OWNER AND FUTURE OWNER OF LAND WITHIN THE DEVELOPMENT.

Section 2.6 No Municipal Services. The Parties acknowledge and agree that the limited purpose annexation of the Development pursuant to this Agreement shall not obligate the City to provide any municipal services to such property; however the sales and use taxes derived from

the Development may be used for any lawful purpose, including economic development, in any geographic portion of the City or otherwise, as permitted by law.

Section 2.7 Limited District. The District is not a limited district as defined in Subsection (a)(2) of the Act.

### **ARTICLE III. TAXATION**

Section 3.1 Collection of Sales and Use Tax Revenues. The City may impose a sales and use tax, including the Type A and Type B Sales Tax, within the Development pursuant to Subsection (k) of the Act. The sales and use tax may be imposed on all eligible commercial activities at the rate allowed under the Tax Code. Collection of Sales and Use Tax Revenues shall take effect on the date described in Section 321.102 of the Tax Code.

Section 3.2 Payment of Sales and Use Tax. The City shall pay to the District an amount equal to twenty-five percent (25%) of its portion (\$0.01) of the Sales and Use Tax Revenues collected within the Development (the "District Share") commencing upon the effective date of the limited purpose annexation of the Development and terminating upon the full-purpose annexation or disannexation of the Development. No portion of the Type A and Type B Sales Tax collected shall be paid to District. The City shall pay the District Share within 30 days after the City receives the sales tax report reflecting such revenues from the Comptroller of Public Accounts of the State of Texas (the "Comptroller"). Any payment of the District Share not made within such 30-day period shall bear interest calculated in accordance with Section 2251.025 of the Texas Government Code. The City shall retain all Sales and Use Tax Revenues that do not constitute the District Share (the "City Share"), and the District Share shall not include any portion of the Type A and Type B Sales Tax.

Section 3.3 Use of the Sales and Use Tax Revenues. The City shall use the City Share for any lawful purpose. The District shall use the District Share for the following purposes and in the following order of priority:

FIRST, to reimburse owners and developers of land within the Development for the following costs to the extent eligible for reimbursement through the issuance of District bonds: (i) the cost to design and construct any improvements, whether located within or outside the Development, that serve the Development ("Eligible Infrastructure Reimbursements"); (ii) the cost to manage and administer the District; and (iii) the cost of police, fire, and EMS services provided within the Development;

SECOND, for deposit into, and disbursement from, escrow for reimbursement of future Eligible Infrastructure Reimbursements;

THIRD, for the retirement of District bonds; and

FOURTH, for any lawful purpose.

Section 3.4 Delivery of Sales Tax Reports to District. The City shall include with each payment of the District Share a condensed version of each sales tax report provided by the

Comptroller relating to Sales and Use Tax Revenues within 30 days of the City's receipt of such sales tax report.

Section 3.5 Notification of Comptroller. The City shall send notice of this Agreement, together with other required documentation, to the Comptroller in the manner provided by Tax Code, Section 321.102, after the City Council annexes Development for limited purposes.

Section 3.6 Termination of Sales and Use Tax Sharing. Upon termination of this Agreement, the City shall have no further financial obligation to the District pursuant to this Agreement, and all Sales and Use Tax Revenues shall be retained by the City.

Section 3.7 City Records and District Audit Rights. The District may audit the Sales and Use Tax Revenues to determine whether the District Share has been paid in accordance with this Agreement. The City shall provide reasonable accommodations for the District to perform the audit. Any audit shall be made at the auditing District's sole cost and expense and may be performed at any time during the City's regular business hours on 30 days' Notice (as defined in Section 7.2). For purposes of any such audits, the City shall maintain and make available to the District's representatives all books, records, documents and other evidence of accounting procedures or practices to reflect the amount of Sales and Use Tax Revenues received by the City from within the Development. Notwithstanding the foregoing, however, if any audit conducted by the District reveals that the District Share has been underpaid by more than two percent, the City shall pay such underpayment to the District and shall reimburse the District for the reasonable costs and expenses of the audit.

#### **ARTICLE IV. FULL-PURPOSE ANNEXATION AND LIMITATION ON INDEBTEDNESS**

Section 4.1 Subsection C Exemption. Annexation of the Development is exempt from the municipal annexation plan requirements pursuant to Section 43.052(h)(3)(B) of the Texas Local Government Code.

Section 4.2 Full-Purpose Annexation Conversion Date. Pursuant to Subsection (h) of the Act, the Development shall be deemed to be within the full-purpose boundary limits of the City upon the full-purpose annexation conversion date without any further action by the City Council. For purposes of this Section 4.2, the "full-purpose annexation conversion date" is the date on which the City Council adopts an ordinance that includes the Development within the full-purpose boundary limits of the City. The full-purpose annexation conversion date may be altered only by mutual agreement of the District and the City.

Section 4.3 Partial Full-Purpose Annexation. In the event that the requisite number of voters and property owners submit a petition to the City requesting incorporation pursuant to and in compliance with Section 42.041 of the Texas Local Government Code or successor statute, the City shall have the right, to the extent permitted by law, to full-purpose annex the entire District within which such voters reside and such property is located upon the full-purpose annexation conversion date. For purposes of this Section 4.3, the "full-purpose annexation conversion date" is also the date upon which the City Council adopts an ordinance that includes such land within the full-purpose boundary limits of the City.

## **ARTICLE V. TERM**

Section 5.1 Term. This Agreement commences on the Effective Date and continues until the City annexes the Development for full-purposes. For annexation pursuant to Section 4.3 of this Agreement, the Agreement terminates with respect to annexed property on the date such annexation is effective.

Section 5.2 Termination of Agreement. In the event the City has not approved and adopted this Agreement and a limited purpose annexation ordinance applicable to the Development, as set forth in Section 2.4 above, within one (1) year after the District's approval and adoption of this Agreement, the District may, in its sole and absolute discretion, terminate this Agreement by Notice thereof to the City.

## **ARTICLE VI. BREACH, NOTICE AND REMEDIES**

Section 6.1 Notification of Breach. If any 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.

Section 6.2 Cure of Breach. The breaching Party shall commence curing the breach within 15 calendar days after receipt of the Notice of the breach and shall complete the cure within 30 days from the date of commencement of the cure; however, if the breach is not reasonably susceptible to cure within such 30-day period, the non-breaching Party shall not bring any action so long as the breaching Party has commenced to cure within such 30-day period and diligently completes the work within a reasonable time without unreasonable cessation.

Section 6.3 Remedies for Breach. If the breaching Party does not substantially cure the 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 any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus and injunctive relief; provided, however, (a) the non-breaching Party shall not be entitled to terminate this Agreement, (b) the Parties specifically waive any right that they have or in the future may have to terminate this Agreement, and (c) damages, if any, to which any non-breaching Party may be entitled shall be limited to actual damages and shall not include special or consequential damages.

## **ARTICLE VII. ADDITIONAL PROVISIONS**

Section 7.1 Voting. Pursuant to Subsection (q) of the Act, Chapter 43, Subchapter F, of the Texas Local Government Code does not apply to the limited purpose annexation of the Development. Consequently, Section 43.130(a) of the Texas Local Government Code, providing that qualified voters of an area annexed for limited purposes may vote in certain municipal elections, does not apply to the voters within the Development.

Section 7.2 Notices. 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: (i) when the Notice is delivered in person to the person to whose attention the Notice is addressed; (ii) 10 business days after the Notice is deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid; (iii) 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 (iv) 10 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 change to the other Party as provided in this Section 7.2.

To the City:

To the City: City of McKinney, Texas  
Attn: City Manager  
222 N. Tennessee  
McKinney, Texas 75069  
E-Mail: 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  
FAX: 214.747.6111

To the District:

McKinney Municipal Utility District No. 1 of Collin County  
c/o Sanford Kuhl Hagan Kugle Parker Kahn LLP  
Attn: Julianne Kugle  
1980 Post Oak Boulevard, Suite 1380  
Houston, Texas 77056  
E-Mail: kugle@sklaw.us  
FAX: 713.850.1330

Section 7.3 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 of the 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 purpose

for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

Section 7.4 Governing Law and Venue. This Agreement shall 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 court shall be a proper forum for the determination of any dispute arising hereunder.

Section 7.5 Authority to Execute. The City represents and warrants to the District that the execution of this Agreement has been duly authorized by the City Council and that the person executing this Agreement on behalf of the City has been duly authorized to do so by the City Council. The District represents and warrants to the City that the execution of this Agreement has been duly authorized by the Board and that the person executing this Agreement on behalf of the District has been duly authorized to do so by the Board.

Section 7.6 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.

Section 7.7 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 respective obligations under this Agreement, the parties will cooperate to amend this Agreement in such a manner that is most consistent with the original intent of this Agreement as legally possible.

Section 7.8 Additional Documents and Acts. The Parties agree that at any time after execution of this Agreement, they will, upon request of the 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.

Section 7.9 Assignment. No Party shall assign its interest in this Agreement, in whole or in part, without the other Party's written consent. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, successors, and assigns as permitted by this Agreement.

Section 7.10 Amendment. This Agreement may be amended only with the written consent of the Parties and with approval of the governing bodies of the City and the District.

Section 7.11 Interpretation. This Agreement has been negotiated by the Parties, each of which has been represented by counsel; consequently, the 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.

Section 7.12 No Third Party Beneficiaries. This Agreement is solely for the benefit of the City and the District, and neither the City nor the District intend by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit or enforceable rights under this Agreement or otherwise upon anyone other than the City and the District.

Section 7.13 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:

- Exhibit A Depiction of the Development
- Exhibit B Legal Description of the Development

Section 7.14 Counterpart Originals. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

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[SIGNATURE PAGES IMMEDIATELY FOLLOW.]



APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON \_\_\_\_\_, 201\_\_.

ATTEST:

CITY OF MCKINNEY, TEXAS

\_\_\_\_\_  
City Secretary

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
City Attorney

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

This instrument was acknowledged before me, on the \_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of the City of McKinney, Texas on behalf of the city.

\_\_\_\_\_  
Notary Public, State of Texas

APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS OF MCKINNEY MUNICIPAL UTILITY DISTRICT NO. 1 OF COLLIN COUNTY ON \_\_\_\_\_, 201\_\_.

MCKINNEY MUNICIPAL UTILITY DISTRICT  
NO. 1 OF COLLIN COUNTY

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

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

Title: President, Board of Directors

STATE OF TEXAS           §

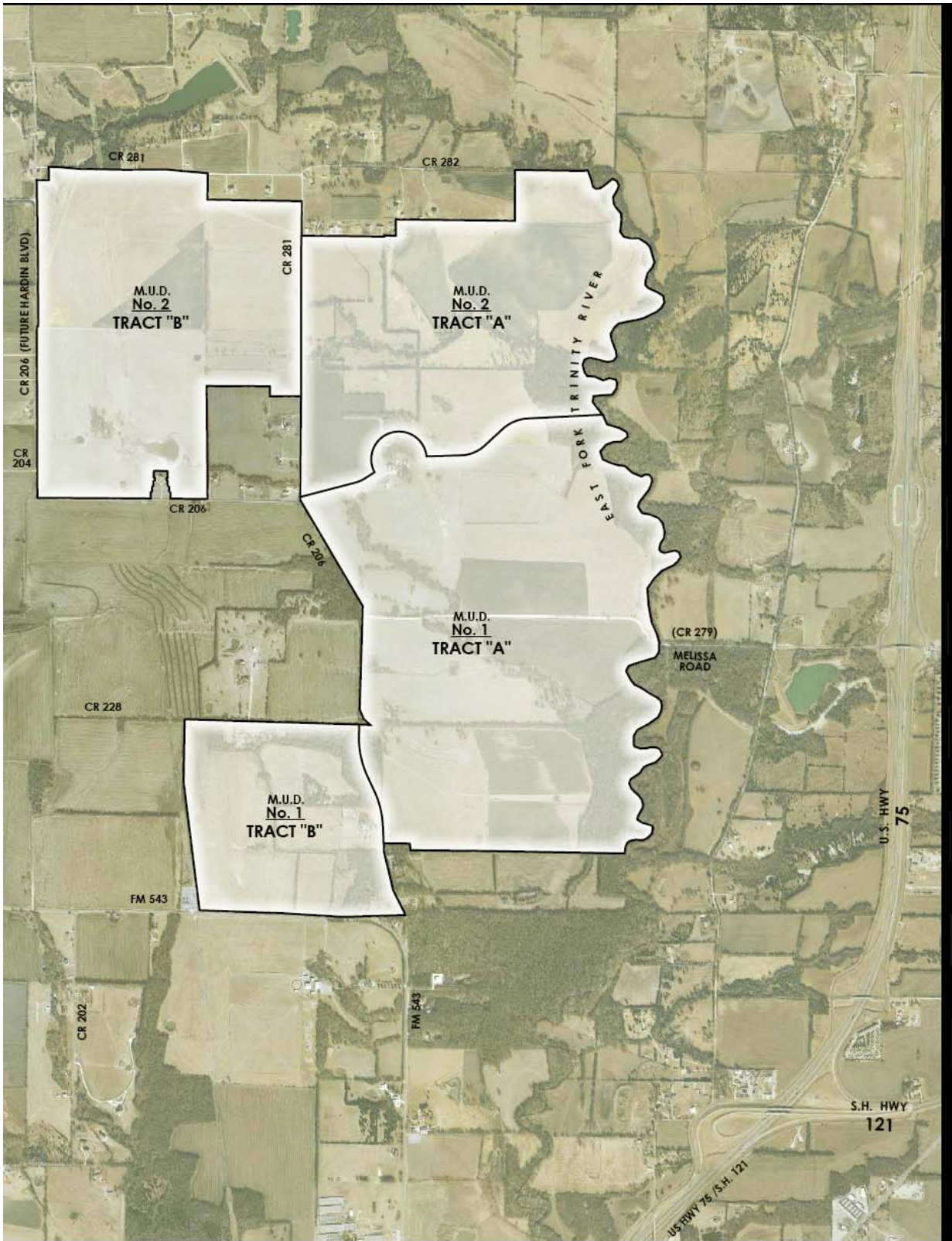
  §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me, on the \_\_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of McKinney Municipal Utility District No. 1 of Collin County on behalf of said district.

\_\_\_\_\_  
Notary Public, State of Texas

Exhibit A  
Depiction of the Development  
[attached]



DISTRICT M.U.D. MAP  
**TRINITY FALLS**  
 MCKINNEY ETJ, COLLIN COUNTY, TEXAS  
 November 28, 2006  
FOR A LIST OF ALL DISTRICT MAPS VISIT WWW.CARTERBURGESS.COM



**Carter-Burgess**

Exhibit B

Legal Description of the Development

(1) MUD 1/TRACT A - 673.759 acres

BEING A 673.759 ACRE TRACT OF LAND SITUATED IN THE THOMAS BRUCE SURVEY, ABSTRACT NO. 103, THE JOHN EMBERSON SURVEY, ABSTRACT NO. 294 AND THE THOMAS LINDSAY SURVEY, ABSTRACT NO. 521, 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, AND BEING PART OF A CALLED 182.711 ACRE TRACT OF LAND CONVEYED AS "TRACT 1", AND BEING ALL OF A CALLED 0.469 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060918001344730, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING PART OF A CALLED 26.423 ACRE TRACT OF LAND CONVEYED AS "TRACT 1", AND BEING PART OF A CALLED 0.653 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060918001344720, OFFICIAL PUBLIC RECORD, COLLIN COUNTY, TEXAS, SAID 673.759 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 3/8 INCH IRON ROD FOUND FOR AN OUTSIDE ELL CORNER OF SAID 1113.084 ACRE TRACT AND BEING THE SOUTHEAST CORNER OF A CALLED 1 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO PROVINCE RES ESTATE HOLDING BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2002-0005148, LAND RECORDS, COLLIN COUNTY, TEXAS, SAME BEING ON THE NORTH LINE OF A CALLED 57 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO PROVINCE RES ESTATE HOLDING BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2002-0005148, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, NORTH 06 DEGREES 29 MINUTES 28 SECONDS WEST, ALONG A WEST LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON EAST LINE OF AFORESAID 1 ACRE TRACT A DISTANCE OF 105.30 FEET TO A 3/8 INCH IRON ROD FOUND FOR AN INSIDE ELL CORNER OF SAID 1113.084 ACRE TRACT AND BEING THE NORTHEAST CORNER OF SAID 1 ACRE TRACT;

THENCE, NORTH 89 DEGREES 19 MINUTES 40 SECONDS WEST, ALONG A SOUTH LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON NORTH LINE OF AFORESAID 1 ACRE TRACT, PASSING AT A DISTANCE OF 381.99 FEET A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 408.28 FEET TO A POINT FOR A SOUTHWEST CORNER OF SAID 1113.084 ACRE TRACT AND THE

NORTHWEST CORNER OF SAID 1 ACRE TRACT, SAID POINT ALSO BEING ON THE EAST LINE OF SAID 26.423 ACRE TRACT AND THE COMMON APPROXIMATE CENTERLINE OF COLLIN COUNTY ROAD NO. 206 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, NORTH 00 DEGREES 34 MINUTES 35 SECONDS WEST, ALONG THE WEST LINE OF SAID 1113.084 ACRE TRACT, THE EAST LINE OF SAID 26.423 ACRE TRACT AND THE COMMON APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206, A DISTANCE OF 41.52 FEET TO A POINT FOR CORNER;

THENCE, OVER AND ACROSS SAID 26.423 ACRE TRACT, SAID 0.653 ACRE TRACT AND SAID 182.711 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 02 DEGREES 57 MINUTES 15 SECONDS WEST, A DISTANCE OF 237.94 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 22 DEGREES 02 MINUTES 58 SECONDS, A RADIUS OF 1450.00 FEET, A LONG CHORD THAT BEARS, NORTH 13 DEGREES 58 MINUTES 44 SECONDS WEST, A DISTANCE OF 554.58 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 558.01 FEET TO A POINT FOR CORNER;

NORTH 25 DEGREES 00 MINUTES 13 SECONDS WEST, A DISTANCE OF 241.04 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 26 DEGREES 38 MINUTES 26 SECONDS, A RADIUS OF 1450.00 FEET, A LONG CHORD THAT BEARS, NORTH 11 DEGREES 41 MINUTES 00 SECONDS WEST, A DISTANCE OF 668.15 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 674.20 FEET TO A POINT FOR CORNER;

NORTH 01 DEGREES 38 MINUTES 13 SECONDS EAST, A DISTANCE OF 160.00 FEET TO A POINT FOR CORNER ON THE NORTH LINE OF SAID 182.711 ACRE TRACT AND BEING ON THE SOUTH LINE OF A CALLED 361.66 ACRE TRACT OF LAND CONVEYED TO HERITAGE FARM TRUST BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 98-0084317, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, SOUTH 88 DEGREES 16 MINUTES 45 SECONDS EAST, ALONG THE NORTH LINE OF AFORESAID 182.711 ACRE TRACT AND ALONG THE COMMON SOUTH LINE OF SAID 361.66 ACRE TRACT, A DISTANCE OF 172.26 FEET TO A PK NAIL SET ON THE WEST LINE OF AFORESAID 1113.084 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206;

THENCE, ALONG THE WEST LINE OF SAID 1113.084 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID COLLIN COUNTY ROAD NO. 206, THE FOLLOWING COURSES AND DISTANCES:

NORTH 47 DEGREES 40 MINUTES 01 SECONDS WEST, A DISTANCE OF 140.42 FEET TO A PK NAIL SET FOR CORNER;

NORTH 22 DEGREES 24 MINUTES 21 SECONDS WEST, A DISTANCE OF 161.50 FEET TO A PK NAIL SET FOR CORNER;

NORTH 01 DEGREES 38 MINUTES 13 SECONDS EAST, A DISTANCE OF 1615.59 FEET TO A 3/4 INCH IRON ROD FOUND FOR CORNER;

NORTH 30 DEGREES 25 MINUTES 03 SECONDS WEST, A DISTANCE OF 1907.40 FEET TO A PK NAIL SET FOR CORNER IN COLLIN COUNTY ROAD NO. 281 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

NORTH 88 DEGREES 57 MINUTES 17 SECONDS WEST, A DISTANCE OF 8.67 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER IN THE APPROXIMATE CENTERLINE OF SAID COLLIN COUNTY ROAD NO. 281;

NORTH 00 DEGREES 31 MINUTES 40 SECONDS EAST, A DISTANCE OF 53.37 FEET TO A POINT FOR CORNER;

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

NORTH 75 DEGREES 20 MINUTES 45 SECONDS EAST, A DISTANCE OF 877.21 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17 DEGREES 46 MINUTES 00 SECONDS, A RADIUS OF 570.00 FEET, A LONG CHORD THAT BEARS, NORTH 66 DEGREES 27 MINUTES 46 SECONDS EAST, A DISTANCE OF 176.04 FEET,

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

NORTH 57 DEGREES 34 MINUTES 46 SECONDS EAST, A DISTANCE OF 177.27 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 202 DEGREES 43 MINUTES 24 SECONDS, A RADIUS OF 430.00 FEET, A LONG CHORD THAT BEARS, NORTH 72 DEGREES 56 MINUTES 30 SECONDS EAST, A DISTANCE OF 843.15 FEET;

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

NORTH 88 DEGREES 18 MINUTES 14 SECONDS EAST, A DISTANCE OF 536.71 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 41 DEGREES 03 MINUTES 11 SECONDS, A RADIUS OF 570.00 FEET, A LONG CHORD THAT BEARS, NORTH 67 DEGREES 46 MINUTES 38 SECONDS EAST, A DISTANCE OF 399.73 FEET;

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

NORTH 47 DEGREES 15 MINUTES 03 SECONDS EAST, 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 39 DEGREES 50 MINUTES 38 SECONDS, A RADIUS OF 630.00 FEET, A LONG CHORD THAT BEARS, NORTH 67 DEGREES 10 MINUTES 22 SECONDS EAST, A DISTANCE OF 429.33 FEET;

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

NORTH 87 DEGREES 05 MINUTES 41 SECONDS EAST, A DISTANCE OF 1162.77 FEET TO A POINT FOR CORNER IN THE CENTERLINE OF THE EAST FORK OF THE TRINITY RIVER;

THENCE ALONG THE CENTERLINE OF AFORESAID EAST FORK OF THE TRINITY RIVER THE FOLLOWING COURSES AND DISTANCES:

SOUTH 38 DEGREES 12 MINUTES 58 SECONDS EAST, A DISTANCE OF 14.58 FEET TO A POINT FOR CORNER;

SOUTH 23 DEGREES 36 MINUTES 46 SECONDS EAST, A DISTANCE OF 152.22 FEET TO A POINT FOR CORNER;

SOUTH 73 DEGREES 18 MINUTES 32 SECONDS EAST, A DISTANCE OF 197.85 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 18 MINUTES 14 SECONDS EAST, A DISTANCE OF 140.67 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 50 MINUTES 35 SECONDS EAST, A DISTANCE OF 70.23 FEET TO A POINT FOR CORNER;

SOUTH 54 DEGREES 16 MINUTES 01 SECONDS WEST, A DISTANCE OF 128.08 FEET TO A POINT FOR CORNER;



SOUTH 88 DEGREES 46 MINUTES 36 SECONDS WEST, A DISTANCE OF 114.66 FEET TO A POINT FOR CORNER;

SOUTH 70 DEGREES 15 MINUTES 18 SECONDS WEST, A DISTANCE OF 121.85 FEET TO A POINT FOR CORNER;

SOUTH 40 DEGREES 45 MINUTES 34 SECONDS WEST, A DISTANCE OF 145.62 FEET TO A POINT FOR CORNER;

SOUTH 18 DEGREES 00 MINUTES 30 SECONDS EAST, A DISTANCE OF 129.56 FEET TO A POINT FOR CORNER;

SOUTH 65 DEGREES 18 MINUTES 02 SECONDS EAST, A DISTANCE OF 118.06 FEET TO A POINT FOR CORNER;

SOUTH 71 DEGREES 54 MINUTES 16 SECONDS EAST, A DISTANCE OF 144.48 FEET TO A POINT FOR CORNER;

SOUTH 83 DEGREES 52 MINUTES 48 SECONDS EAST, A DISTANCE OF 100.92 FEET TO A POINT FOR CORNER;

SOUTH 47 DEGREES 56 MINUTES 19 SECONDS EAST, A DISTANCE OF 156.94 FEET TO A POINT FOR CORNER;

SOUTH 67 DEGREES 38 MINUTES 56 SECONDS EAST, A DISTANCE OF 153.79 FEET TO A POINT FOR CORNER;

NORTH 61 DEGREES 13 MINUTES 24 SECONDS EAST, A DISTANCE OF 64.37 FEET TO A POINT FOR CORNER;

SOUTH 85 DEGREES 51 MINUTES 50 SECONDS EAST, A DISTANCE OF 65.53 FEET TO A POINT FOR CORNER;

SOUTH 41 DEGREES 34 MINUTES 58 SECONDS EAST, A DISTANCE OF 40.91 FEET TO A POINT FOR CORNER;

SOUTH 19 DEGREES 54 MINUTES 49 SECONDS EAST, A DISTANCE OF 29.69 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 11 MINUTES 20 SECONDS EAST, A DISTANCE OF 37.94 FEET TO A POINT FOR CORNER;

SOUTH 14 DEGREES 05 MINUTES 13 SECONDS WEST, A DISTANCE OF 62.62 FEET TO A POINT FOR CORNER;

SOUTH 24 DEGREES 25 MINUTES 18 SECONDS WEST, A DISTANCE OF 81.96 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 40 MINUTES 18 SECONDS WEST, A DISTANCE OF 234.69 FEET TO A POINT FOR CORNER;

SOUTH 18 DEGREES 54 MINUTES 14 SECONDS WEST, A DISTANCE OF 81.98 FEET TO A POINT FOR CORNER;

SOUTH 31 DEGREES 46 MINUTES 10 SECONDS EAST, A DISTANCE OF 104.64 FEET TO A POINT FOR CORNER;

SOUTH 56 DEGREES 34 MINUTES 36 SECONDS EAST, A DISTANCE OF 34.72 FEET TO A POINT FOR CORNER;

SOUTH 81 DEGREES 42 MINUTES 01 SECONDS EAST, A DISTANCE OF 110.27 FEET TO A POINT FOR CORNER;

SOUTH 67 DEGREES 09 MINUTES 59 SECONDS EAST, A DISTANCE OF 138.27 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 29 MINUTES 50 SECONDS EAST, A DISTANCE OF 105.30 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 20 MINUTES 33 SECONDS EAST, A DISTANCE OF 131.83 FEET TO A POINT FOR CORNER;

SOUTH 05 DEGREES 36 MINUTES 33 SECONDS WEST, A DISTANCE OF 102.37 FEET TO A POINT FOR CORNER;

SOUTH 33 DEGREES 06 MINUTES 41 SECONDS WEST, A DISTANCE OF 97.83 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 16 MINUTES 04 SECONDS WEST, A DISTANCE OF 92.57 FEET TO A POINT FOR CORNER;

SOUTH 30 DEGREES 25 MINUTES 24 SECONDS EAST, A DISTANCE OF 39.87 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 06 MINUTES 56 SECONDS EAST, A DISTANCE OF 33.44 FEET TO A POINT FOR CORNER;

SOUTH 73 DEGREES 18 MINUTES 22 SECONDS EAST, A DISTANCE OF 35.43 FEET TO A POINT FOR CORNER;

NORTH 76 DEGREES 47 MINUTES 02 SECONDS EAST, A DISTANCE OF 171.81 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 02 MINUTES 58 SECONDS EAST, A DISTANCE OF 64.49 FEET TO A POINT FOR CORNER;

SOUTH 22 DEGREES 03 MINUTES 32 SECONDS EAST, A DISTANCE OF 76.90 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 33 MINUTES 13 SECONDS WEST, A DISTANCE OF 85.11 FEET TO A POINT FOR CORNER;

SOUTH 48 DEGREES 39 MINUTES 03 SECONDS WEST, A DISTANCE OF 86.15 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 28 MINUTES 51 SECONDS WEST, A DISTANCE OF 59.05 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 31 MINUTES 40 SECONDS WEST, A DISTANCE OF 142.65 FEET TO A POINT FOR CORNER;

SOUTH 44 DEGREES 15 MINUTES 01 SECONDS WEST, A DISTANCE OF 173.52 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 24 MINUTES 08 SECONDS WEST, A DISTANCE OF 183.38 FEET TO A POINT FOR CORNER;

SOUTH 03 DEGREES 40 MINUTES 02 SECONDS EAST, A DISTANCE OF 250.70 FEET TO A POINT FOR CORNER;

SOUTH 09 DEGREES 55 MINUTES 21 SECONDS EAST, A DISTANCE OF 203.25 FEET TO A POINT FOR CORNER;

SOUTH 12 DEGREES 33 MINUTES 26 SECONDS EAST, A DISTANCE OF 84.94 FEET TO A POINT FOR CORNER;

SOUTH 23 DEGREES 50 MINUTES 50 SECONDS EAST, A DISTANCE OF 173.87 FEET TO A POINT FOR CORNER;

SOUTH 16 DEGREES 37 MINUTES 27 SECONDS EAST, A DISTANCE OF 153.46 FEET TO A POINT FOR CORNER;

SOUTH 02 DEGREES 31 MINUTES 58 SECONDS WEST, A DISTANCE OF 62.97 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 10 MINUTES 42 SECONDS EAST, A DISTANCE OF 67.93 FEET TO A POINT FOR CORNER;

SOUTH 08 DEGREES 58 MINUTES 15 SECONDS WEST, A DISTANCE OF 31.06 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 59 MINUTES 35 SECONDS WEST, A DISTANCE OF 95.76 FEET TO A POINT FOR CORNER;

SOUTH 73 DEGREES 34 MINUTES 06 SECONDS WEST, A DISTANCE OF 219.32 FEET TO A POINT FOR CORNER;

SOUTH 72 DEGREES 18 MINUTES 27 SECONDS WEST, A DISTANCE OF 181.66 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 14 MINUTES 18 SECONDS WEST, A DISTANCE OF 39.13 FEET TO A POINT FOR CORNER;

SOUTH 26 DEGREES 02 MINUTES 25 SECONDS WEST, A DISTANCE OF 76.21 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 15 MINUTES 13 SECONDS EAST, A DISTANCE OF 15.43 FEET TO A POINT FOR CORNER;

SOUTH 27 DEGREES 46 MINUTES 10 SECONDS EAST, A DISTANCE OF 146.70 FEET TO A POINT FOR CORNER;

SOUTH 38 DEGREES 38 MINUTES 48 SECONDS EAST, A DISTANCE OF 98.77 FEET TO A POINT FOR CORNER;

SOUTH 65 DEGREES 28 MINUTES 12 SECONDS EAST, A DISTANCE OF 90.87 FEET TO A POINT FOR CORNER;

SOUTH 58 DEGREES 46 MINUTES 14 SECONDS EAST, A DISTANCE OF 89.05 FEET TO A POINT FOR CORNER;

SOUTH 55 DEGREES 38 MINUTES 18 SECONDS EAST, A DISTANCE OF 81.34 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 13 MINUTES 57 SECONDS EAST, A DISTANCE OF 131.93 FEET TO A POINT FOR CORNER;

SOUTH 50 DEGREES 02 MINUTES 00 SECONDS EAST, A DISTANCE OF 83.53 FEET TO A POINT FOR CORNER;

SOUTH 15 DEGREES 41 MINUTES 08 SECONDS EAST, A DISTANCE OF 65.63 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 25 MINUTES 17 SECONDS WEST, A DISTANCE OF 38.95 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 46 MINUTES 24 SECONDS WEST, A DISTANCE OF 78.87 FEET TO A POINT FOR CORNER;

SOUTH 26 DEGREES 57 MINUTES 48 SECONDS WEST, A DISTANCE OF 85.04 FEET TO A POINT FOR CORNER;

SOUTH 53 DEGREES 42 MINUTES 03 SECONDS WEST, A DISTANCE OF 103.78 FEET TO A POINT FOR CORNER;

SOUTH 54 DEGREES 31 MINUTES 27 SECONDS WEST, A DISTANCE OF 81.58 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 55 MINUTES 50 SECONDS WEST, A DISTANCE OF 124.05 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 26 MINUTES 59 SECONDS WEST, A DISTANCE OF 70.28 FEET TO A POINT FOR CORNER;

SOUTH 32 DEGREES 20 MINUTES 11 SECONDS WEST, A DISTANCE OF 99.01 FEET TO A POINT FOR CORNER;

SOUTH 10 DEGREES 50 MINUTES 27 SECONDS WEST, A DISTANCE OF 37.28 FEET TO A POINT FOR CORNER;

SOUTH 01 DEGREES 02 MINUTES 10 SECONDS EAST, A DISTANCE OF 113.13 FEET TO A POINT FOR CORNER;

SOUTH 29 DEGREES 02 MINUTES 49 SECONDS EAST, A DISTANCE OF 36.57 FEET TO A POINT FOR CORNER;

SOUTH 71 DEGREES 45 MINUTES 23 SECONDS EAST, A DISTANCE OF 91.85 FEET TO A POINT FOR CORNER;

NORTH 89 DEGREES 05 MINUTES 15 SECONDS EAST, A DISTANCE OF 84.92 FEET TO A POINT FOR CORNER;

NORTH 75 DEGREES 55 MINUTES 22 SECONDS EAST, A DISTANCE OF 78.29 FEET TO A POINT FOR CORNER;

SOUTH 87 DEGREES 29 MINUTES 47 SECONDS EAST, A DISTANCE OF 86.59 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 37 MINUTES 20 SECONDS EAST, A DISTANCE OF 61.40 FEET TO A POINT FOR CORNER;

SOUTH 24 DEGREES 13 MINUTES 36 SECONDS EAST, A DISTANCE OF 83.75 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 51 MINUTES 21 SECONDS EAST, A DISTANCE OF 22.63 FEET TO A POINT FOR CORNER;

SOUTH 43 DEGREES 56 MINUTES 54 SECONDS WEST, A DISTANCE OF 138.97 FEET TO A POINT FOR CORNER;

SOUTH 70 DEGREES 14 MINUTES 33 SECONDS WEST, A DISTANCE OF 148.31 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 57 MINUTES 04 SECONDS WEST, A DISTANCE OF 54.03 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 32 MINUTES 38 SECONDS WEST, A DISTANCE OF 119.53 FEET TO A POINT FOR CORNER;

SOUTH 56 DEGREES 50 MINUTES 51 SECONDS WEST, A DISTANCE OF 164.17 FEET TO A POINT FOR CORNER;

SOUTH 20 DEGREES 09 MINUTES 48 SECONDS WEST, A DISTANCE OF 75.03 FEET TO A POINT FOR CORNER;

SOUTH 24 DEGREES 31 MINUTES 58 SECONDS EAST, A DISTANCE OF 91.04 FEET TO A POINT FOR CORNER;

SOUTH 43 DEGREES 08 MINUTES 09 SECONDS EAST, A DISTANCE OF 65.53 FEET TO A POINT FOR CORNER;

SOUTH 48 DEGREES 45 MINUTES 48 SECONDS EAST, A DISTANCE OF 86.33 FEET TO A POINT FOR CORNER;

SOUTH 36 DEGREES 37 MINUTES 04 SECONDS EAST, A DISTANCE OF 80.56 FEET TO A POINT FOR CORNER;

SOUTH 14 DEGREES 39 MINUTES 59 SECONDS EAST, A DISTANCE OF 83.23 FEET TO A POINT FOR CORNER;

SOUTH 09 DEGREES 30 MINUTES 21 SECONDS WEST, A DISTANCE OF 47.73 FEET TO A POINT FOR CORNER;

SOUTH 29 DEGREES 12 MINUTES 38 SECONDS WEST, A DISTANCE OF 148.32 FEET TO A POINT FOR CORNER;

SOUTH 10 DEGREES 23 MINUTES 51 SECONDS WEST, A DISTANCE OF 54.05 FEET TO A POINT FOR CORNER;

SOUTH 54 DEGREES 54 MINUTES 18 SECONDS EAST, A DISTANCE OF 74.80 FEET TO A POINT FOR CORNER;

SOUTH 68 DEGREES 03 MINUTES 59 SECONDS EAST, A DISTANCE OF 45.10 FEET TO A POINT FOR CORNER;

SOUTH 74 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 120.98 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 58 MINUTES 42 SECONDS EAST, A DISTANCE OF 30.84 FEET TO A POINT FOR CORNER;

SOUTH 09 DEGREES 47 MINUTES 01 SECONDS EAST, A DISTANCE OF 26.13 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 19 MINUTES 51 SECONDS WEST, A DISTANCE OF 84.18 FEET TO A POINT FOR CORNER;

SOUTH 43 DEGREES 24 MINUTES 44 SECONDS WEST, A DISTANCE OF 68.56 FEET TO A POINT FOR CORNER;

SOUTH 58 DEGREES 05 MINUTES 12 SECONDS WEST, A DISTANCE OF 63.97 FEET TO A POINT FOR CORNER;

SOUTH 71 DEGREES 39 MINUTES 45 SECONDS WEST, A DISTANCE OF 48.06 FEET TO A POINT FOR CORNER;

NORTH 84 DEGREES 13 MINUTES 05 SECONDS WEST, A DISTANCE OF 97.44 FEET TO A POINT FOR CORNER;

SOUTH 78 DEGREES 06 MINUTES 14 SECONDS WEST, A DISTANCE OF 96.50 FEET TO A POINT FOR CORNER;

SOUTH 52 DEGREES 36 MINUTES 49 SECONDS WEST, A DISTANCE OF 47.07 FEET TO A POINT FOR CORNER;

SOUTH 26 DEGREES 13 MINUTES 00 SECONDS WEST, A DISTANCE OF 68.00 FEET TO A POINT FOR CORNER;

SOUTH 07 DEGREES 14 MINUTES 06 SECONDS WEST, A DISTANCE OF 107.55 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 1113.084 ACRE TRACT AND BEING THE NORTHEAST CORNER OF AFORESAID 57 ACRE TRACT;

THENCE, ALONG THE SOUTH LINE OF SAID 1113.084 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 57 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 88 DEGREES 57 MINUTES 19 SECONDS WEST, PASSING AT A DISTANCE OF 100.00 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 2153.25 FEET TO A 60D NAIL FOUND FOR CORNER;

NORTH 89 DEGREES 29 MINUTES 57 SECONDS WEST, A DISTANCE OF 1179.76 FEET TO THE **POINT OF BEGINNING**, AND CONTAINING 673.759 ACRES OF LAND, MORE OR LESS.

(2) MUD 1/TRACT B – 202.330 acres

BEING A 202.362 ACRE TRACT OF LAND SITUATED IN THE JOHN EMBERSON SURVEY, ABSTRACT NO. 294, AND THE MEREDITH HART SURVEY, ABSTRACT NO. 371, COLLIN COUNTY, TEXAS, AND BEING PART OF A 0.469 ACRE TRACT CONVEYED AS "TRACT 2" AND A 182.711 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060718001344730, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND PART OF A 26.423 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" AND A 0.653 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO MA-BBO FIVE, LP, BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 20060918001344720, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS. SAID 202.362 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-DF8982), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT A 3/8 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF AFORESAID 182.711 ACRE TRACT AND BEING THE NORTHEAST CORNER OF A CALLED 20.300 ACRE TRACT OF LAND CONVEYED TO TOM B. WILSON BY DEED RECORDED IN VOLUME 935, PAGE 598, DEED RECORDS, COLLIN COUNTY, TEXAS AND BEING ON THE SOUTH LINE OF A CALLED 361.66 ACRE TRACT OF LAND CONVEYED TO HERITAGE FARM TRUST BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 98-0084317, LAND RECORDS, COLLIN COUNTY, TEXAS;



THENCE, SOUTH 88 DEGREES 16 MINUTES 45 SECONDS EAST, ALONG THE NORTH LINE OF AFORESAID 182.711 ACRE TRACT AND ALONG THE COMMON SOUTH LINE OF AFORESAID 361.66 ACRE TRACT, A DISTANCE OF 2721.12 FEET TO A POINT FOR CORNER;

THENCE, OVER AND ACROSS SAID 182.711 ACRE TRACT, SAID 0.469 ACRE TRACT AND SAID 26.423 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 01 DEGREES 38 MINUTES 13 SECONDS WEST, A DISTANCE OF 160.00 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 26 DEGREES 38 MINUTES 26 SECONDS, A RADIUS OF 1450.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 11 DEGREES 41 MINUTES 00 SECONDS EAST, A DISTANCE OF 668.15 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC LENGTH OF 674.20 FEET TO A POINT FOR CORNER;

SOUTH 25 DEGREES 00 MINUTES 13 SECONDS EAST, A DISTANCE OF 241.04 FEET TO A POINT FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 22 DEGREES 02 MINUTES 58 SECONDS, A RADIUS OF 1450.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 13 DEGREES 58 MINUTES 44 SECONDS EAST, A DISTANCE OF 554.58 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC LENGTH OF 558.01 FEET TO A POINT FOR CORNER;

SOUTH 02 DEGREES 57 MINUTES 15 SECONDS EAST, A DISTANCE OF 237.94 FEET TO A POINT FOR CORNER ON THE EAST LINE OF SAID 26.423 ACRE TRACT AND BEING IN COLLIN COUNTY ROAD NO. 206 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, SOUTH 00 DEGREES 34 MINUTES 35 SECONDS EAST, ALONG THE EAST LINE OF SAID 26.423 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206 A DISTANCE OF 169.57 FEET TO A PK NAIL SET FOR THE SOUTHEAST CORNER OF SAID 26.423 ACRE TRACT AND A COMMON EAST CORNER OF SAID 182.711 ACRE TRACT;

THENCE, ALONG THE EAST LINE OF SAID 182.711 ACRE TRACT, AND THE APPROXIMATE CENTERLINE OF AFORESAID COLLIN COUNTY ROAD NO. 206 THE FOLLOWING COURSES AND DISTANCES:

SOUTH 13 DEGREES 23 MINUTES 32 SECONDS EAST, A DISTANCE OF 619.60 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 26 DEGREES 26 MINUTES 21 SECONDS EAST, A DISTANCE OF 308.47 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 12 DEGREES 30 MINUTES 28 SECONDS, A RADIUS OF 570.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 23 DEGREES 04 MINUTES 21 SECONDS EAST, A DISTANCE OF 124.18 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC LENGTH OF 124.43 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 182.711 ACRE TRACT;

THENCE, ALONG THE SOUTH LINE OF AFORESAID 182.711 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY OF F.M. 543 (A VARIABLE WIDTH RIGHT-OF-WAY), THE FOLLOWING COURSES AND DISTANCES:

SOUTH 88 DEGREES 19 MINUTES 01 SECONDS WEST, PASSING AT A DISTANCE OF 21.52 FEET, A PK NAIL FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 887.99 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 05 DEGREES 16 MINUTES 00 SECONDS, A RADIUS OF 1870.34 FEET, A CHORD BEARING OF NORTH 89 DEGREES 02 MINUTES 59 SECONDS WEST, AND A CHORD LENGTH OF 171.86 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 171.92 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 86 DEGREES 24 MINUTES 59 SECONDS WEST, A DISTANCE OF 819.32 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 87 DEGREES 54 MINUTES 59 SECONDS WEST, A DISTANCE OF 1322.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF AFORESAID 182.711 ACRE TRACT AND BEING THE SOUTHEAST CORNER OF A CALLED 6.72 ACRE TRACT OF LAND CONVEYED TO GRAYSON-COLLIN ELECTRIC COOPERATIVE BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2000-0133812, LAND RECORDS, COLLIN COUNTY, TEXAS;

THENCE, ALONG THE WEST LINE OF AFORESAID 182.711 ACRE TRACT THE FOLLOWING COURSES AND DISTANCES:

NORTH 07 DEGREES 04 MINUTES 31 SECONDS WEST, ALONG THE EAST LINE OF AFORESAID 6.72 ACRE TRACT, A DISTANCE OF 2005.98 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTH CORNER OF SAID 6.72 ACRE TRACT AND BEING ON THE EAST LINE OF AFORESAID 20.300 ACRE TRACT;

NORTH 00 DEGREES 53 MINUTES 45 SECONDS EAST, ALONG THE EAST LINE OF AFORESAID 20.300 ACRE TRACT, A DISTANCE OF 986.32 FEET TO THE **POINT OF BEGINNING**, AND CONTAINING 202.362 ACRES OF LAND, MORE OR LESS.

**SAVE AND EXCEPT** A 0.032 ACRE TRACT OF LAND, BEING ALL OF A CALLED 0.03 ACRE TRACT OF LAND DESCRIBED AS "FAMILY BURIAL GROUNDS" IN DEED RECORDED IN VOLUME 294, PAGE 43, DEED RECORDS, COLLIN COUNTY, TEXAS. SAID 0.032 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** AT 3/8 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF AFORESAID 182.82 ACRE TRACT AND BEING THE NORTHEAST CORNER OF AFORESAID 20.300 ACRE TRACT AND BEING ON THE SOUTH LINE OF AFORESAID 361.66 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 16 MINUTES 45 SECONDS EAST, ALONG THE NORTH LINE OF SAID 182.82 ACRE TRACT AND ALONG THE COMMON SOUTH LINE OF SAID 361.66 ACRE TRACT, A DISTANCE OF 618.15 FEET TO A POINT;

THENCE, SOUTH 01 DEGREES 05 MINUTES 01 SECONDS WEST, OVER AND ACROSS SAID 182.82 ACRE TRACT, A DISTANCE OF 31.10 FEET TO A FENCE CORNER POST FOUND FOR THE **POINT OF BEGINNING**;

THENCE, CONTINUING OVER AND ACROSS SAID 182.82 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 39 MINUTES 44 SECONDS EAST, A DISTANCE OF 39.36 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

SOUTH 00 DEGREES 24 MINUTES 46 SECONDS EAST, A DISTANCE OF 35.96 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

NORTH 88 DEGREES 50 MINUTES 03 SECONDS WEST, A DISTANCE OF 40.28 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

**NORTH 01 DEGREES 05 MINUTES 01 SECONDS EAST, A DISTANCE OF 34.92 FEET TO THE POINT OF BEGINNING, AND CONTAINING 0.032 ACRES OF LAND, MORE OR LESS, LEAVING A NET ACREAGE OF 202.330 ACRES OF LAND, MORE OR LESS.**

## **EXHIBIT J**

### **STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE CITY OF MCKINNEY, TEXAS AND MCKINNEY MUNICIPAL UTILITY DISTRICT NO. 2 OF COLLIN COUNTY**

This Strategic Partnership Agreement (this "Agreement") is entered into by and between the City of McKinney, Texas (the "City") and McKinney Municipal Utility District No. 2 of Collin County (the "District").

## **RECITALS**

WHEREAS, the City is a home-rule municipal corporation created and existing under the laws of the State of Texas and situated in Collin County, Texas; and

WHEREAS, the District is a municipal utility district created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59 of the Texas Constitution and the applicable provisions of Chapters 49 and 54 of the Texas Water Code, as amended; and

WHEREAS, the City and the District are individually referred to as a "Party" and collectively as the "Parties"; and

WHEREAS, Section 43.0751 of the Texas Local Government Code (the "Act") authorizes the City and the District to negotiate and enter into this Agreement; and

WHEREAS, the District encompasses approximately 830.764 acres, more or less, located within the extraterritorial jurisdiction of the City as depicted as M.U.D. No. 2 Tracts "A" and "B" on Exhibit A and more fully described on Exhibit B attached to this Agreement (the "Development"); and

WHEREAS, CH-B Trinity Falls, a Texas limited partnership ("Owner"), owns the Development; and

WHEREAS, certain areas within the Development may be developed for commercial uses; and

WHEREAS, the City desires to annex the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within such area, including sales and use taxes authorized by elections creating Type A and Type B economic development corporations under Section 5190.6 of the Texas Civil Statutes (hereinafter the "Type A and Type B Sales Tax"); and

WHEREAS, subject to the terms and conditions of this Agreement, the District is willing to allow the City to annex the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within such area; and

WHEREAS, subject to the terms and conditions of this Agreement, Owner is willing to allow the City to annex the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within such area; and

WHEREAS, to facilitate the limited purpose annexation by the City of the Development, Owner submitted to the City a petition (the "Limited Purpose Petition") requesting and consenting to the limited purpose annexation, for the sole, exclusive and limited purpose of imposing sales and use taxes, of the Development; and

WHEREAS, the sales and use taxes collected within the Development is referred to herein as the "Sales and Use Tax Revenues"; and

WHEREAS, in the Limited Purpose Petition Owner, on behalf of itself and all present and future owners of land within the Development, has requested that the City annex the Development solely for the purposes provided in this Agreement and has consented to such annexations, from time to time, and to the collection of Sales and Use Tax Revenues by the City; and

WHEREAS, pursuant to the Act and the Limited Purpose Petition, the Parties desire to enter into this Agreement to accomplish the annexation by the City of the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within the Development; and

WHEREAS, the District provided notice of two public hearings in accordance with all applicable laws and the board of directors of the District (the "Board") conducted such public hearings in accordance with all applicable laws at which members of the public who wished to present testimony or evidence regarding this Agreement were given the opportunity to do so; and

WHEREAS, the Board approved and adopted this Agreement on \_\_\_\_\_, 201\_, in open session at a meeting held in accordance with all applicable laws; and

WHEREAS, the City provided notice of two public hearings in accordance with all applicable laws and the City Council of the City (the "City Council") conducted such public hearings in accordance with all applicable laws at which members of the public who wished to present testimony or evidence were given the opportunity to do so; and

WHEREAS, the City Council approved and adopted this Agreement on \_\_\_\_\_, 201\_, in open session in accordance with all applicable laws, which approval and adoption occurred after the Board approved and adopted this Agreement; and

WHEREAS, all notices, hearings and other procedural requirements imposed by law for the adoption of this Agreement have been met; and

WHEREAS, in accordance with the requirements of Subsection (p)(1) of the Act, this Agreement does not require the District to provide revenue to the City solely for the purpose of obtaining an agreement with the City to forego annexation of the District; and

WHEREAS, in accordance with the requirements of Subsection (p)(2) of the Act, this Agreement provides benefits for the City and the District that are reasonable and equitable.

NOW THEREFORE, for and in consideration of the mutual agreements contained in this Agreement, and for the good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the City and the District agree as follows:

## **ARTICLE I. RECITALS**

The recitals set forth above are true and correct and are incorporated herein and made a part hereof as findings for all purposes.

## **ARTICLE II. ADOPTION OF AGREEMENT AND LIMITED PURPOSE ANNEXATION OF PROPERTY**

Section 2.1 Public Hearings. The Parties acknowledge and agree that prior to the execution of this Agreement, the Board and the City Council conducted public hearings to consider the adoption of this Agreement and that such hearings were noticed and conducted in accordance with all applicable laws.

Section 2.2 Effective Date. The effective date of this Agreement (the "Effective Date") is the date this Agreement is approved and adopted by the City Council.

Section 2.3 Filing in Property Records. This Agreement shall be filed in the Real Property Records of Collin County, Texas.

Section 2.4 Limited Purpose Annexation of the Development. The Parties agree that the City may annex the Development for the sole and limited purpose of collecting sales and use taxes authorized by Chapter 321 of the Texas Tax Code (the "Tax Code"), including the Type A and Type B Sales Tax, to be imposed by the City on sales consummated within the Development. The District acknowledges and agrees that the City Council may adopt a limited purpose annexation ordinance applicable to the Development at a meeting conducted in accordance with Chapter 551 of the Texas Government Code and that no further notices, hearings, or other procedures shall be required to adopt such limited purpose annexation ordinance. The City may commence limited purpose annexation of the Development upon the Effective Date.

Section 2.5 Consent to Limited Purpose Annexations. THE DISTRICT ON BEHALF OF ITSELF AND ALL PRESENT AND FUTURE OWNERS OF LAND WITHIN THE DEVELOPMENT, HEREBY REQUESTS THAT THE CITY ANNEX THE DEVELOPMENT SOLELY FOR THE PURPOSES PROVIDED IN THIS AGREEMENT. THE DISTRICT CONSENTS TO SUCH ANNEXATIONS, FROM TIME TO TIME, AND TO THE COLLECTION OF SALES AND USE TAX REVENUES BY THE CITY WITHIN THE DEVELOPMENT. SUCH CONSENT SHALL BIND THE DISTRICT AND EACH OWNER AND FUTURE OWNER OF LAND WITHIN THE DEVELOPMENT.

Section 2.6 No Municipal Services. The Parties acknowledge and agree that the limited purpose annexation of the Development pursuant to this Agreement shall not obligate the City to provide any municipal services to such property; however the sales and use taxes derived from

the Development may be used for any lawful purpose, including economic development, in any geographic portion of the City or otherwise, as permitted by law.

Section 2.7 Limited District. The District is not a limited district as defined in Subsection (a)(2) of the Act.

### **ARTICLE III. TAXATION**

Section 3.1 Collection of Sales and Use Tax Revenues. The City may impose a sales and use tax, including the Type A and Type B Sales Tax, within the Development pursuant to Subsection (k) of the Act. The sales and use tax may be imposed on all eligible commercial activities at the rate allowed under the Tax Code. Collection of Sales and Use Tax Revenues shall take effect on the date described in Section 321.102 of the Tax Code.

Section 3.2 Payment of Sales and Use Tax. The City shall pay to the District an amount equal to twenty-five percent (25%) of its portion (\$0.01) of the Sales and Use Tax Revenues collected within the Development (the "District Share") commencing upon the effective date of the limited purpose annexation of the Development and terminating upon the full-purpose annexation or disannexation of the Development. No portion of the Type A and Type B Sales Tax collected shall be paid to District. The City shall pay the District Share within 30 days after the City receives the sales tax report reflecting such revenues from the Comptroller of Public Accounts of the State of Texas (the "Comptroller"). Any payment of the District Share not made within such 30-day period shall bear interest calculated in accordance with Section 2251.025 of the Texas Government Code. The City shall retain all Sales and Use Tax Revenues that do not constitute the District Share (the "City Share"), and the District Share shall not include any portion of the Type A and Type B Sales Tax.

Section 3.3 Use of the Sales and Use Tax Revenues. The City shall use the City Share for any lawful purpose. The District shall use the District Share for the following purposes and in the following order of priority:

FIRST, to reimburse owners and developers of land within the Development for the following costs to the extent eligible for reimbursement through the issuance of District bonds: (i) the cost to design and construct any improvements, whether located within or outside the Development, that serve the Development ("Eligible Infrastructure Reimbursements"); (ii) the cost to manage and administer the District; and (iii) the cost of police, fire, and EMS services provided within the Development;

SECOND, for deposit into, and disbursement from, escrow for reimbursement of future Eligible Infrastructure Reimbursements;

THIRD, for the retirement of District bonds; and

FOURTH, for any lawful purpose.

Section 3.4 Delivery of Sales Tax Reports to District. The City shall include with each payment of the District Share a condensed version of each sales tax report provided by the

Comptroller relating to Sales and Use Tax Revenues within 30 days of the City's receipt of such sales tax report.

Section 3.5 Notification of Comptroller. The City shall send notice of this Agreement, together with other required documentation, to the Comptroller in the manner provided by Tax Code, Section 321.102, after the City Council annexes Development for limited purposes.

Section 3.6 Termination of Sales and Use Tax Sharing. Upon termination of this Agreement, the City shall have no further financial obligation to the District pursuant to this Agreement, and all Sales and Use Tax Revenues shall be retained by the City.

Section 3.7 City Records and District Audit Rights. The District may audit the Sales and Use Tax Revenues to determine whether the District Share has been paid in accordance with this Agreement. The City shall provide reasonable accommodations for the District to perform the audit. Any audit shall be made at the auditing District's sole cost and expense and may be performed at any time during the City's regular business hours on 30 days' Notice (as defined in Section 7.2). For purposes of any such audits, the City shall maintain and make available to the District's representatives all books, records, documents and other evidence of accounting procedures or practices to reflect the amount of Sales and Use Tax Revenues received by the City from within the Development. Notwithstanding the foregoing, however, if any audit conducted by the District reveals that the District Share has been underpaid by more than two percent, the City shall pay such underpayment to the District and shall reimburse the District for the reasonable costs and expenses of the audit.

#### **ARTICLE IV. FULL-PURPOSE ANNEXATION AND LIMITATION ON INDEBTEDNESS**

Section 4.1 Subsection C Exemption. Annexation of the Development is exempt from the municipal annexation plan requirements pursuant to Section 43.052(h)(3)(B) of the Texas Local Government Code.

Section 4.2 Full-Purpose Annexation Conversion Date. Pursuant to Subsection (h) of the Act, the Development shall be deemed to be within the full-purpose boundary limits of the City upon the full-purpose annexation conversion date without any further action by the City Council. For purposes of this Section 4.2, the "full-purpose annexation conversion date" is the date on which the City Council adopts an ordinance that includes the Development within the full-purpose boundary limits of the City. The full-purpose annexation conversion date may be altered only by mutual agreement of the District and the City.

Section 4.3 Partial Full-Purpose Annexation. In the event that the requisite number of voters and property owners submit a petition to the City requesting incorporation pursuant to and in compliance with Section 42.041 of the Texas Local Government Code or successor statute, the City shall have the right, to the extent permitted by law, to full-purpose annex the entire District within which such voters reside and such property is located upon the full-purpose annexation conversion date. For purposes of this Section 4.3, the "full-purpose annexation conversion date" is also the date upon which the City Council adopts an ordinance that includes such land within the full-purpose boundary limits of the City.



## **ARTICLE V. TERM**

Section 5.1 Term. This Agreement commences on the Effective Date and continues until the City annexes the Development for full-purposes. For annexation pursuant to Section 4.3 of this Agreement, the Agreement terminates with respect to annexed property on the date such annexation is effective.

Section 5.2 Termination of Agreement. In the event the City has not approved and adopted this Agreement and a limited purpose annexation ordinance applicable to the Development, as set forth in Section 2.4 above, within one (1) year after the District's approval and adoption of this Agreement, the District may, in its sole and absolute discretion, terminate this Agreement by Notice thereof to the City.

## **ARTICLE VI. BREACH, NOTICE AND REMEDIES**

Section 6.1 Notification of Breach. If any 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.

Section 6.2 Cure of Breach. The breaching Party shall commence curing the breach within 15 calendar days after receipt of the Notice of the breach and shall complete the cure within 30 days from the date of commencement of the cure; however, if the breach is not reasonably susceptible to cure within such 30-day period, the non-breaching Party shall not bring any action so long as the breaching Party has commenced to cure within such 30-day period and diligently completes the work within a reasonable time without unreasonable cessation.

Section 6.3 Remedies for Breach. If the breaching Party does not substantially cure the 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 any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus and injunctive relief; provided, however, (a) the non-breaching Party shall not be entitled to terminate this Agreement, (b) the Parties specifically waive any right that they have or in the future may have to terminate this Agreement, and (c) damages, if any, to which any non-breaching Party may be entitled shall be limited to actual damages and shall not include special or consequential damages.

## **ARTICLE VII. ADDITIONAL PROVISIONS**

Section 7.1 Voting. Pursuant to Subsection (q) of the Act, Chapter 43, Subchapter F, of the Texas Local Government Code does not apply to the limited purpose annexation of the Development. Consequently, Section 43.130(a) of the Texas Local Government Code, providing that qualified voters of an area annexed for limited purposes may vote in certain municipal elections, does not apply to the voters within the Development.

Section 7.2 Notices. 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: (i) when the Notice is delivered in person to the person to whose attention the Notice is addressed; (ii) 10 business days after the Notice is deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid; (iii) 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 (iv) 10 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 change to the other Party as provided in this Section 7.2.

To the City:

To the City: City of McKinney, Texas  
Attn: City Manager  
222 N. Tennessee  
McKinney, Texas 75069  
E-Mail: 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  
FAX: 214.747.6111

To the District:

McKinney Municipal Utility District No. 2 of Collin County  
c/o Sanford Kuhl Hagan Kugle Parker Kahn LLP  
Attn: Julianne Kugle  
1980 Post Oak Boulevard, Suite 1380  
Houston, Texas 77056  
E-Mail: kugle@sklaw.us  
FAX: 713.850.1330

Section 7.3 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 of the 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 purpose

for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

Section 7.4 Governing Law and Venue. This Agreement shall 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 court shall be a proper forum for the determination of any dispute arising hereunder.

Section 7.5 Authority to Execute. The City represents and warrants to the District that the execution of this Agreement has been duly authorized by the City Council and that the person executing this Agreement on behalf of the City has been duly authorized to do so by the City Council. The District represents and warrants to the City that the execution of this Agreement has been duly authorized by the Board and that the person executing this Agreement on behalf of the District has been duly authorized to do so by the Board.

Section 7.6 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.

Section 7.7 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 respective obligations under this Agreement, the parties will cooperate to amend this Agreement in such a manner that is most consistent with the original intent of this Agreement as legally possible.

Section 7.8 Additional Documents and Acts. The Parties agree that at any time after execution of this Agreement, they will, upon request of the 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.

Section 7.9 Assignment. No Party shall assign its interest in this Agreement, in whole or in part, without the other Party's written consent. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, successors, and assigns as permitted by this Agreement.

Section 7.10 Amendment. This Agreement may be amended only with the written consent of the Parties and with approval of the governing bodies of the City and the District.

Section 7.11 Interpretation. This Agreement has been negotiated by the Parties, each of which has been represented by counsel; consequently, the 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.

Section 7.12 No Third Party Beneficiaries. This Agreement is solely for the benefit of the City and the District, and neither the City nor the District intend by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit or enforceable rights under this Agreement or otherwise upon anyone other than the City and the District.

Section 7.13 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:

- Exhibit A Depiction of the Development
- Exhibit B Legal Description of the Development

Section 7.14 Counterpart Originals. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

[THE BALANCE OF THIS PAGE IS INTENTIONALLY BLANK.]

[SIGNATURE PAGES IMMEDIATELY FOLLOW.]

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY,  
TEXAS ON \_\_\_\_\_, 201\_\_.

ATTEST:

CITY OF MCKINNEY, TEXAS

\_\_\_\_\_  
City Secretary

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
City Attorney

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

This instrument was acknowledged before me, on the \_\_ day of \_\_\_\_\_, 201\_\_,  
by \_\_\_\_\_, the \_\_\_\_\_ of the City of McKinney, Texas on behalf of the  
city.

\_\_\_\_\_  
Notary Public, State of Texas

APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS OF MCKINNEY MUNICIPAL UTILITY DISTRICT NO. 2 OF COLLIN COUNTY ON \_\_\_\_\_, 201\_\_.

MCKINNEY MUNICIPAL UTILITY DISTRICT  
NO. 2 OF COLLIN COUNTY

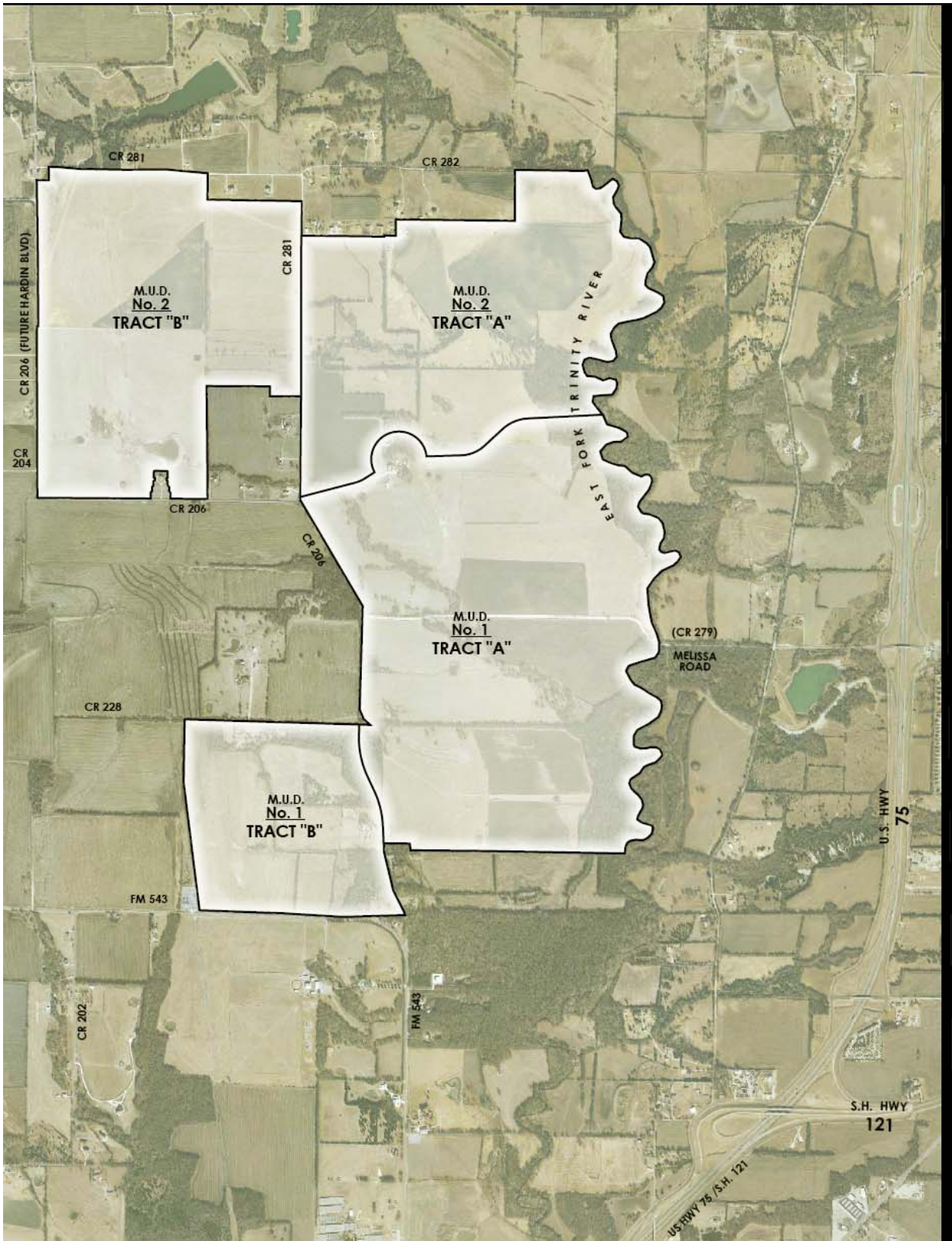
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: President, Board of Directors

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

This instrument was acknowledged before me, on the \_\_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of McKinney Municipal Utility District No. 2 of Collin County on behalf of said district.

\_\_\_\_\_  
Notary Public, State of Texas

Exhibit A  
Depiction of the Development  
[attached]



DISTRICT M.U.D. MAP  
**TRINITY FALLS**  
 MCKINNEY ETJ, COLLIN COUNTY, TEXAS  
 November 28, 2006  
FOR A COMPLETE LIST OF M.U.D. DISTRICT MAPS VISIT WWW.COLLINCOUNTYTX.GOV



**Carter-Burgess**



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 L**

**SPECIAL WARRANTY DEED**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

THE STATE OF TEXAS

COUNTY OF COLLIN

CH-B TRINITY FALLS, LP, a Texas limited partnership (“Grantor”), in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration to Grantor, cash in hand paid by the CITY OF MCKINNEY, TEXAS, a home rule municipality (“Grantee”), the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL AND CONVEY unto Grantee, whose address is 222 N. Tennessee Street, McKinney, Texas 75069, that certain parcel of land located in Collin County, Texas and more particularly described in **Exhibit A** attached hereto and made a part hereof for all purposes, together with (i) all of the improvements, if any, located thereon, (ii) all and singular the rights, easements and appurtenances pertaining thereto, (iii) all right, title and interest of Grantor in and to any and all roads, easements and appurtenances pertaining thereto, (iv) all right, title and interest of Grantor in and to any and all roads, easements, alleys, streets, and rights-of-way bounding the above described land, together with all rights of ingress and egress unto the above described land, (v) stripes or gores, if any, between the above described land and abutting properties, and (vi) any and all oil, gas and minerals lying under, in, on, or about or constituting a part of the above described land (collectively, the **“Property”**); subject to, however, those exceptions and encumbrances described on **Exhibit B**, attached hereto and made a part hereof for all purposes (the **“Permitted Exceptions”**).

TO HAVE AND TO HOLD the Property, together with any and all rights and appurtenances thereto in anywise belonging to Grantor, subject to the Permitted Exceptions, unto the said Grantee, its successors and assigns FOREVER, and Grantor does hereby bind itself and its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the Property unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

Anything to the contrary contained herein notwithstanding, Grantor expressly reserves to itself and its successors and assigns a perpetual easement to locate, construct, install, maintain, replace and repair water, sanitary sewer and drainage facilities over, under and across the

Property; however 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.

This Special Warranty Deed has been executed by Grantor to be effective on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

STATE OF TEXAS            :  
  :  
COUNTY OF COLLIN        :

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 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, for and on behalf of said limited partnership.

\_\_\_\_\_  
NOTARY PUBLIC - STATE OF TEXAS

PREPARED IN THE OFFICE OF:

AFTER RECORDING, RETURN TO:

Abernathy, Roeder, Boyd & Joplin, P.C.  
1700 Redbud Boulevard, Suite 300  
McKinney, Texas 75069

The City of McKinney, Texas  
222 N. Tennessee Street  
McKinney, Texas 75069



**EXHIBIT A**

Legal Description

**EXHIBIT B**

Permitted Exceptions

## EXHIBIT M

### ESCROW AGREEMENT

This Escrow Agreement (this "Escrow Agreement") is entered into as of \_\_\_\_\_, 2012 (the "Effective Date"), by and among the **CITY OF MCKINNEY, TEXAS**, a home rule municipality ("City"), **CH-B TRINITY FALLS, LP**, a Texas limited partnership ("Owner") and \_\_\_\_\_ ("Escrow Agent").

### RECITALS:

A. The City and Owner have entered into that certain 2012 Development Agreement dated effective December 4, 2012 (the "Agreement"), whereby Owner has agreed to convey to City approximately 85 acres of land located on Owner's property to be used as right-of-way for the Collin County Outer Loop (the "CCOL") to be constructed in the future by the City, Collin County or some other entity or governmental agency

C. Owner has prepared a metes and bounds description of the property to be conveyed to the City for the CCOL right-of-way (the "CCOL ROW") and has prepared a special warranty deed conveying the CCOL ROW to the City (the "CCOL Deed"), which CCOL Deed reserves a perpetual easement in favor of Owner and its successors and assigns to locate, construct, install, maintain, replace and repair water, sanitary sewer and drainage facilities over, under and across the CCOL ROW as necessary to serve development of Owner's property. Owner additionally has obtained a title commitment for the CCOL ROW and has delivered to the City such title commitment, together with all exception documents related thereto.

D. The City has reviewed the CCOL ROW, the CCOL Deed, the title commitment and exception documents and has approved the same as to form and substance.

E. Owner, City and Escrow Agent intend to enter into this Escrow Agreement to enable the delivery of the CCOL Deed by Owner into escrow to be held by Escrow Agent and delivered to the City or Owner, as the case may be, according to the terms hereof, all in satisfaction of Owner's obligations relating to the CCOL ROW under the Development Agreement.

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**1. Appointment of Escrow Agent.** City and Owner hereby appoint the Escrow Agent as the escrow agent under this Escrow Agreement, and the Escrow Agent hereby accepts such appointment.

**2. Escrow of CCOL Deed.** The parties confirm and acknowledge that contemporaneously with the execution of this Escrow Agreement the CCOL Deed has been delivered by Owner to Escrow Agent to be held by Escrow Agent and delivered pursuant to the terms and conditions contained in this Escrow Agreement.

**3. Delivery of CCOL Deed By Escrow Agent.** Escrow Agent shall deliver the CCOL Deed to the City no earlier than 30 days after the entity that is ultimately responsible for the CCOL (the “CCOL Agency”) certifies in writing to Owner, the City, and the Escrow Agent that the CCOL Agency: (a) has approved and 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 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 foregoing a, b and c are referred to herein as the “Conditions Precedent”). At any time prior to the receipt of certification from the CCOL Agency that the Conditions Precedent have been met, the Escrow Agent shall deliver the CCOL Deed to Owner: (a) immediately upon receipt of the written instruction by the City to deliver the CCOL Deed to Owner; (b) no earlier than 30 days after the receipt of written certification from Owner, with evidence of delivery of such certification to the City and the CCOL Agency, that one or more of the following has occurred: (i) construction of permanent improvements (including, but not limited to, infrastructure) has commenced on property in the vicinity of the CCOL ROW that effectively prevent use of the CCOL ROW as part of the CCOL; (ii) 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; (iii) the CCOL has been abandoned by order of the CCOL Agency; or (iv) the Conditions Precedent have not been satisfied within 40 years after the Effective Date of this Escrow Agreement.

**4. Termination of Escrow Agreement.** This Escrow Agreement shall terminate upon the delivery by Escrow Agent of the CCOL Deed to either the City or Owner, as the case may be.

**5. Agreements Regarding Escrow Agent.** Notwithstanding any provision in this Escrow Agreement to the contrary:

a. Escrow Agent Not a Party. Escrow Agent, in its capacity as “Escrow Agent”, hereunder, is not a party to, or bound by any terms or conditions of the Development Agreement or any other agreement between the City and Owner.

b. Escrow Agent Depository Only. Under this Escrow Agreement the Escrow Agent is a depository only and after exercise of reasonable care in the performance of its duties hereunder, is not responsible or liable in any manner for the sufficiency, correctness, genuineness, or validity of the CCOL Deed deposited with it hereunder or the identity, authority, or rights of any person executing or depositing the same.

c. Notice of Default. The Escrow Agent shall not be bound to take notice of any default of any party hereunder and shall not be required to take any action involving any expense or liability with respect to such default, unless written notice of such default is given to an officer of the Escrow Agent and the Escrow Agent is indemnified in a manner satisfactory to it against any such expense or liability.

d. Notices. The Escrow Agent shall be protected in acting under this Escrow Agreement upon any notice, request, waiver, consent, receipt, or other paper or document reasonably believed by the Escrow Agent to be genuine and to be signed by the proper party or parties.

e. Liability of the Escrow Agent. In performance of its duties under this Escrow Agreement, the Escrow Agent shall follow the instructions set forth herein and shall not be liable for any error or judgment or for any act taken or omitted by it in good faith or for any mistake of fact or law, except for its own gross negligence or willful misconduct.

f. Counsel to Escrow Agent. The Escrow Agent may consult with legal counsel in the event of any dispute or question as to the construction of this Escrow Agreement or the Escrow Agent's duties. The Escrow Agent shall incur no liability and shall be fully protected in acting in accordance with the opinion and instructions of such counsel.

g. Disagreement Among Parties. In the event of any disagreement among the parties to this Escrow Agreement, or any other party, which results in adverse claims and demands being made in connection with the instructions in this Escrow Agreement or the delivery by the Escrow Agent of the CCOL Deed, the Escrow Agent may refuse to comply with any such claim or demand so long as such disagreement shall continue. In such event, the Escrow Agent shall not be liable for damages to such parties for its failure or refusal to comply with such conflicting or adverse demands or instructions. The Escrow Agent shall be entitled to continue to refuse to act until:

(i) The rights of the adverse claimants have been finally adjudicated in a court having jurisdiction over the parties, or

(ii) The disagreement shall have been resolved by written agreement of the parties and the Escrow Agent shall have been notified in writing thereof.

In the event of such disagreement, the Escrow Agent may file a suit in interpleader for the purpose of having the respective rights of the claimants adjudicated and deposit with a court in Collin County, Texas all documents and property held hereunder.

h. Costs and Expenses. In the event that (i) the Escrow Agent is requested to and performs any service not provided for herein, (ii) there is any valid assignment or attachment of any interest in the subject matter of this escrow, (iii) any controversy arises hereunder, or (iv) the Escrow Agent is made a party to, or intervenes in, any litigation pertaining to this escrow or the subject matter thereof, the Escrow Agent shall be reasonably compensated therefor and reimbursed for all reasonable costs and expenses occasioned thereby. The City and Owner hereby agree to pay the same and, to the extent it legally may, indemnify the Escrow Agent against any loss, liability or expense incurred by it hereunder.

i. Resignation of Escrow Agent. The Escrow Agent may at any time resign from its duties as Escrow Agent hereunder by giving thirty (30) days' written notice to the parties. Such resignation shall only take effect upon the appointment of a successor Escrow Agent by the parties hereto. If no such appointment is made, the Escrow Agent may apply to a court of competent jurisdiction for the appointment of a successor Escrow Agent.

**6. Governing Law.** This Escrow Agreement shall be construed under and in accordance with the laws of the State of Texas, and it shall be performed in Collin County, Texas.

7. **Notice.** All notices required or contemplated by this Escrow Agreement (or otherwise given in connection with this Escrow Agreement) (a "Notice") shall be in writing, shall be signed by or on behalf of the party giving the Notice, and shall be effective as follows: (i) on or after the tenth (10th) business day after being deposited with the United States mail service, Certified Mail, Return Receipt Requested with a confirming copy sent by FAX; (ii) on the day delivered by a private delivery or private messenger service (such as FedEx or UPS) as evidenced by a receipt signed by any person at the delivery address (whether or not such person is the person to whom the Notice is addressed); or (iii) otherwise on the day actually received by the person to whom the Notice is addressed, including, but not limited to, delivery in person and delivery by regular mail or by E-mail (with a confirming copy sent by FAX). Notices given pursuant to this section shall be addressed as follows:

To the City: **City of McKinney, Texas**  
Attn: City Manager  
222 N. Tennessee  
McKinney, Texas 75069  
E-Mail: 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  
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  
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

8. **Binding Effect.** This Escrow Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

9. **No Third-Party Beneficiaries.** There are no third party beneficiaries under this Escrow Agreement.

10. **Severability.** If any provision contained is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Escrow Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein, and in its place shall be substituted a provision as similar as possible so as to be valid, legal, and enforceable.

11. **Multiple Counterparts.** This Escrow Agreement may be executed in multiple counterparts which, when taken together, are tended to constitute one agreement enforceable against all parities.

12. **Time.** Time is of the essence with respect to this Escrow Agreement.

13. **Definitions.** All capitalized terms contained and not specifically defined in this Escrow Agreement shall have the meaning given the same in the Development Agreement.

EXECUTED as of and effective the Effective Date.

**CITY:**

THE CITY OF MCKINNEY, TEXAS, a Texas  
home rule municipality

By: \_\_\_\_\_  
Jason Gray, City Manager

Attest:

\_\_\_\_\_  
Sandy Hart, City Secretary

**OWNER:**

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

**ESCROW AGENT:**

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

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_