

RESOLUTION NO. 03-2007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, CONSENTING TO THE CREATION OF A FRESH WATER SUPPLY DISTRICT OR A WATER CONTROL AND IMPROVEMENT DISTRICT ENCOMPASSING APPROXIMATELY 822.1 ACRES OF LAND LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF MESQUITE; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City of Mesquite, Texas (the "City"), is a home rule municipal corporation of the State of Texas; and

WHEREAS, Forney Acquisitions, L.P., a Texas limited partnership (the "Owner") is the sole owner of approximately 822.1 acres of land located in the extraterritorial jurisdiction (the "ETJ") of the City, and described by metes and bounds on Exhibit "B" and depicted on Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, Section 42.042 of the Texas Local Government Code states that an applicant may request a city's consent to create a political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways or drainage within the city's ETJ; and

WHEREAS, on December 14, 2006, the Owner filed a "Petition Requesting Consent to the Creation of a Fresh Water Supply District" with the City Secretary's Office, requesting the City's consent to the creation of the Polo Ridge Fresh Water Supply District of Kaufman County (the "FWSD") to cover the Property, a copy of which petition is attached as Exhibit "C," which provides in part that the FWSD shall be organized under the terms and provisions of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 51, Texas Water Code, as amended; and

WHEREAS, on January 3, 2007, the Owner filed a "Petition Requesting Consent to the Creation of a Water Control and Improvement District" with the City Secretary's Office, requesting the City's consent to the creation of the Polo Ridge Fresh Water Control and Improvement District of Kaufman County (the "WCID," and together with the FWSD, the "District") to cover the Property, a copy of which petition is attached as Exhibit "D," which provides in part that the WCID shall be organized under the terms and provisions of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 53, Texas Water Code, as amended; and

WHEREAS, the Property lies wholly within the ETJ of the City of Mesquite, Texas, and no portion of the Property lies in the corporate limits or ETJ of any other town or city; and

WHEREAS, the Owner has no intention to create a Municipal Utility District on the Property; and

WHEREAS, the Owner has no intention to petition the District following creation for annexation of any other land other than the Property owned or controlled by the Owner; and

WHEREAS, the City and the Owner intend to execute an agreement entitled "Polo Ridge Development Agreement" regarding the development of the Property, a true and correct copy of which is attached hereto as Exhibit "E" (referred to herein as the "Development Agreement").

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

SECTION 1. That the City of Mesquite, Texas (the "City"), irrevocably and unconditionally consents to the creation of the Polo Ridge Fresh Water Supply District of Kaufman County (the "FWSD") and to the creation of the Polo Ridge Water Control and Improvement District of Kaufman County (the "WCID," and together with the FWSD, the "District"), a District covering the approximately 822.1 acres of land or any portion thereof (the "Property"), which District is to be organized (as set forth in the Petitions) under the terms and provisions of Article III, Section 52, Article XVI, Section 59, and the applicable provisions of Chapters 49, 51 or 53, Texas Water Code, as amended, and the general laws of the State of Texas. The Mayor of the City is hereby authorized and directed to execute from time to time such additional documents, if any, that may be required to evidence the City's consent and to fulfill the purposes for which the consent is given, including but not limited to, the execution by the Mayor on behalf of the City of such further documents or instruments as may be requested from time to time by the owners of the Property, the District, the Texas Commission on Environmental Quality (the "TCEQ"), Kaufman County, the Texas Attorney General (the "AG") or any other governmental agency or political subdivision having jurisdiction over the District or any bonds issued by the District or as may be required by any special legislation adopted from time to time by the Texas Legislature and affecting the District (the "Special Legislation").

SECTION 2. That the District shall have the right to exercise all rights, powers and authority granted to a fresh water supply district by the laws of the State of Texas, as amended, by any Special Legislation, by Kaufman County and under the rules of the TCEQ or any other governmental agency having jurisdiction over the District.

SECTION 3. That the City also consents to the District being granted the authority to divide into multiple districts with the same powers as the original District and including the authority to enact boundary adjustments among the districts in the form of exclusions and additional of land within the Property.

SECTION 4. That the City further consents to the conversion from time to time of the FWSD to a WCID, and of the WCID to a FWSD pursuant to the authority of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution and Texas Water Code, Chapters 49, 51 and 53, Texas Water Code, as amended; provided, however, that the City

expressly does not consent hereby to the creation of a Municipal Utility District, whether upon original petition of the Property Owner or upon conversion of the FWSD or WCID.

SECTION 5. That the District may annex additional territory beyond the Property only with the prior written consent of the City that may be withheld for any reason.

SECTION 6. That the District or Forney Acquisitions, L.P., a Texas limited partnership (the "Owner"), as appropriate, will design, construct and install water, sewer, drainage, roadway and other public infrastructure (the "Public Infrastructure") to serve the Property: (a) at no cost or expense to the City; (b) in accordance with the "Governing Regulations" as defined in the Polo Ridge Development Agreement (the "Development Agreement"); and (c) in accordance with the applicable requirements of the Texas Water Code, and the rules, regulations and policies of the TCEQ.

SECTION 7. That the District or the Owner, as appropriate, will design, construct and install the Public Infrastructure using funds advanced to the District by the Owner; and that the District will thereafter reimburse the Owner for such advances using the proceeds of bonds issued by the District and secured solely by 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 and by the Texas AG.

SECTION 8. That, except as otherwise provided in the Development Agreement, the City shall not annex the District into its corporate limits for full purposes for 15 years after the Development Agreement's effective date (as defined in the Development Agreement, the "Term"). The City shall have the right, but not the obligation, to full purpose annex the Property prior to the expiration of the Term if construction of the Public Infrastructure to serve the full development of the Property is complete and the District has issued bonds to reimburse the cost of the Public Infrastructure, or as otherwise stated in the Development Agreement.

SECTION 9. That, pursuant to the authority of Section 54.016(e) of the Texas Water Code, the consents granted by this resolution restrict the purposes for which the District may issue bonds; namely for the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances that serve the Property and any additional land annexed into the District with the consent of the City. The District shall have no authority to issue bonds for the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances that would serve property annexed into the District without the consent of the City.

SECTION 10. That the consents granted by this resolution are effective immediately, are unconditional and irrevocable and shall not be withdrawn or modified in any way by the City by action of the City Council without the prior written approval of the Owner. The consents granted by this resolution shall be effective to fully satisfy all requirements of the

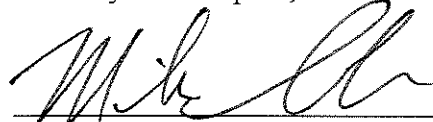
Texas Water Code, as amended, the Texas Local Government Code, as amended, the rules, regulations and policies of the TCEQ, or any rules, regulations or policies of the Texas AG.

SECTION 11. That this consent resolution shall apply to each FWSD or WCID created by the division of the District.

SECTION 12. That the above and foregoing premises to this resolution are true and correct and are incorporated herein and made a part hereof.

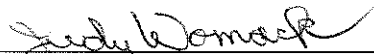
SECTION 13. That this resolution shall take effect immediately upon the Owner's execution of the Development Agreement.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 5th day of February, 2007.



Mike Anderson
Mayor

ATTEST:



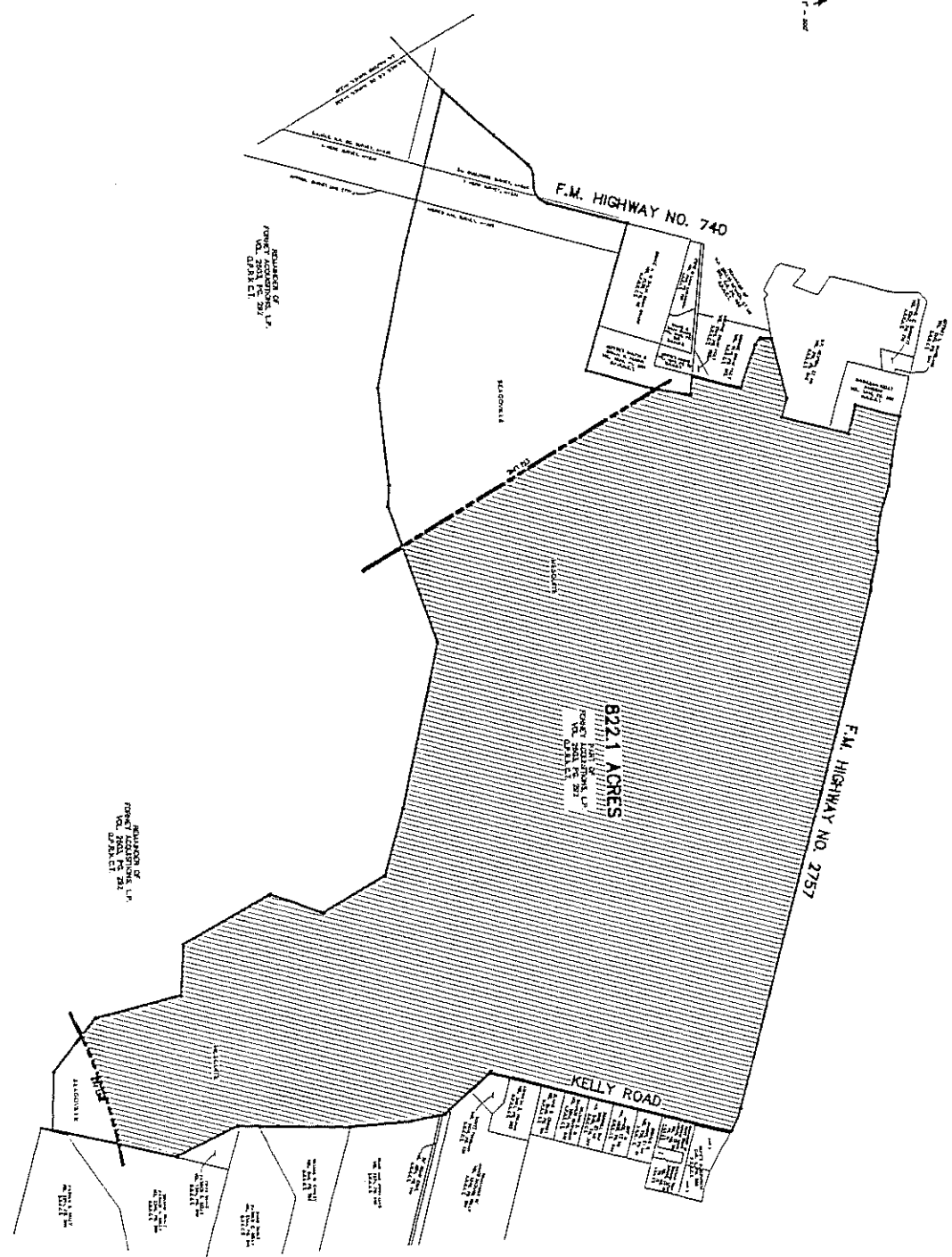
Judy Womack
City Secretary

APPROVED:



B. J. Smith
City Attorney

NOTE: LOCATION OF TELLING STAKES OR INFORMATION PROVIDED BY THE SITE OF RECORD.



THE EXHIBIT -
SHOWING 822.1 ACRES OF LAND OUT OF
THE FEDERAL ACQUISITION, LP TRACT
FOR THE STATE OF TEXAS
LAND ACQUISITION, LP TRACT
1115 VICTORY DRIVE
DALLAS, TEXAS 75215
(214) 611-1200 FAX (214) 611-1114
20020113
DATE: 2000

FIELD NOTES
Forney Acquisitions, L.P.
(822.1 Acre Tract)

BEING a tract or parcel of land situated in the Andrew Nail Survey, Abstract No. 355, the V. Herd Survey, Abstract No. 235, and the S.L. Woolridge Survey, Abstract No. 594, Kaufman County, Texas, and being part of that tract of land described in a Deed to Forney Acquisitions L.P., as recorded in Volume 2603, Page 292 of the Official Public Records of Kaufman County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the Southwesterly line of F.M. Highway No. 2757 (a variable width right-of-way), said point being the most Northerly Northeast corner of a tract of land described in a Deed to Kathlena Kelly Sanders, per Deed recorded in Volume 1348, Page 252 of the Deed Records of Kaufman County, Texas;

THENCE in a Southeasterly direction, along the Southwesterly line of said F.M. Highway No. 2757, and along a non-tangent curve to the left having a central angle of 05 degrees 05 minutes 39 seconds, a radius of 5779.58 feet, a chord bearing of South 49 degrees 06 minutes 43 seconds East, a chord distance of 513.69 feet, and an arc length 513.86 feet to a concrete monument found for corner;

THENCE along the Southwesterly line of said F.M. Highway No. 2757 as follows:

South 51 degrees 25 minutes 16 seconds East for a distance of 215.11 feet to a concrete monument found for corner;

South 42 degrees 32 minutes 14 seconds East for a distance of 309.76 feet to a concrete monument found for corner;

South 50 degrees 16 minutes 50 seconds East for a distance of 254.13 feet to a concrete monument found for corner;

South 62 degrees 55 minutes 48 seconds East for a distance of 125.71 feet to a point for corner;

South 47 degrees 23 minutes 49 seconds East for a distance of 306.97 feet to a concrete monument found for corner;

South 53 degrees 46 minutes 08 seconds East for a distance of 101.75 feet to a concrete monument found for corner;

South 45 degrees 41 minutes 40 seconds East for a distance of 2153.23 feet to a concrete monument found for corner;

South 45 degrees 07 minutes 18 seconds East for a distance of 3376.01 feet to a concrete monument found for corner at the beginning of a curve to the right;

Southeasterly, along said curve having a central angle of 13 degrees 33 minutes 53 seconds, a radius of 1095.92 feet, a chord bearing of South 38 degrees 20 minutes 22 seconds East, a chord distance of 258.85 feet and an arc length of 259.46 feet to a point for corner in the center of Kelly Road, said point being the most Northerly East corner of the above cited Forney Acquisitions tract;

THENCE South 44 degrees 15 minutes 13 seconds West departing the Southwesterly line of said F.M. Highway No. 2757, along the Southeasterly line of said Forney Acquisitions tract, and along

the center of said Kelly Road, for a distance of 2543.09 feet to a 5/8" iron rod found for corner at an angle point in said road;

THENCE South 12 degrees 26 minutes 22 seconds East along the center of said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 638.25 feet to a 1/4" iron rod found for corner at an angle point in said road;

THENCE South 18 degrees 10 minutes 39 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 350.54 feet to a 1/4" iron rod found for corner at an angle point in said road;

THENCE South 25 degrees 07 minutes 52 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 642.84 feet to a 1/2" iron rod found for corner at an angle point in said road;

THENCE South 31 degrees 18 minutes 55 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 1148.50 feet to a 60d nail found for corner at an angle point in said road;

THENCE South 02 degrees 53 minutes 11 seconds West along said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 696.69 feet to a point for corner in the Northwesterly line of a tract of land described as the Second Tract in a Deed to Patrick C. Kelly, as recorded in Volume 1348, Page 265 of the Deed Records of Kaufman County, Texas;

THENCE South 43 degrees 34 minutes 26 seconds West along the Northwesterly line of said Patrick C. Kelly tract, for a distance of 610.80 feet to a point for corner at the beginning of a non-tangent curve to the left;

THENCE in a Northwesterly direction, along said non-tangent curve to the left having a central angle of 12 degrees 45 minutes 15 seconds, a radius of 5280.00 feet, a chord bearing of North 77 degrees 00 minutes 40 seconds West, a chord distance of 1172.90 feet and an arc length of 1175.33 feet to a point for corner;

THENCE North 22 degrees 07 minutes 18 seconds West for a distance of 229.66 feet to a point for corner;

THENCE North 15 degrees 31 minutes 26 seconds East for a distance of 897.27 feet to a point for corner;

THENCE North 56 degrees 00 minutes 43 seconds West for a distance of 522.03 feet to a point for corner;

THENCE North 00 degrees 17 minutes 14 seconds West for a distance of 1020.90 feet to a point for corner;

THENCE North 50 degrees 02 minutes 20 seconds East for a distance of 580.28 feet to a point for corner;

THENCE North 00 degrees 40 minutes 22 seconds West for a distance of 734.00 feet to a point for corner;

THENCE North 43 degrees 59 minutes 00 seconds West for a distance of 733.19 feet to a point for corner;

THENCE North 46 degrees 57 minutes 11 seconds West for a distance of 1764.06 feet to a point for corner;

THENCE North 78 degrees 58 minutes 22 seconds West for a distance of 1035.02 feet to a point for corner;

THENCE North 01 degrees 09 minutes 09 seconds West for a distance of 3089.05 feet to a point for corner in the Southeasterly line of a tract of land conveyed to Jeffrey Ralph Hughs and Sonja W. Hughs, per Deed recorded in Volume 1828, Page 260 of the Official Public Records of Kaufman County, Texas;

THENCE North 39 degrees 39 minutes 19 seconds East along the Southeasterly line of said Hughs tract, for a distance of 345.05 feet to a capped 5/8" inch iron rod found for corner at the most Easterly corner of same;

THENCE North 53 degrees 07 minutes 28 seconds West along the Northeasterly line of said Hughs tract, for a distance of 198.08 feet to a capped 5/8" inch iron rod found for corner at the most Easterly Northeast corner of same, said point also being the most Southerly corner of a tract of land conveyed to George Brian Holy, per Deed recorded in Volume 1194, Page 822 of the Deed Records of Kaufman County, Texas;

THENCE North 44 degrees 58 minutes 09 seconds East along the Southeasterly line of said Holy tract, and along the Southeasterly line of another tract of land conveyed to George Brian Holy, per Deed recorded in Volume 1131, Page 813 of the Deed Records of Kaufman County, Texas, for a distance of 497.28 feet to a point for corner;

THENCE along the Northeasterly line of said Holy tract recorded in Volume 1131, Page 813 as follows:

North 40 degrees 51 minutes 02 seconds West for a distance of 461.48 feet to a fence corner post for corner;

North 22 degrees 24 minutes 05 seconds West for a distance of 97.80 feet to a fence corner post for corner;

North 34 degrees 10 minutes 55 seconds East for a distance of 111.31 feet to a fence corner post for corner at the most Northerly Southeast corner of said Holy tract, said point also being in the Southwesterly line of a tract of land conveyed to D.P. Newton, et ux, per Deed recorded in Volume 616, Page 566 of the Deed Records of Kaufman County, Texas;

THENCE South 73 degrees 11 minutes 17 seconds East along the Southwesterly line of said Newton tract, for a distance of 633.21 feet to a wooden monument found for corner;

THENCE South 43 degrees 23 minutes 12 seconds East along the Southwesterly line of said Newton tract, for a distance of 194.48 feet to a 3/8" inch iron rod found for corner at the most Southerly corner of same;

THENCE North 44 degrees 08 minutes 49 seconds East along the Southeasterly line of said Newton tract, passing a 3/8" iron rod found for the most Southerly Northeast corner of same and the most Southerly corner of the above cited Kathlena Kelly Sanders tract at a distance of 494.03 feet, and continuing along the Southeasterly line of said Sanders tract for a total distance of 683.75 feet to a 1/2" inch iron rod found for corner at the most Southerly Northeast corner of said Sanders tract;

THENCE North 45 degrees 18 minutes 32 seconds West along the Northeasterly line of said Sanders tract, for a distance of 297.17 feet to a point for corner;

THENCE North 44 degrees 09 minutes 32 seconds East along the Southeasterly line of said Sanders tract, for a distance of 464.46 feet to the **POINT OF BEGINNING**, and containing 822.1 acres of land.

PETITION REQUESTING CONSENT TO THE CREATION
OF A FRESH WATER SUPPLY DISTRICT

THE STATE OF TEXAS §

COUNTY OF KAUFMAN §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF MESQUITE,
TEXAS:

The undersigned, Forney Acquisitions, L.P., a Texas limited partnership ("Owner"), the owner of land situated within the area hereinafter described, pursuant to subsections 42.042(a) and (b), Texas Local Government Code, as amended, respectfully submit this petition requesting this Honorable City Council to consent to the creation of one or more fresh water supply districts (whether one or more, the "District"), and for cause Owner would respectfully show the following:

I.

The District shall be organized under the provisions of Article III, Section 52(b)(3) and Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 53, Texas Water Code, as amended.

II.

The proposed name of the District is POLO RIDGE FRESH WATER SUPPLY DISTRICT OF KAUFMAN COUNTY. The District shall contain an area of approximately 822.1 acres of land, more or less, lying wholly within Kaufman County, Texas, and wholly within the extraterritorial jurisdiction of the City of Mesquite, Texas, and not within the corporate limits or extraterritorial jurisdiction of any other city, town, or village. The boundaries of the proposed District are described by metes and bounds on Exhibit A and depicted on Exhibit B. There is no other conservation or reclamation district in Kaufman County, Texas, with the same name.

III.

The District may convert to a water control and improvement district pursuant to the authority of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 51, Texas Water Code, as amended. The Owner anticipates requesting the Board of Supervisors governing the converted District (the "Board"), by petition to and approval of the TCEQ or otherwise, to expand the authority of the District to include the design, construction, installation, operation, maintenance, and repair of wastewater-treatment facilities and improvements and drainage facilities and improvements (both within and outside the boundaries of the converted District).

The Owner further anticipates the expansion, from time to time, of the authority of the District or the converted District (by special acts of the Texas legislature or otherwise) to include road

powers (both within and outside the boundaries of the fresh water supply district) or other powers authorized by the Texas Constitution or by the laws of the State of Texas, as amended.

IV.

The undersigned Owner is the owner of the land described on Exhibit A as indicated by the county tax rolls and conveyances of record since the date of preparation of said county tax rolls.

V.

The general nature of the work to be done by and within the District shall be:

- (i) the construction, maintenance, and operation of a waterworks system for residential and commercial purposes;
- (ii) subject to compliance with the requirements of Section 53.121, Texas Water Code, as amended, the construction, maintenance, and operation of a sanitary sewer collection system and sewage disposal plant;
- (iii) subject to compliance with the requirements of Section 53.029, Texas Water Code, as amended, the construction, acquisition, improvement, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes and improvements in aid of such roads and turnpikes;
- (iv) the construction acquisition, and operation of a storm water drainage system in order to gather, conduct, divert and control local storm water or other local harmful excesses of water drainage; and
- (v) such other construction, installation, maintenance, purchase, and operation of such additional facilities, systems, plants and enterprises as shall be consistent with the purposes for which the District is organized.

The District may also finance one or more facilities designed or utilized to perform fire-fighting services and may purchase interests in land and purchase, construct, acquire, improve, extend, maintain, and operate improvements, facilities, and equipment for the purpose of providing parks and recreational facilities to the extent authorized and permitted under state law, as such laws may exist from time to time.

VI.

There is a necessity for the District because the District is located within an area which will experience a substantial and sustained residential and commercial growth within the immediate future, is urban in nature and is not supplied with adequate water, sanitary sewer, drainage, roads, and services. The health and welfare of the future inhabitants of the District require the construction, acquisition, maintenance, installation, and operation of an adequate waterworks system, sanitary sewer system, storm water drainage system and road system.

The purchase, construction, extension, improvement, maintenance and operation of such waterworks system and sanitary sewer system will conserve and preserve the natural resources of this State by promoting and protecting the purity and sanitary condition of the State's waters and will promote and protect the public health and welfare of the community; therefore, a public necessity exists for the organization of the District.

VII.

The District is feasible because the terrain of the District is of such a nature that waterworks and sanitary sewer systems, storm water drainage systems and facilities and roads can be constructed at a reasonable cost and at reasonable tax rates and water and sewer service rates.

VIII.

WHEREFORE, the undersigned Owner respectfully prays that this request be granted in all respects and that the City Council of the City of Mesquite, Texas, adopt an ordinance or resolution giving its written consent to the creation of the District.

RESPECTFULLY SUBMITTED, this 14th day of December 2006.

FORNEY ACQUISITIONS, L.P.
a Texas limited partnership

By: [Signature]

Its: _____

Date: 12-14-06

FIELD NOTES
Forney Acquisitions, L.P.
(822.1 Acre Tract)

BEING a tract or parcel of land situated in the Andrew Nail Survey, Abstract No. 355, the V. Herd Survey, Abstract No. 235, and the S.L. Woolridge Survey, Abstract No. 594, Kaufman County, Texas, and being part of that tract of land described in a Deed to Forney Acquisitions L.P., as recorded in Volume 2603, Page 292 of the Official Public Records of Kaufman County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the Southwesterly line of F.M. Highway No. 2757 (a variable width right-of-way), said point being the most Northerly Northeast corner of a tract of land described in a Deed to Kathlena Kelly Sanders, per Deed recorded in Volume 1348, Page 252 of the Deed Records of Kaufman County, Texas;

THENCE in a Southeasterly direction, along the Southwesterly line of said F.M. Highway No. 2757, and along a non-tangent curve to the left having a central angle of 05 degrees 05 minutes 39 seconds, a radius of 5779.58 feet, a chord bearing of South 49 degrees 06 minutes 43 seconds East, a chord distance of 513.69 feet, and an arc length 513.86 feet to a concrete monument found for corner;

THENCE along the Southwesterly line of said F.M. Highway No. 2757 as follows:

South 51 degrees 25 minutes 16 seconds East for a distance of 215.11 feet to a concrete monument found for corner;

South 42 degrees 32 minutes 14 seconds East for a distance of 309.76 feet to a concrete monument found for corner;

South 50 degrees 16 minutes 50 seconds East for a distance of 254.13 feet to a concrete monument found for corner;

South 62 degrees 55 minutes 48 seconds East for a distance of 125.71 feet to a point for corner;

South 47 degrees 23 minutes 49 seconds East for a distance of 306.97 feet to a concrete monument found for corner;

South 53 degrees 46 minutes 08 seconds East for a distance of 101.75 feet to a concrete monument found for corner;

South 45 degrees 41 minutes 40 seconds East for a distance of 2153.23 feet to a concrete monument found for corner;

South 45 degrees 07 minutes 18 seconds East for a distance of 3376.01 feet to a concrete monument found for corner at the beginning of a curve to the right;

Southeasterly, along said curve having a central angle of 13 degrees 33 minutes 53 seconds, a radius of 1095.92 feet, a chord bearing of South 38 degrees 20 minutes 22 seconds East, a chord distance of 258.85 feet and an arc length of 259.46 feet to a point for corner in the center of Kelly Road, said point being the most Northerly East corner of the above cited Forney Acquisitions tract;

THENCE South 44 degrees 15 minutes 13 seconds West departing the Southwesterly line of said F.M. Highway No. 2757, along the Southeasterly line of said Forney Acquisitions tract, and along

the center of said Kelly Road, for a distance of 2543.09 feet to a 5/8" iron rod found for corner at an angle point in said road;

THENCE South 12 degrees 26 minutes 22 seconds East along the center of said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 638.25 feet to a 1/4" iron rod found for corner at an angle point in said road;

THENCE South 18 degrees 10 minutes 39 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 350.54 feet to a 1/4" iron rod found for corner at an angle point in said road;

THENCE South 25 degrees 07 minutes 52 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 642.84 feet to a 1/2" iron rod found for corner at an angle point in said road;

THENCE South 31 degrees 18 minutes 55 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 1148.50 feet to a 60d nail found for corner at an angle point in said road;

THENCE South 02 degrees 53 minutes 11 seconds West along said Kelly Road, and along the Southeasterly line of said Forney Acquisitions tract, for a distance of 696.69 feet to a point for corner in the Northwesterly line of a tract of land described as the Second Tract in a Deed to Patrick C. Kelly, as recorded in Volume 1348, Page 265 of the Deed Records of Kaufman County, Texas;

THENCE South 43 degrees 34 minutes 26 seconds West along the Northwesterly line of said Patrick C. Kelly tract, for a distance of 610.80 feet to a point for corner at the beginning of a non-tangent curve to the left;

THENCE in a Northwesterly direction, along said non-tangent curve to the left having a central angle of 12 degrees 45 minutes 15 seconds, a radius of 5280.00 feet, a chord bearing of North 77 degrees 00 minutes 40 seconds West, a chord distance of 1172.90 feet and an arc length of 1175.33 feet to a point for corner;

THENCE North 22 degrees 07 minutes 18 seconds West for a distance of 229.66 feet to a point for corner;

THENCE North 15 degrees 31 minutes 26 seconds East for a distance of 897.27 feet to a point for corner;

THENCE North 56 degrees 00 minutes 43 seconds West for a distance of 522.03 feet to a point for corner;

THENCE North 00 degrees 17 minutes 14 seconds West for a distance of 1020.90 feet to a point for corner;

THENCE North 50 degrees 02 minutes 20 seconds East for a distance of 580.28 feet to a point for corner;

THENCE North 00 degrees 40 minutes 22 seconds West for a distance of 734.00 feet to a point for corner;

THENCE North 43 degrees 59 minutes 00 seconds West for a distance of 733.19 feet to a point for corner;

THENCE North 46 degrees 57 minutes 11 seconds West for a distance of 1764.06 feet to a point for corner;

THENCE North 78 degrees 58 minutes 22 seconds West for a distance of 1035.02 feet to a point for corner;

THENCE North 01 degrees 09 minutes 09 seconds West for a distance of 3089.05 feet to a point for corner in the Southeasterly line of a tract of land conveyed to Jeffrey Ralph Hughs and Sonja W. Hughs, per Deed recorded in Volume 1828, Page 260 of the Official Public Records of Kaufman County, Texas;

THENCE North 39 degrees 39 minutes 19 seconds East along the Southeasterly line of said Hughs tract, for a distance of 345.05 feet to a capped 5/8" inch iron rod found for corner at the most Easterly corner of same;

THENCE North 53 degrees 07 minutes 28 seconds West along the Northeasterly line of said Hughs tract, for a distance of 198.08 feet to a capped 5/8" inch iron rod found for corner at the most Easterly Northeast corner of same, said point also being the most Southerly corner of a tract of land conveyed to George Brian Holy, per Deed recorded in Volume 1194, Page 822 of the Deed Records of Kaufman County, Texas;

THENCE North 44 degrees 58 minutes 09 seconds East along the Southeasterly line of said Holy tract, and along the Southeasterly line of another tract of land conveyed to George Brian Holy, per Deed recorded in Volume 1131, Page 813 of the Deed Records of Kaufman County, Texas, for a distance of 497.28 feet to a point for corner;

THENCE along the Northeasterly line of said Holy tract recorded in Volume 1131, Page 813 as follows:

North 40 degrees 51 minutes 02 seconds West for a distance of 461.48 feet to a fence corner post for corner;

North 22 degrees 24 minutes 05 seconds West for a distance of 97.80 feet to a fence corner post for corner;

North 34 degrees 10 minutes 55 seconds East for a distance of 111.31 feet to a fence corner post for corner at the most Northerly Southeast corner of said Holy tract, said point also being in the Southwesterly line of a tract of land conveyed to D.P. Newton, et ux, per Deed recorded in Volume 616, Page 566 of the Deed Records of Kaufman County, Texas;

THENCE South 73 degrees 11 minutes 17 seconds East along the Southwesterly line of said Newton tract, for a distance of 633.21 feet to a wooden monument found for corner;

THENCE South 43 degrees 23 minutes 12 seconds East along the Southwesterly line of said Newton tract, for a distance of 194.48 feet to a 3/8" inch iron rod found for corner at the most Southerly corner of same;

THENCE North 44 degrees 08 minutes 49 seconds East along the Southeasterly line of said Newton tract, passing a 3/8" iron rod found for the most Southerly Northeast corner of same and the most Southerly corner of the above cited Kathlena Kelly Sanders tract at a distance of 494.03 feet, and continuing along the Southeasterly line of said Sanders tract for a total distance of 683.75 feet to a 1/2" inch iron rod found for corner at the most Southerly Northeast corner of said Sanders tract;

THENCE North 45 degrees 18 minutes 32 seconds West along the Northeasterly line of said Sanders tract, for a distance of 297.17 feet to a point for corner;

THENCE North 44 degrees 09 minutes 32 seconds East along the Southeasterly line of said Sanders tract, for a distance of 464.46 feet to the **POINT OF BEGINNING**, and containing 822.1 acres of land.



- E23 EXHIBIT -
 SHOWING 621 ACRES OF LAND OUT OF
 THE FOREST ACROSS HOUSTON PI PLOT
 RAINBOW COUNTY, TEXAS



U.S. PROFESSIONAL SERVICES GROUP, INC.
 ONE DISCOUNT - MARATHON - PLANNED
 LANDSCAPE ARCHITECTS
 1533 VICTORY DRIVE
 DALLAS, TEXAS 75215
 (214) 634-3308 FAX (214) 634-3336

NOVEMBER 2006

20060313

PETITION REQUESTING CONSENT TO THE CREATION
OF A WATER CONTROL AND IMPROVEMENT DISTRICT

THE STATE OF TEXAS §

COUNTY OF KAUFMAN §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF MESQUITE,
TEXAS:

The undersigned, Forney Acquisitions, L.P., a Texas limited partnership ("Owner"), the owner of land situated within the area hereinafter described, pursuant to subsections 42.042(a) and (b), Texas Local Government Code, as amended, respectfully submit this petition requesting this Honorable City Council to consent to the creation of one or more water control and improvement districts (whether one or more, the "District"), and for cause Owner would respectfully show the following:

I.

The District shall be organized under the provisions of Article III, Section 52(b)(3) and Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 51, Texas Water Code, as amended.

II.

The proposed name of the District is POLO RIDGE WATER CONTROL AND IMPROVEMENT DISTRICT OF KAUFMAN COUNTY. The District shall contain an area of approximately 822.1 acres of land, more or less, lying wholly within Kaufman County, Texas, and wholly within the extraterritorial jurisdiction of the City of Mesquite, Texas, and not within the corporate limits or extraterritorial jurisdiction of any other city, town, or village. The boundaries of the proposed District are described by metes and bounds on Exhibit A and depicted on Exhibit B. There is no other conservation or reclamation district in Kaufman County, Texas, with the same name.

III.

The District may convert to a district operating as a fresh water supply district under Chapter 53, pursuant to Article III, Section 52 and Article XVI, Section 59, of the Texas Constitution and Chapters 49, 51 and 53, Texas Water Code as amended.

The Owner anticipates requesting the Board of Supervisors governing the converted District (the "Board"), by petition to and approval of the TCEQ or otherwise, to expand the authority of the District to include the design, construction, installation, operation, maintenance, and repair of wastewater-treatment facilities and improvements and drainage facilities and improvements (both within and outside the boundaries of the District).

The Owner further anticipates the expansion, from time to time, of the authority of the District (by special acts of the Texas legislature or otherwise) to include road powers (both within and outside the boundaries of the District) or other powers authorized by the Texas Constitution or by the laws of the State of Texas, as amended.

IV.

The undersigned Owner is the owner of the land described on Exhibit A as indicated by the county tax rolls and conveyances of record since the date of preparation of said county tax rolls.

V.

The general nature of the work to be done by and within the District shall be:

- (i) the construction, maintenance, and operation of a waterworks system for residential and commercial purposes;
- (ii) the construction, maintenance, and operation of a sanitary sewer collection system and sewage disposal plant;
- (iii) the construction, acquisition, improvement, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes and improvements in aid of such roads and turnpikes;
- (iv) the construction acquisition, and operation of a storm water drainage system in order to gather, conduct, divert and control local storm water or other local harmful excesses of water drainage; and
- (v) such other construction, installation, maintenance, purchase, and operation of such additional facilities, systems, plants and enterprises as shall be consistent with the purposes for which the District is organized.

The District may also finance one or more facilities designed or utilized to perform fire-fighting services and may purchase interests in land and purchase, construct, acquire, improve, extend, maintain, and operate improvements, facilities, and equipment for the purpose of providing parks and recreational facilities to the extent authorized and permitted under state law, as such laws may exist from time to time.

VI.

There is a necessity for the District because the District is located within an area which will experience a substantial and sustained residential and commercial growth within the immediate future, is urban in nature and is not supplied with adequate water, sanitary sewer, drainage, roads, and services. The health and welfare of the future inhabitants of the District require the construction, acquisition, maintenance, installation, and operation of an adequate waterworks system, sanitary sewer system, storm water drainage system and road system.

The purchase, construction, extension, improvement, maintenance and operation of such waterworks system and sanitary sewer system will conserve and preserve the natural resources of this State by promoting and protecting the purity and sanitary condition of the State's waters and will promote and protect the public health and welfare of the community; therefore, a public necessity exists for the organization of the District.

VII.

The District is feasible because the terrain of the District is of such a nature that waterworks and sanitary sewer systems, storm water drainage systems and facilities and roads can be constructed at a reasonable cost and at reasonable tax rates and water and sewer service rates.

VIII.


A preliminary investigation has been made to determine the cost of the work proposed to be done by the District, and Owner now estimates, from such information as is available at this time, that the cost of such work will be approximately \$22,266,000.

IX.

WHEREFORE, the undersigned Owner respectfully prays that this request be granted in all respects and that the City Council of the City of Mesquite, Texas, adopt an ordinance or resolution giving its written consent to the creation of the District.

RESPECTFULLY SUBMITTED, this 3 day of January 2006.⁷

FORNEY ACQUISITIONS, L.P.
a Texas limited partnership

By: 

Its: Pres of DARS Investments, INC, GP

Date: January 3, 2007

Exhibit A
Legal Description of the District

FIELD NOTES
Forney Acquisitions, L.P.
(822.1 Acre Tract)

BEING a tract or parcel of land situated in the Andrew Nail Survey, Abstract No. 355, the V. Herd Survey, Abstract No. 235, and the S.L. Woolridge Survey, Abstract No. 594, Kaufman County, Texas, and being part of that tract of land described in a Deed to Forney Acquisitions L.P., as recorded in Volume 2603, Page 292 of the Official Public Records of Kaufman County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the Southwesterly line of F.M. Highway No. 2757 (a variable width right-of-way), said point being the most Northerly Northeast corner of a tract of land described in a Deed to Kathlena Kelly Sanders, per Deed recorded in Volume 1348, Page 252 of the Deed Records of Kaufman County, Texas;

THENCE in a Southeasterly direction, along the Southwesterly line of said F.M. Highway No. 2757, and along a non-tangent curve to the left having a central angle of 05 degrees 05 minutes 39 seconds, a radius of 5779.58 feet, a chord bearing of South 49 degrees 06 minutes 43 seconds East, a chord distance of 513.69 feet, and an arc length 513.86 feet to a concrete monument found for corner;

THENCE along the Southwesterly line of said F.M. Highway No. 2757 as follows:

South 51 degrees 25 minutes 16 seconds East for a distance of 215.11 feet to a concrete monument found for corner;

South 42 degrees 32 minutes 14 seconds East for a distance of 309.76 feet to a concrete monument found for corner;

South 50 degrees 16 minutes 50 seconds East for a distance of 254.13 feet to a concrete monument found for corner;

South 62 degrees 55 minutes 48 seconds East for a distance of 125.71 feet to a point for corner;

South 47 degrees 23 minutes 49 seconds East for a distance of 306.97 feet to a concrete monument found for corner;

South 53 degrees 46 minutes 08 seconds East for a distance of 101.75 feet to a concrete monument found for corner;

South 45 degrees 41 minutes 40 seconds East for a distance of 2153.23 feet to a concrete monument found for corner;

South 45 degrees 07 minutes 18 seconds East for a distance of 3376.01 feet to a concrete monument found for corner at the beginning of a curve to the right;

Southeasterly, along said curve having a central angle of 13 degrees 33 minutes 53 seconds, a radius of 1095.92 feet, a chord bearing of South 38 degrees 20 minutes 22 seconds East, a chord distance of 258.85 feet and an arc length of 259.46 feet to a point for corner in the center of Kelly Road, said point being the most Northerly East corner of the above cited Forney Acquisitions tract;

THENCE South 44 degrees 15 minutes 13 seconds West departing the Southwesterly line of said F.M. Highway No. 2757, along the Southeasterly line of said Forney Acquisitions tract, and along

the center of said Kelly Road, for a distance of 2543.09 feet to a 5/8" iron rod found for corner at an angle point in said road;

THENCE South 12 degrees 26 minutes 22 seconds East along the center of said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 638.25 feet to a 1/4" iron rod found for corner at an angle point in said road;

THENCE South 18 degrees 10 minutes 39 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 350.54 feet to a 1/4" iron rod found for corner at an angle point in said road;

THENCE South 25 degrees 07 minutes 52 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 642.84 feet to a 1/2" iron rod found for corner at an angle point in said road;

THENCE South 31 degrees 18 minutes 55 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 1148.50 feet to a 60d nail found for corner at an angle point in said road;

THENCE South 02 degrees 53 minutes 11 seconds West along said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 696.69 feet to a point for corner in the Northwesterly line of a tract of land described as the Second Tract in a Deed to Patrick C. Kelly, as recorded in Volume 1348, Page 265 of the Deed Records of Kaufman County, Texas;

THENCE South 43 degrees 34 minutes 26 seconds West along the Northwesterly line of said Patrick C. Kelly tract, for a distance of 610.80 feet to a point for corner at the beginning of a non-tangent curve to the left;

THENCE in a Northwesterly direction, along said non-tangent curve to the left having a central angle of 12 degrees 45 minutes 15 seconds, a radius of 5280.00 feet, a chord bearing of North 77 degrees 00 minutes 40 seconds West, a chord distance of 1172.90 feet and an arc length of 1175.33 feet to a point for corner;

THENCE North 22 degrees 07 minutes 18 seconds West for a distance of 229.66 feet to a point for corner;

THENCE North 15 degrees 31 minutes 26 seconds East for a distance of 897.27 feet to a point for corner;

THENCE North 56 degrees 00 minutes 43 seconds West for a distance of 522.03 feet to a point for corner;

THENCE North 00 degrees 17 minutes 14 seconds West for a distance of 1020.90 feet to a point for corner;

THENCE North 50 degrees 02 minutes 20 seconds East for a distance of 580.28 feet to a point for corner;

THENCE North 00 degrees 40 minutes 22 seconds West for a distance of 734.00 feet to a point for corner;

THENCE North 43 degrees 59 minutes 00 seconds West for a distance of 733.19 feet to a point for corner;

THENCE North 46 degrees 57 minutes 11 seconds West for a distance of 1764.06 feet to a point for corner;

THENCE North 78 degrees 58 minutes 22 seconds West for a distance of 1035.02 feet to a point for corner;

THENCE North 01 degrees 09 minutes 09 seconds West for a distance of 3089.05 feet to a point for corner in the Southeasterly line of a tract of land conveyed to Jeffrey Ralph Hughs and Sonja W. Hughs, per Deed recorded in Volume 1828, Page 260 of the Official Public Records of Kaufman County, Texas;

THENCE North 39 degrees 39 minutes 19 seconds East along the Southeasterly line of said Hughs tract, for a distance of 345.05 feet to a capped 5/8" inch iron rod found for corner at the most Easterly corner of same;

THENCE North 53 degrees 07 minutes 28 seconds West along the Northeasterly line of said Hughs tract, for a distance of 198.08 feet to a capped 5/8" inch iron rod found for corner at the most Easterly Northeast corner of same, said point also being the most Southerly corner of a tract of land conveyed to George Brian Holy, per Deed recorded in Volume 1194, Page 822 of the Deed Records of Kaufman County, Texas;

THENCE North 44 degrees 58 minutes 09 seconds East along the Southeasterly line of said Holy tract, and along the Southeasterly line of another tract of land conveyed to George Brian Holy, per Deed recorded in Volume 1131, Page 813 of the Deed Records of Kaufman County, Texas, for a distance of 497.28 feet to a point for corner;

THENCE along the Northeasterly line of said Holy tract recorded in Volume 1131, Page 813 as follows:

North 40 degrees 51 minutes 02 seconds West for a distance of 461.48 feet to a fence corner post for corner;

North 22 degrees 24 minutes 05 seconds West for a distance of 97.80 feet to a fence corner post for corner;

North 34 degrees 10 minutes 55 seconds East for a distance of 111.31 feet to a fence corner post for corner at the most Northerly Southeast corner of said Holy tract, said point also being in the Southwesterly line of a tract of land conveyed to D.P. Newton, et ux, per Deed recorded in Volume 616, Page 566 of the Deed Records of Kaufman County, Texas;

THENCE South 73 degrees 11 minutes 17 seconds East along the Southwesterly line of said Newton tract, for a distance of 633.21 feet to a wooden monument found for corner;

THENCE South 43 degrees 23 minutes 12 seconds East along the Southwesterly line of said Newton tract, for a distance of 194.48 feet to a 3/8" inch iron rod found for corner at the most Southerly corner of same;

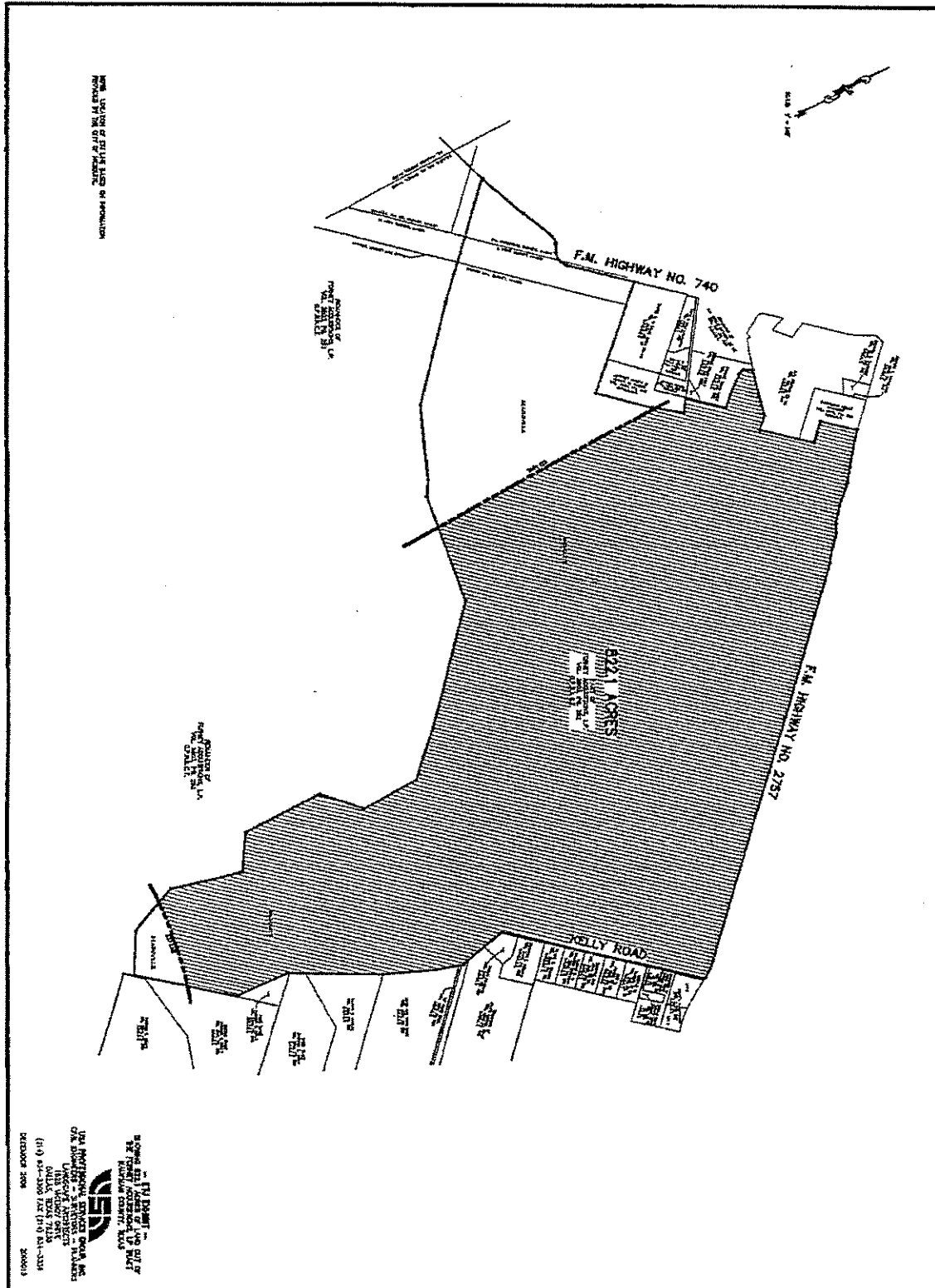
THENCE North 44 degrees 08 minutes 49 seconds East along the Southeasterly line of said Newton tract, passing a 3/8" iron rod found for the most Southerly Northeast corner of same and the most Southerly corner of the above cited Kathlena Kelly Sanders tract at a distance of 494.03 feet, and continuing along the Southeasterly line of said Sanders tract for a total distance of 683.75 feet to a 1/2" inch iron rod found for corner at the most Southerly Northeast corner of said Sanders tract;

THENCE North 45 degrees 18 minutes 32 seconds West along the Northeasterly line of said Sanders tract, for a distance of 297.17 feet to a point for corner;

THENCE North 44 degrees 09 minutes 32 seconds East along the Southeasterly line of said Sanders tract, for a distance of 464.46 feet to the **POINT OF BEGINNING**, and containing 622.1 acres of land.

Exhibit B
Depiction of the District

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POLO RIDGE DEVELOPMENT AGREEMENT

Exhibit "E"

This Development Agreement (this "Agreement") is executed between Forney Acquisitions, L.P. ("Owner") and the City of Mesquite, Texas (the "City") to be effective February 5, 2007 (the "Effective Date").

ARTICLE I
RECITALS

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

WHEREAS, Owner is a Texas limited partnership; and

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

WHEREAS, Owner is the owner of approximately 822.1 acres of real property located in Kaufman County (the "County") and depicted on Exhibit A and described by metes and bounds on Exhibit B (the "Property"); and

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; and

WHEREAS, the Parties intend for the Property to be developed within the City's ETJ, that the City 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 has and exercises no jurisdiction over such matters; and

WHEREAS, on March 18, 2002, pursuant to Chapter 242 of the Texas Local Government Code, the Kaufman County Commissioners Court and the City executed an Interlocal agreement pursuant to which the City has exclusive jurisdiction over subdivision and platting of the Property and the design, construction, installation, and inspection of Public Infrastructure to serve the Property (the "Interlocal Agreement"); and

WHEREAS, the Parties intend for the Property to be developed within the City's ETJ and to be immune from full-purpose annexation by the City for the term of, and as otherwise provided by, this Agreement; and

WHEREAS, Markout Water Supply Corporation ("Markout") has the certificate of convenience and necessity (the "CCN") to provide retail water service to the Property; and

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

WHEREAS, the Parties acknowledge that there is no CCN for retail sewer service to the Property; and

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

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: (i) as a high-quality, master-planned, residential 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 (ii) 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; and

WHEREAS, Public Infrastructure is not currently available to serve the Parties' intended development of the Property; and

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

WHEREAS, the City is unable (at the current time and for the foreseeable future) to provide, or participate in the cost of, the Public Infrastructure that will allow the Parties' intended development of the Property; and

WHEREAS, the City is unable (at the current time and for the foreseeable future) to provide full municipal services for the Parties' intended development of the Property; and

WHEREAS, to facilitate the Parties' intended development of the Property in a cost-effective and market-competitive manner, Owner submitted written petitions to the City Council of the City (the "City Council") dated December 15, 2006 and dated January 3, 2007 requesting that the City Council consent to the creation of a fresh water supply district ("FWSD") and a water control and improvement district ("WCID") (collectively, whether one or more, the "District") that will include all of the Property and that will design, construct and install the Public Infrastructure necessary for the Parties' intended development of the Property; and

WHEREAS, the City Council adopted Resolution No. 03-2007 dated February 5, 2007 consenting to the creation of the District (the "Consent Resolution"), a copy of which Consent Resolution is attached as Exhibit C; and

WHEREAS, the Parties intend that the District, or Owner as appropriate, will design, construct and install the Public Infrastructure: (i) at no cost or expense to the City; (ii) in accordance with the "Governing Regulations" as defined in this Agreement; and (iii) in accordance with the applicable requirements of the Texas Water Code, and the rules, regulations and policies of the TCEQ; and

WHEREAS, the Parties intend that the City and the District will negotiate in good faith for the creation of an interlocal agreement or agreements, for the provision of police, fire and EMS services to the Property; and

WHEREAS, the Parties intend that the intended development of the Property, including the design, construction and installation of Public Infrastructure, will benefit the City and its current and future citizens, including the creation of substantial future tax base for the City, without any capital investment by the City; and

WHEREAS, the Parties intend that this Agreement be a development agreement as provided for by Section 212.172 of the Texas Local Government Code; and

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

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

ARTICLE II

DEVELOPMENT REGULATIONS

2.0 For purposes of this Agreement, the term "Director" shall mean the Director of Community Development for the City of Mesquite, Texas, his designee, or his successor-in-title.

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

- (a) the Conceptual Land Plan attached as **Exhibit D**, and as amended from time to time in accordance with this Agreement shall be the Concept Plan (the "Concept Plan") and is considered to be a development plan as provided for in Section 212.172 of the Texas Local Government Code and with which all development applications shall be substantially consistent. It is understood and acknowledged that the Concept Plan was created by the Owner for the purpose of illustrating to the City the boundary, lot mix and general layout of the Project. It is further acknowledge that in accordance with Section 4-201C of the Mesquite Zoning Ordinance the Concept Plan does not fully illustrate all specific details of the Project and that, except as set forth herein, Owner shall be required to comply with City requirements relating to planned development concept plans, including screening on FM 2757 and Kelly Road, and other regulations relating to screening, landscaping, open space and vehicular and pedestrian connectivity;
- (b) the subdivision regulations of the City in effect on the Effective Date and as attached in **Exhibit E** (the "Subdivision Regulations");
- (c) the building codes of the City of Mesquite (the "Building Codes"), as amended;
- (d) Chapter 13 of the Code of the City of Mesquite, Texas (the "Sign Ordinance"), as amended;
- (e) the special regulations set forth in **Exhibit F** (the "Special Regulations")

- (f) the development regulations set forth in Exhibit G (the “Development Regulations”); and
- (g) final plats for portions of the Property that are approved, from time to time, by the City in accordance with this Agreement (the “Approved Plats”); and
- (h) revisions to the Development Regulations allowed by this Article II; and
- (i) State and Federal Requirements described in this Article II; and
- (j) the Development Processes described in Article III; and
- (k) the Development Charges described in Article IV; and
- (l) the Public Infrastructure provisions of Article V; and
- (m) Any amendments to the above ordinances, rules, regulations, standards, policies, orders, guidelines, or other City-adopted or City-enforced requirements of any kind that are uniformly applied and enforced throughout the ETJ and corporate limits of the City and that are adopted subsequent to the Effective Date to the extent that the City may enforce the same pursuant to Chapter 245 of the Texas Local Government Code.

2.2 The Concept Plan. The Concept Plan divides the Property into lot types, each of which is identified in Exhibit G. The Concept Plan may be amended, from time to time, as set forth below. All changes to the minimum standards for a lot type throughout any phase of the development, or the lot mix for the Project, shall require the consent of the owners of the property to which the change applies and written notice to the owners of any portion of the property within 200 feet of the property to which the change applies.

- (a) Procedure for Review of Amendments. Except as provided in subsection (d), every proposed amendment to the Concept Plan shall be processed and determined in accordance with this subsection. The owner or developer of any portion of the Property may propose such amendments by submitting a complete application to the Director in accordance with the submittal requirements of subsection (b).
 - (1) Procedures for notice and public hearings shall be those for processing a request for a zoning amendment under the City’s zoning ordinance. Provided, however, it shall not be necessary to publish notification of the public hearings, and the decision of the City Council shall only require a majority vote.
 - (2) The Director shall prepare a written report concerning the proposed amendment, containing his or her recommendations for approval, approval with conditions or denial of the application. If the recommendation is to approve with conditions or deny the application, the report shall set forth in detail the basis for the recommendation. The report shall be delivered

to the applicant and the City's Planning and Zoning Commission within forty-five (45) days of the date the complete application is delivered to the Director. If the Director fails or refuses to deliver his or her recommendation within such 45-day period, the application shall be deemed approved, and no further action on the application shall be required.

- (3) The Commission shall conduct a public hearing on the application and submit its written recommendation to the City Council. The City Council shall conduct a public hearing on the application and provide to the applicant a written decision to approve, approve with conditions, or deny the application. If the decision is to approve with conditions or deny the application, the basis for the decision shall be set forth in detail as part of the decision. The City Council shall conduct its public hearing and shall deliver its written decision within forty-five (45) days following receipt of the Commission's written recommendation. If the City Council fails or refuses to deliver its written decision within such 45-day period, the application shall be deemed approved, and no further action on the application shall be required.
- (b) Complete Application Requirements. No application for an amendment to the Concept Plan shall be accepted and processed under this section that is incomplete. The determination of completeness of the application shall be in accordance with Texas Local Government Code Section 245.002(e). For an application to be complete, the applicant must include the following:
- (1) Written consent to the change by the owner of the area that is the subject of the application;
 - (2) Copies of the written notice of the requested change sent to the owners of those portions of the Property lying within 200 feet of the area that is the subject of the application;
 - (3) An Updated Traffic Study;
 - (4) An explanation of the need for the proposed change.
- (c) Decision Criteria. The Council in deciding whether to approve, approve with conditions, or deny the application for an amendment to the Concept Plan shall consider the following factors:
- (1) The proposed change does not substantially and adversely affect the use and enjoyment of near-by existing residential neighborhoods;
 - (2) The proposed change does not substantially and adversely affect the amount of and connectivity of existing or planned open space serving the area subject to the change, the current phase of the project in which the area is located, or the next planned adjacent phase of the project;

- (3) The proposed change does not prevent, or substantially and adversely lengthen the time for, full purpose annexation of the area subject to the change or of adjoining areas;
 - (4) The change does not result in an increase in the total number of residential units authorized by this Agreement, a reduction in the numbers of Lot Type ETJ-1A, or an increase in the numbers of Lot Type ETJ-60; provided, however, that the total number of residential units for all other lot types may be reduced.
- (d) Exceptions. The procedures and standards in subsections (a) through (c) shall not apply to changes to the Concept Plan described in section 2.4. Every variance permitted by section 2.4 shall require the written consent of the owner of area that is the subject of the change.

2.3 Preliminary Plats. Preliminary Plats for all or a portion of the Property shall be in general conformance to the Concept Plan.

2.4 De Minimis Development Regulation Variances. The Director shall administratively approve the following “*de minimus*” variances to the Development Regulations: (a) an increase in the height of any structure by five percent or less; (b) a setback reduction of ten percent (10%) or less; (c) an increase in lot coverage of five percent (5%) or less; (d) a reduction in lot depth of 5% or less; and (e) a reduction in off-street parking of five percent (5%) or less, provided that such variances shall not cumulatively affect more than 10% of the number of lots within the development. The City Council, in its sole discretion, may permit exceptions to strict compliance with the Development Regulations when Owner demonstrates, to the reasonable satisfaction of the City Council, that the requested exception: (A) is not contrary to the public interest; (B) does not cause injury to adjacent property; and (C) does not materially adversely affect the quality of development.

2.5 State and Federal Requirements. 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.

2.6 Other City Regulations. Development of the Property shall also be subject to the following City ordinances adopted, and as they may from time to time be amended, and uniformly applied throughout the corporate limits of the City: Regulations for sexually oriented businesses, on and off-premises signs, the sale of fireworks, home occupations, keeping of animals, condition of property, parking of vehicles, and nuisances that the City may enforce within its extraterritorial jurisdiction.

2.7 Conflicts.

- (a) The Owner acknowledges that he has read and understands the Governing Regulations existing on the Effective Date. In the event of any conflict between this Agreement and the Governing Regulations as amended pursuant to Section 2.1, the Governing Regulations shall control, except where expressly modified by this Agreement.

- (b) In the event of any conflict between the Special Regulations and any of the other Governing Regulations, the Special Regulations shall control.
- (c) 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, 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 by the City in accordance with the Governing Regulations.

3.3 City Inspectors. All inspections shall be performed by an authorized inspector from the City ("City Inspector").

3.4 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 (which approvals shall not be unreasonably withheld or delayed). All Public Infrastructure shall be constructed and installed in compliance with the Governing Regulations and shall be inspected to determine compliance.

3.5 Building Permits. No structure (as defined, by the Governing Regulations "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 Governing Regulations. Except for model homes, 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 if the Public Infrastructure to serve the model homes has been completed and inspected (including fire protection and excluding sewer); 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. 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 Director of Community Development and the City Secretary. All building permits 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 Final Inspections and Certificates of Occupancy. No Structure shall be occupied until a City Inspector has approved a final inspection (as required for residential structures) or issued a certificate of occupancy (as required for non-residential structures), whichever the case may be, certifying that the Structure has been constructed in compliance with the Governing Regulations.

All final inspections and 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).

3.7 Inspection Records and Reports. The City shall maintain a permanent record of all Public Infrastructure inspected, all building permits issued, and all final inspections and certificates of occupancy issued. All such records shall be available for copying by the District. All such records shall be kept in a form approved by the City and as otherwise required by state law. The City shall provide to the District a copy of each Public Infrastructure inspection report within fifteen (15) days after the inspection is performed (including reports that identify deficiencies and subsequent corrective action). The District shall bear the costs of such copies when provided. The City shall provide a monthly report to the District (by the 15th day of each month) identifying building permits and certificates of occupancy issued by the City during the previous calendar month. The report shall include, but not be limited to, the street address of the Structure, the name of the builder, and the name and phone number of a contact person.

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 final 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 reasonable fees and charges applicable to the City's review of plans and specifications for construction of structures and 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 Inspection Fees. Development of the Property shall be subject to the payment to the City of inspection fees (the "Inspection Fees"), according to the fee schedule adopted by the City Council and in effect at the time of inspection.

4.4 Lot Development Fee. An applicant for a building permit shall pay to the City a one time Lot Development Fee of \$3,795.00 per lot prior to the issuance of the building permit. No more than one Lot Development Fee shall be payable per lot. The Lot Development Fee is based upon 1,054 lots within the City's ETJ out of 1,237 lots as shown on the Concept Plan. In the event the total number of lots within the City's ETJ is reduced or increased, the Lot Development Fee shall be recomputed by prorating the sum of \$4,000,000.00 among the remaining number of lots.

4.5 Exclusive Fees. Except for Plat Review Fees, Plan Review Fees, Lot Development Fees, Inspection Fees and other costs referenced herein or universally 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 development of the Property.

ARTICLE V
PUBLIC INFRASTRUCTURE; RETAIL UTILITY SERVICE

5.1 Water Facilities. The Owner (acting on behalf of the District) and the District shall have full responsibility at their sole cost for designing and constructing the on-Property and off-Property water facilities (together with and including any and all easements in or fee simple title to land to provide for and to accommodate such water facilities) that will serve the Property (the "Water Facilities"). The Water Infrastructure shall be constructed in the name of the District such that title to the Water Facilities remains in the District at all times. The Owner or the District must design and construct the Water Facilities in compliance with all statutory and regulatory requirements, including design and construction criteria and specifications of the City, and in compliance with the Governing Regulations. The Water Facilities may be constructed in phases, but shall be adequate to meet City standards for each phase.

5.2 Sewer Facilities. The Owner (acting on behalf of the District) and the District shall have full responsibility at their sole cost for designing and constructing the on-Property and off-Property sewer facilities (together with and including any and all easements in or fee simple title to land to provide for and to accommodate such sewer facilities) that will serve the Property (the "Sewer Facilities") and the cost thereof. The Owner and the District shall be responsible for the construction, including the acquisition of any necessary easements. The Owner or the District must design and construct the Sewer Facilities including: all sewer transmission and distribution system(s) necessary to provide continuous and adequate service to customers in the Property in compliance with all statutory and regulatory requirements, including design and construction criteria and specifications of the City, and in compliance with the Governing Regulations. The Sewer Facilities may be constructed in phases but shall be adequate to meet City standards for each phase. The Sewer Facilities shall be conveyed to the District. The ultimate location of the sewer service shall be to the North Texas Municipal Water District Lower East Fork System.

5.4 Operation of the Sewer Facilities. The District shall acquire the CCN to provide retail sewer service to the Property. The District shall at all times operate and maintain the Sewer Facilities.

5.5 Traffic Impact Analysis.

(a) To ensure that off-site roadways have the necessary added capacity to accommodate the traffic from development of the Property and other developments, Owner at its sole expense shall pay for and have performed a Master Traffic Study to be finalized no later than 60 days following the effective date of this Agreement for purposes of identifying the nature and timing of improvements and their costs for the following existing or planned off-site roadways:

- (1) the intersection of FM 2757 and FM 740; and
- (2) both sides of Kelly Road along the southern boundary of the Property.

(b) Upon acceptance of the Master Traffic Study by the City, this Agreement shall automatically be amended to incorporate the nature, timing and costs of the improvements. No plat applications for the Property shall be filed with or accepted or processed by the City until the

amendments to this section are finalized by the Parties. Owner hereby expressly waives any claims that the City's failure to accept or process plat applications pending amendments to this section constitutes a violation of statutory, contractual or constitutional rights, including any claims for damages; or that filing of any plat application prior to such amendments vests any development rights or results in such plat application being deemed approved under state law by inaction of the City.

(c) Following the initial phase of the project, every preliminary plat application shall be accompanied by an updated traffic impact study prepared at the Owner's expense, or in the event that only a single preliminary plat is initially approved, the updated traffic impact study shall be submitted with each final plat application.

(d) Owner shall make all roadway improvements at such times as indicated based on the approved Master Traffic Study, as such study is updated from time to time upon the filing of preliminary or final plats. In addition, Owner shall be responsible for all costs associated with such roadway improvements. Should the State opt to improve roadways required by the Master Traffic Study, Owner shall be obligated to fund the City's share of such roadway improvement costs, including right-of-way acquisition and utility relocation. Owner may request that the City construct the roadway improvements required by the Master Traffic Study. Upon such request, the City and Owner shall enter into an escrow agreement the terms of which require Owner to escrow funds to pay for and the City to construct the necessary roadways. The amount placed in escrow shall be determined factoring in cost escalations. Should the State opt to improve any roadway that the City and Owner agreed would be constructed by the City, then the City may use the escrow funds to fund the City's share of such roadway improvement costs, including right-of-way acquisition and utility relocation.

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 (the "Term"). The Term shall not be affected by any limited purpose annexation pursuant to Article VII.

ARTICLE VII

JURISDICTIONAL STATUS

7.1 Immunity From Full Purpose Annexation. Except as provided in Section 7.2 , Section 7.5, and Section 7.7 of this Agreement, 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 the Property prior to the expiration of the Term if 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. Upon full purpose annexation of the Property 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. 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.

7.3 Annexation Plan. In the future the City shall have the right, but not the obligation, to include the Property in the City's annexation plan ("Annexation Plan"). The inclusion of the Property in the Annexation Plan shall not alter the Term 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 and consent to annexation, together with a disclosure notice in the form required by the Texas Water Code, as amended.

7.5 Limited Purpose Annexation. Nothing in this Agreement shall prevent the City from annexing any land occupied by a non-residential use that is subject to sales or use taxes for purpose of collecting such taxes. Owner and the District expressly consent to limited purpose annexation of such land, and shall petition for inclusion of land on which such non-residential uses may be initially constructed, as shown on the Concept Plan. Owner shall cause the District to enter into and deliver a Strategic Partnership Agreement incorporating provisions for limited purpose annexation within 90 days of the confirmation election creating the District. In the event the District is not, or does not convert to, a Water Control and Improvement District, and enter into a Strategic Partnership Agreement within 18 months following the canvass of the vote confirming the creation of the District, Owner irrevocably consents to petition the District for disannexation of the commercial land from the District and to full purpose annexation of the commercial land by the City.

7.6 Consent to Inclusion of Land in City's ETJ. OWNER AND ALL FUTURE OWNERS OF THE PROPERTY (INCLUDING END-BUYERS) AND DEVELOPERS IRREVOCABLY AND UNCONDITIONALLY CONSENT TO INCLUSION OF LAND ANNEXED BY THE DISTRICT THAT LIES WITHIN THE EXTRATERRITORIAL JURISDICTION ("ETJ") OF ANOTHER MUNICIPALITY TO INCLUSION OF SUCH TERRITORY WITHIN THE CITY'S ETJ UPON RELEASE BY SUCH MUNICIPALITY OF SUCH ANNEXED LAND AND THE OWNERS OF SUCH LAND AGREE TO PETITION THE CITY FOR INCLUSION OF THE LAND WITHIN THE CITY'S ETJ. THIS AGREEMENT SHALL SERVE AS THE PETITION OF OWNER AND ALL FUTURE OWNERS AND DEVELOPERS TO INCLUSION OF SUCH LAND WITHIN THE CITY'S ETJ.

7.7 Incorporation Petition. 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 43.041 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.

7.8 Limitation on Annexation by District. The District may not add land that is located in the corporate limits or ETJ of the City, or within the ETJ of another City, into the boundaries of the District without the prior written consent of the City, which consent shall be in the sole and absolute discretion of the City. Upon receipt of a petition by a landowner for annexation to the District, the District shall notify the City of such request and provide a copy of the petition to the City. In accordance with Section 9 of the Consent Resolution, the District shall have no authority to issue bonds for the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances that would serve property annexed into the District without the consent of the City.

7.9 Joinder by District. Within 30 days from the date of creation of the District whether by Order of the Kaufman County Commissioners Court or TCEQ, the District shall adopt and enter into a Joinder Agreement (the "Joinder Agreement"), by which the District shall confirm and adopt the applicable terms and provisions of this Agreement. Upon due approval and execution of the Joinder Agreement by the District it shall become a "Party" to this Agreement. Such Joinder Agreement shall be in such form as may be mutually agreeable to the Parties. Similarly, within 30 days from the date of the creation of any new District by division election conducted pursuant to Chapter 51 or 53, Texas Water Code, each Resulting District shall adopt and enter into a Joinder Agreement. The Owner shall use its best efforts to secure the execution of the Joinder Agreement by the District as set forth herein. In the event that the District shall fail to execute the Joinder Agreement within the time periods set forth above, the City shall have the right, at its option, to terminate this Agreement by giving sixty (60) days written notice to the Owner.

7.10 Limitation on Conversion. The District shall not convert to Municipal Utility District without the written consent of the City. In the event that the District shall fail to obtain the written consent of the City prior to conversion to a Municipal Utility District, the City shall have the right, at its option, to terminate this Agreement by giving sixty (60) days written notice to the Owner.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES

8.1 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than 30 days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. Notwithstanding the foregoing, however, a Party shall be in default of its obligation to make any payment required under this Agreement if such payment is not made within five business days after it is due.

8.2 Remedies. If a Party is in default, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or

in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus, and injunctive relief. If Owner, successor or assign is in default, the City may refuse to grant approval for any plat or permit application, that may otherwise comply with this Agreement and State law, on property owned or being developed by the defaulting party and that is subject to the default. The defaulting Party shall be deemed to have waived any vested right acquired either through this Agreement or otherwise under Texas Local Gov't Code Chapter 245 or any other provision of state law conferring such right. Thereafter, the City may enforce, but shall not be obligated to review any future development applications under the Governing Regulations submitted by the Party in default, and may apply some or all of the standards as then may be in effect to any development application submitted by the Party in Default. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL:

- (a) entitle the aggrieved Party to terminate this Agreement, except as provided in Sections 7.9 and 7.10; or
- (b) 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 (for example, the City shall not be entitled to suspend its performance with regard to the development of "Tract X" by "Developer A" based on the grounds that Developer A is in default with respect to any other tract or based on the grounds that any other developer is in default with respect to any other tract); or
- (c) 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
- (d) entitle the aggrieved Party to seek or recover monetary damages of any kind; or
- (e) adversely affect or impair the effectiveness or validity of any consents given by the City in the Consent Resolution to the creation of the FWSD or WCID; or
- (f) adversely affect or impair the current or future rights, powers or authority of the FWSD or WCID (including, but not limited to, the issuance of bonds) or the day-to-day administration of any of such districts; or
- (g) adversely affect or impair the continuation of the ETJ status of the Property and its immunity from annexation as provided by this Agreement; or
- (h) limit the Term.

8.3 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:

- (a) The City waives its governmental immunity from suit and immunity from liability as to any action brought by a Party (or by the District) 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 the District or a Party to this Agreement.
- (b) Nothing in this Agreement is intended to delegate or impair the performance by the City of its governmental functions, and 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 IX

ASSIGNMENT AND ENCUMBRANCE

9.1 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; provided, however, that the District as a condition of assignment shall agree to the provisions of Article VII and Article VIII of this Agreement. 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 15 days after execution. From and after such assignment, the City agrees to look solely 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 15 days after execution, Owner shall not be released until the City receives the assignment. 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.

9.2 Assignment by Owner to Successor Owners. 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. 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 15 days after execution. 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 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.

9.3 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 15 days after execution. If the City approves the Non-Owner Assignee in writing (which approval shall not be unreasonably withheld or delayed if the Non-Owner Assignee can demonstrate, to the reasonable satisfaction of the City, that the Non-Owner Assignee has the financial ability to perform the assigned obligations), 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.

9.4 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.

9.5 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 without the consent of, but with prompt written notice to, the City. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this

Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the City has been given a copy of the documents creating the lender's interest, including Notice (hereinafter defined) information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement and shall be given a reasonable time to do so in addition to the cure periods otherwise provided to the defaulting Party by this Agreement; and the City agrees to accept a cure offered by the lender as if offered by the defaulting Party. A lender is not a Party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial. 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.

9.6 Encumbrance by City. The City shall not collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of its rights, title, or interest under this Agreement without Owner's prior written consent.

9.7 Assignees as Parties. An Assignee shall be considered a "Party" for the purposes of this Agreement.

ARTICLE X **RECORDATION AND RELEASES**

10.1 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 the County. In addition, all assignments to this Agreement shall be recorded in the deed records of the County. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns permitted by this Agreement and upon the Property; however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any End-Buyer except for land use and development regulations that apply to specific lots. For purposes of this Agreement, the Parties agree: (a) that the term "End-Buyer" means any resident, tenant, user, occupant or owner that is not an Owner or Assignee of Owner, as defined in Article IX, or a person or entity who constructs a primary structure on a fully developed and improved lot; (b) 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; and (c) 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, together with all other provisions of Articles II, III and IV of this Agreement.

10.2 Releases. From time to time upon written request of Owner or the District, the City Manager shall execute, in recordable form, a release of this Agreement for a portion of the Property for which the release requirements of this Agreement have been fully met, subject to the continued application of the Governing Regulations.

ARTICLE XI
ADDITIONAL PROVISIONS

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

11.2 Notices. 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: (a) on or after the 10th business day after being deposited with the United States mail service, Certified Mail, Return Receipt Requested with a confirming copy sent by FAX; (b) on the day delivered by a private delivery or private messenger service (such as FedEx or UPS) as evidenced by a receipt signed by any person at the delivery address (whether or not such person is the person to whom the Notice is addressed); or (c) otherwise on the day actually received by the person to whom the Notice is addressed, including, but not limited to, delivery in person and delivery by regular mail or by E-mail (with a confirming copy sent by FAX). Notices given pursuant to this section shall be addressed as follows:

To the City: Attn: Ted Barron
 Mesquite City Manager
 PO Box 850137
 Mesquite, TX 75185-0137
 FAX: 972-216-8109

With a copy to: Attn: Terry Morgan
 Morgan and Associates
 1700 Commerce Street, Suite 1670
 Dallas, Texas 75201
 E-mail: terrym@gucl.com
 FAX: 214-742-6636

To the Owner: Attn: Mehrdad Moayedi
 Forney Acquisitions L.P.
 3901 W. Airport Freeway
 Suite 200
 Bedford, Texas 76021
 FAX: 817.391.2501

With a copy to: Attn: Robert Miklos
1717 Main Street, Suite 2800
Dallas, Texas, 75201
E-mail: Miklosr@hughesluce.com
FAX: 214-939-5849

11.3 Reservation of Rights. This Agreement constitutes a "permit" within the meaning of Chapter 245, Texas Local Government Code.

11.4 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 30 days after the home is occupied. Manufactured homes permitted by this Agreement: (a) are not required to be located on a platted lot; (b) do not require a building permit; (c) do not require a certificate of substantial completion; (d) do not otherwise have to comply with the Governing Regulations; (e) do not require any permit or other approval by the City; and (f) will be removed on the date (the "Removal Date") when final inspections for 120 single-family detached dwellings are issued within the District. Notwithstanding the foregoing, in the event that an occupant of a unit of Manufactured Housing is currently serving as a member of the governing board of the District ("Board") on the Removal Date, such occupant's unit of Manufactured Housing shall not be removed from the District until 90 days after the date of election or appointment to the Board of such occupant's successor. Manufactured homes permitted by this Agreement 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.

11.5 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 Party originally drafted the provision.

11.6 Authority and Enforceability. The City represents and warrants that this Agreement has been approved 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 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 under this Agreement is authorized by Section 212.171 of the Texas Local Government Code.

11.7 Entire Agreement; Severability. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, such unenforceable provision shall be deleted from this Agreement, and the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties. Without limiting the generality of the foregoing, (a) if it is determined that, as of the Effective Date, 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 (b) if it is determined, as of the Effective Date, that any portion of the Property is not within the City's ETJ, this Agreement shall remain in full force and effect with respect to all of the Property that is then within the City's ETJ. If at any time after the Effective Date it is determined that any portion of the Property 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.

11.8 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 11.4, 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.

11.9 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 the County. Venue for any action to enforce or construe this Agreement shall be the County.

11.10 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.

11.11 No Third Party Beneficiaries. Except as otherwise provided in this Section 11.11, 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.

11.12 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance shall give Notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term “force majeure” shall include events or circumstances that are not within the reasonable control of 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.

11.13 Proportionality.

- (a) The Parties agree that the dedication or construction of public improvements, and/or the contributions of development fees, provided for in this Agreement are roughly proportional to the nature and extent of the proposed development of the Property on the City’s public facilities systems. Owner further agrees that the City may expressly rely upon the provisions of this paragraph in any certification under section 212.904, and that a court in determining rough proportionality may consider all of the Property.
- (b) Owner hereby covenants not to sue the City for any claim, or otherwise consent to participate in any action against the City arising from any claim by such party or by its affiliates, alleging that application of the construction, dedication or fee requirements set forth in this Agreement to the development of the Property, or the imposition of conditions to a plat application for a portion of the Property that are consistent with the requirements of the Governing Regulations, are not roughly proportional to the impacts of the development depicted in the Development Plan, including but not limited to any action premised upon Texas Local Gov’t Code Chapter 212.904 or successor statute, or that such application of the construction, dedication or fee requirements violate Texas Local Gov’t Code Chapter 395 or successor statute. Such covenant not to sue touches and concerns the Property, and is a covenant running with the land such that it binds successors in interest and assigns of Owner. As used in this Agreement, the term “affiliate” means any person, corporation, partnership, or other entity controlled by, controlling, or under common control with Owner.
- (c) Should Owner or any affiliate, successor-in-interest, or assign of Owner violate the covenant not to sue contained in this paragraph, the City may either enforce the covenant or pursue the alternative remedies provided for herein. Should a court declare the covenant not to sue unenforceable in whole or in part, Owner agrees that the City may pursue the alternative remedies in subsection (e).
- (d) Should Owner or any affiliate, successor-in-interest, or assign of Owner assert in a court of competent jurisdiction any of the claims set forth in subsection (b), in violation of this Section, such party shall be deemed to have waived any vested

right acquired either through this Agreement or otherwise under Texas Local Gov't Code Chapter 245 or any other provision of state law conferring such right, including any variances granted by the Planning and Zoning Commission on May 27, 2006. Thereafter, the City may enforce, but shall not be obligated to review any future development applications under the Governing Regulations submitted by the Party asserting any of the claims set forth in subsection (b), and may apply some or all of the standards as then may be in effect to any development application submitted by that Party.

- (e) Should Owner or any affiliate, successor-in-interest, or assign of Owner assert in a court of competent jurisdiction any of the claims set forth in subsection (b), in violation of this Section, with respect to development of any portion of the Property, Owner shall indemnify, hold harmless and reimburse the City, its agents, employees, successors, and assigns against all costs, damages, expenses, attorneys fees or other liabilities resulting from claims arising out of any breach of this section 11.13, including but not limited to claims asserting that the City's application of the standards and provisions of this Agreement requiring dedication, construction or contribution of fees for public facilities and services is not roughly proportional to the impacts of development of the Property or any part thereof, including expressly any claims premised on Texas Local Gov't Code section 212.904 or successor statute, or any claims brought pursuant to Texas Local Gov't Chapter 395.

11.14 Future School Sites. Notwithstanding any other provision of this Agreement, the development of a public or private school site within the Property shall require approval of a separate concept plan for the entire property that is dedicated, conveyed or leased to the school or school district.

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

11.16 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.

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

Exhibit A	Depiction of the Property
Exhibit B	Metes and Bounds Description of the Property
Exhibit C	Consent Resolution
Exhibit D	Concept Plan
Exhibit E	Subdivision Regulations
Exhibit F	Special Regulations
Exhibit G	Development Regulations

Executed by Owner and the City to be effective on the Effective Date.

ATTEST:

Judy Womack
Name: Judy Womack
Title: City Secretary

CITY OF MESQUITE, TEXAS

By: Mike Anderson
Name: Mike Anderson
Title: Mayor
Date: 3/2/07

APPROVED AS TO FORM

Liz Lunday
Name: Liz Lunday
Title: Deputy City Attorney

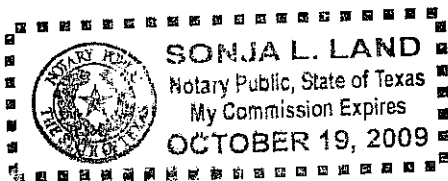
FORNEY ACQUISITIONS L.P.
A Texas limited partnership

By: Pars Investment
Its: General Partner

By: Mohr Moayed
Name: Mehrdad Moayed
Title: President
Date: 3-9-07

STATE OF TEXAS §
COUNTY OF Dallas §

This instrument was acknowledged before me on the 2 day of March, 2007 by
Mike Anderson Mayor of the City of Mesquite, Texas on behalf of said city.



Sonja L. Land
Notary Public, State of Texas

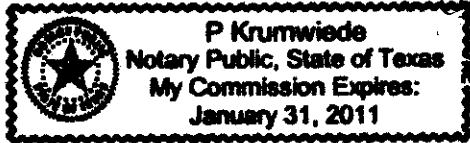
STATE OF TEXAS

COUNTY OF

Tarrant

§
§
§

This instrument was acknowledged before me on the 9th day of March, 2007 by Mehrdad Moayed,
President of Pars Investments on behalf of said Forney Acquisitions
Texas Corp.



P. Krumwiede
Notary Public, State of Texas

Exhibit A Depiction of the Development

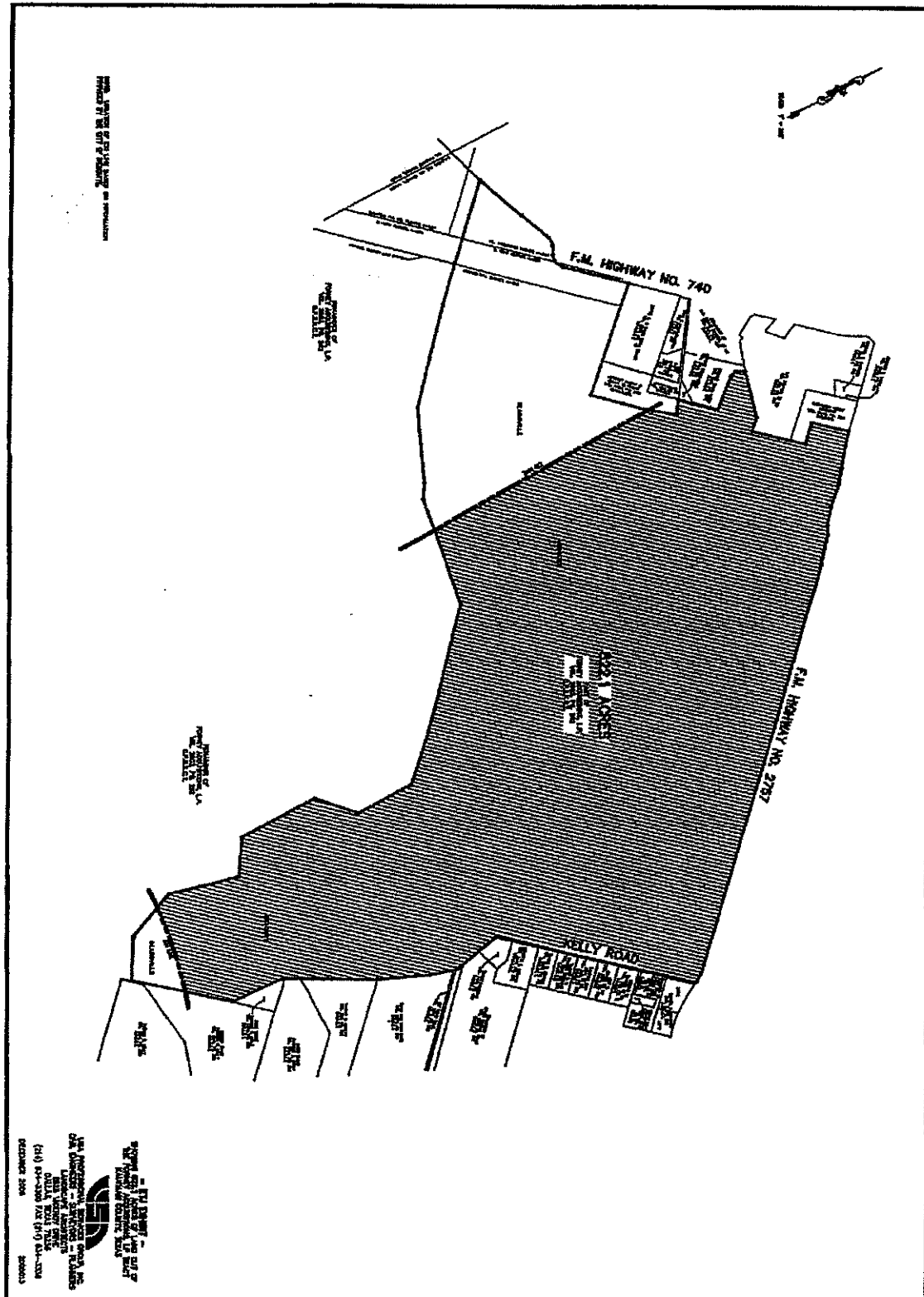


Exhibit B
Legal Description of the Development

FIELD NOTES
Fomey Acquisitions, L.P.
(822.1 Acre Tract)

BEING a tract or parcel of land situated in the Andrew Nail Survey, Abstract No. 355, the V. Herd Survey, Abstract No. 235, and the S.L. Woolridge Survey, Abstract No. 594, Kaufman County, Texas, and being part of that tract of land described in a Deed to Fomey Acquisitions L.P., as recorded in Volume 2603, Page 292 of the Official Public Records of Kaufman County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the Southwesterly line of F.M. Highway No. 2757 (a variable width right-of-way), said point being the most Northerly Northeast corner of a tract of land described in a Deed to Kathlena Kelly Sanders, per Deed recorded in Volume 1348, Page 252 of the Deed Records of Kaufman County, Texas;

THENCE in a Southeasterly direction, along the Southwesterly line of said F.M. Highway No. 2757, and along a non-tangent curve to the left having a central angle of 05 degrees 05 minutes 39 seconds, a radius of 5779.58 feet, a chord bearing of South 49 degrees 06 minutes 43 seconds East, a chord distance of 513.69 feet, and an arc length 513.86 feet to a concrete monument found for corner;

THENCE along the Southwesterly line of said F.M. Highway No. 2757 as follows:

South 51 degrees 25 minutes 16 seconds East for a distance of 215.11 feet to a concrete monument found for corner;

South 42 degrees 32 minutes 14 seconds East for a distance of 309.76 feet to a concrete monument found for corner;

South 50 degrees 16 minutes 50 seconds East for a distance of 254.13 feet to a concrete monument found for corner;

South 62 degrees 55 minutes 48 seconds East for a distance of 125.71 feet to a point for corner;

South 47 degrees 23 minutes 49 seconds East for a distance of 306.97 feet to a concrete monument found for corner;

South 53 degrees 46 minutes 08 seconds East for a distance of 101.75 feet to a concrete monument found for corner;

South 45 degrees 41 minutes 40 seconds East for a distance of 2153.23 feet to a concrete monument found for corner;

South 45 degrees 07 minutes 18 seconds East for a distance of 3376.01 feet to a concrete monument found for corner at the beginning of a curve to the right;

Southeasterly, along said curve having a central angle of 13 degrees 33 minutes 53 seconds, a radius of 1095.92 feet, a chord bearing of South 38 degrees 20 minutes 22 seconds East, a chord distance of 258.85 feet and an arc length of 259.46 feet to a point for corner in the center of Kelly Road, said point being the most Northerly East corner of the above cited Fomey Acquisitions tract;

THENCE South 44 degrees 15 minutes 13 seconds West departing the Southwesterly line of said F.M. Highway No. 2757, along the Southeasterly line of said Fomey Acquisitions tract, and along

the center of said Kelly Road, for a distance of 2543.09 feet to a 5/8" iron rod found for corner at an angle point in said road;

THENCE South 12 degrees 26 minutes 22 seconds East along the center of said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 638.25 feet to a 1/4" iron rod found for corner at an angle point in said road;

THENCE South 18 degrees 10 minutes 39 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 350.54 feet to a 1/4" iron rod found for corner at an angle point in said road;

THENCE South 25 degrees 07 minutes 52 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 642.84 feet to a 1/2" iron rod found for corner at an angle point in said road;

THENCE South 31 degrees 18 minutes 55 seconds West along the center of said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 1148.50 feet to a 60d nail found for corner at an angle point in said road;

THENCE South 02 degrees 53 minutes 11 seconds West along said Kelly Road, and along the Southeasterly line of said Fomey Acquisitions tract, for a distance of 696.69 feet to a point for corner in the Northwesterly line of a tract of land described as the Second Tract in a Deed to Patrick C. Kelly, as recorded in Volume 1348, Page 265 of the Deed Records of Kaufman County, Texas;

THENCE South 43 degrees 34 minutes 26 seconds West along the Northwesterly line of said Patrick C. Kelly tract, for a distance of 810.80 feet to a point for corner at the beginning of a non-tangent curve to the left;

THENCE in a Northwesterly direction, along said non-tangent curve to the left having a central angle of 12 degrees 45 minutes 15 seconds, a radius of 5280.00 feet, a chord bearing of North 77 degrees 00 minutes 40 seconds West, a chord distance of 1172.90 feet and an arc length of 1175.33 feet to a point for corner;

THENCE North 22 degrees 07 minutes 18 seconds West for a distance of 229.66 feet to a point for corner;

THENCE North 15 degrees 31 minutes 26 seconds East for a distance of 897.27 feet to a point for corner;

THENCE North 56 degrees 00 minutes 43 seconds West for a distance of 522.03 feet to a point for corner;

THENCE North 00 degrees 17 minutes 14 seconds West for a distance of 1020.90 feet to a point for corner;

THENCE North 50 degrees 02 minutes 20 seconds East for a distance of 580.28 feet to a point for corner;

THENCE North 00 degrees 40 minutes 22 seconds West for a distance of 734.00 feet to a point for corner;

THENCE North 43 degrees 59 minutes 00 seconds West for a distance of 733.19 feet to a point for corner;

THENCE North 46 degrees 57 minutes 11 seconds West for a distance of 1764.06 feet to a point for corner;

THENCE North 78 degrees 58 minutes 22 seconds West for a distance of 1035.02 feet to a point for corner;

THENCE North 01 degrees 09 minutes 09 seconds West for a distance of 3089.05 feet to a point for corner in the Southeasterly line of a tract of land conveyed to Jeffrey Ralph Hughs and Sonja W. Hughs, per Deed recorded in Volume 1828, Page 260 of the Official Public Records of Kaufman County, Texas;

THENCE North 39 degrees 39 minutes 19 seconds East along the Southeasterly line of said Hughs tract, for a distance of 345.05 feet to a capped 5/8" inch iron rod found for corner at the most Easterly corner of same;

THENCE North 53 degrees 07 minutes 28 seconds West along the Northeasterly line of said Hughs tract, for a distance of 198.08 feet to a capped 5/8" inch iron rod found for corner at the most Easterly Northeast corner of same, said point also being the most Southerly corner of a tract of land conveyed to George Brian Holy, per Deed recorded in Volume 1194, Page 822 of the Deed Records of Kaufman County, Texas;

THENCE North 44 degrees 58 minutes 09 seconds East along the Southeasterly line of said Holy tract, and along the Southeasterly line of another tract of land conveyed to George Brian Holy, per Deed recorded in Volume 1131, Page 813 of the Deed Records of Kaufman County, Texas, for a distance of 497.28 feet to a point for corner;

THENCE along the Northeasterly line of said Holy tract recorded in Volume 1131, Page 813 as follows:

North 40 degrees 51 minutes 02 seconds West for a distance of 461.48 feet to a fence corner post for corner;

North 22 degrees 24 minutes 05 seconds West for a distance of 97.80 feet to a fence corner post for corner;

North 34 degrees 10 minutes 55 seconds East for a distance of 111.31 feet to a fence corner post for corner at the most Northerly Southeast corner of said Holy tract, said point also being in the Southwesterly line of a tract of land conveyed to D.P. Newton, et ux, per Deed recorded in Volume 616, Page 566 of the Deed Records of Kaufman County, Texas;

THENCE South 73 degrees 11 minutes 17 seconds East along the Southwesterly line of said Newton tract, for a distance of 633.21 feet to a wooden monument found for corner;

THENCE South 43 degrees 23 minutes 12 seconds East along the Southwesterly line of said Newton tract, for a distance of 194.48 feet to a 3/8" inch iron rod found for corner at the most Southerly corner of same;

THENCE North 44 degrees 08 minutes 49 seconds East along the Southeasterly line of said Newton tract, passing a 3/8" iron rod found for the most Southerly Northeast corner of same and the most Southerly corner of the above cited Kathlena Kelly Sanders tract at a distance of 494.03 feet, and continuing along the Southeasterly line of said Sanders tract for a total distance of 683.75 feet to a 1/2" inch iron rod found for corner at the most Southerly Northeast corner of said Sanders tract;

THENCE North 45 degrees 18 minutes 32 seconds West along the Northeasterly line of said Sanders tract, for a distance of 297.17 feet to a point for corner;

THENCE North 44 degrees 09 minutes 32 seconds East along the Southeasterly line of said Sanders tract, for a distance of 464.46 feet to the **POINT OF BEGINNING**, and containing 822.1 acres of land.

Exhibit C
Consent Resolution

RESOLUTION NO. 03-2007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, CONSENTING TO THE CREATION OF A FRESH WATER SUPPLY DISTRICT OR A WATER CONTROL AND IMPROVEMENT DISTRICT ENCOMPASSING APPROXIMATELY 822.1 ACRES OF LAND LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF MESQUITE; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City of Mesquite, Texas (the "City"), is a home rule municipal corporation of the State of Texas; and

WHEREAS, Forney Acquisitions, L.P., a Texas limited partnership (the "Owner") is the sole owner of approximately 822.1 acres of land located in the extraterritorial jurisdiction (the "ETJ") of the City, and described by metes and bounds on Exhibit "B" and depicted on Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, Section 42.042 of the Texas Local Government Code states that an applicant may request a city's consent to create a political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways or drainage within the city's ETJ; and

WHEREAS, on December 14, 2006, the Owner filed a "Petition Requesting Consent to the Creation of a Fresh Water Supply District" with the City Secretary's Office, requesting the City's consent to the creation of the Polo Ridge Fresh Water Supply District of Kaufman County (the "FWSD") to cover the Property, a copy of which petition is attached as Exhibit "C," which provides in part that the FWSD shall be organized under the terms and provisions of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 51, Texas Water Code, as amended; and

WHEREAS, on January 3, 2007, the Owner filed a "Petition Requesting Consent to the Creation of a Water Control and Improvement District" with the City Secretary's Office, requesting the City's consent to the creation of the Polo Ridge Fresh Water Control and Improvement District of Kaufman County (the "WCID," and together with the FWSD, the "District") to cover the Property, a copy of which petition is attached as Exhibit "D," which provides in part that the WCID shall be organized under the terms and provisions of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 53, Texas Water Code, as amended; and

WHEREAS, the Property lies wholly within the ETJ of the City of Mesquite, Texas, and no portion of the Property lies in the corporate limits or ETJ of any other town or city; and

WHEREAS, the Owner has no intention to create a Municipal Utility District on the Property; and

WHEREAS, the Owner has no intention to petition the District following creation for annexation of any other land other than the Property owned or controlled by the Owner; and

WHEREAS, the City and the Owner intend to execute an agreement entitled "Polo Ridge Development Agreement" regarding the development of the Property, a true and correct copy of which is attached hereto as Exhibit "E" (referred to herein as the "Development Agreement").

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

SECTION 1. That the City of Mesquite, Texas (the "City"), irrevocably and unconditionally consents to the creation of the Polo Ridge Fresh Water Supply District of Kaufman County (the "FWSD") and to the creation of the Polo Ridge Water Control and Improvement District of Kaufman County (the "WCID," and together with the FWSD, the "District"), a District covering the approximately 822.1 acres of land or any portion thereof (the "Property"), which District is to be organized (as set forth in the Petitions) under the terms and provisions of Article III, Section 52, Article XVI, Section 59, and the applicable provisions of Chapters 49, 51 or 53, Texas Water Code, as amended, and the general laws of the State of Texas. The Mayor of the City is hereby authorized and directed to execute from time to time such additional documents, if any, that may be required to evidence the City's consent and to fulfill the purposes for which the consent is given, including but not limited to, the execution by the Mayor on behalf of the City of such further documents or instruments as may be requested from time to time by the owners of the Property, the District, the Texas Commission on Environmental Quality (the "TCEQ"), Kaufman County, the Texas Attorney General (the "AG") or any other governmental agency or political subdivision having jurisdiction over the District or any bonds issued by the District or as may be required by any special legislation adopted from time to time by the Texas Legislature and affecting the District (the "Special Legislation").

SECTION 2. That the District shall have the right to exercise all rights, powers and authority granted to a fresh water supply district by the laws of the State of Texas, as amended, by any Special Legislation, by Kaufman County and under the rules of the TCEQ or any other governmental agency having jurisdiction over the District.

SECTION 3. That the City also consents to the District being granted the authority to divide into multiple districts with the same powers as the original District and including the authority to enact boundary adjustments among the districts in the form of exclusions and additional of land within the Property.

SECTION 4. That the City further consents to the conversion from time to time of the FWSD to a WCID, and of the WCID to a FWSD pursuant to the authority of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution and Texas Water Code, Chapters 49, 51 and 53, Texas Water Code, as amended; provided, however, that the City

expressly does not consent hereby to the creation of a Municipal Utility District, whether upon original petition of the Property Owner or upon conversion of the FWSD or WCID.

SECTION 5. That the District may annex additional territory beyond the Property only with the prior written consent of the City that may be withheld for any reason.

SECTION 6. That the District or Forney Acquisitions, L.P., a Texas limited partnership (the "Owner"), as appropriate, will design, construct and install water, sewer, drainage, roadway and other public infrastructure (the "Public Infrastructure") to serve the Property: (a) at no cost or expense to the City; (b) in accordance with the "Governing Regulations" as defined in the Polo Ridge Development Agreement (the "Development Agreement"); and (c) in accordance with the applicable requirements of the Texas Water Code, and the rules, regulations and policies of the TCEQ.

SECTION 7. That the District or the Owner, as appropriate, will design, construct and install the Public Infrastructure using funds advanced to the District by the Owner; and that the District will thereafter reimburse the Owner for such advances using the proceeds of bonds issued by the District and secured solely by 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 and by the Texas AG.

SECTION 8. That, except as otherwise provided in the Development Agreement, the City shall not annex the District into its corporate limits for full purposes for 15 years after the Development Agreement's effective date (as defined in the Development Agreement, the "Term"). The City shall have the right, but not the obligation, to full purpose annex the Property prior to the expiration of the Term if construction of the Public Infrastructure to serve the full development of the Property is complete and the District has issued bonds to reimburse the cost of the Public Infrastructure, or as otherwise stated in the Development Agreement.

SECTION 9. That, pursuant to the authority of Section 54.016(e) of the Texas Water Code, the consents granted by this resolution restrict the purposes for which the District may issue bonds; namely for the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances that serve the Property and any additional land annexed into the District with the consent of the City. The District shall have no authority to issue bonds for the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances that would serve property annexed into the District without the consent of the City.

SECTION 10. That the consents granted by this resolution are effective immediately, are unconditional and irrevocable and shall not be withdrawn or modified in any way by the City by action of the City Council without the prior written approval of the Owner. The consents granted by this resolution shall be effective to fully satisfy all requirements of the

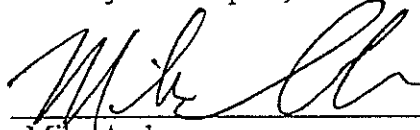
Texas Water Code, as amended, the Texas Local Government Code, as amended, the rules, regulations and policies of the TCEQ, or any rules, regulations or policies of the Texas AG.

SECTION 11. That this consent resolution shall apply to each FWSD or WCID created by the division of the District.

SECTION 12. That the above and foregoing premises to this resolution are true and correct and are incorporated herein and made a part hereof.

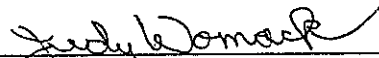
SECTION 13. That this resolution shall take effect immediately upon the Owner's execution of the Development Agreement.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 5th day of February, 2007.



Mike Anderson
Mayor

ATTEST:



Judy Womack
City Secretary

APPROVED



B. J. Smith
City Attorney

1. What is the purpose of the study?
 2. What are the research questions?
 3. What are the hypotheses?
 4. What are the variables?



Exhibit E
Subdivision Regulations

MESQUITE SUBDIVISION ORDINANCE

ADOPTED BY
Ordinance 1136, September 4, 1973

AMENDED BY

Ord. 1250	6-16-75
Ord. 1334	10-04-76
Ord. 2283	3-03-86
Ord. 2331	9-15-86
Ord. 2351	10-20-86
Ord. 2355	11-03-86
Ord. 2443	7-06-87
Ord. 2721	1-21-91
Ord. 3323	9-20-99
Ord. 3392	9-19-00
Ord. 3426	4-16-01
Ord. 3523	9-16-02
Ord. 3540	11-4-02
Ord. 3573	4-21-03

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ORDINANCE NO. 1136

AN ORDINANCE OF THE CITY OF MESQUITE PROVIDING SUBDIVISION REGULATIONS FOR THE PLATTING AND DEVELOPING OF SUBDIVISIONS WITHIN THE LIMITS OF THE CITY OF MESQUITE AND FOR SUCH OTHER AREAS AS MAY BE AUTHORIZED BY VCTA Local Government Code, Section 212.001 et.seq.; PROVIDING A SEVERABILITY CLAUSE; DECLARING AN EMERGENCY; AND PROVIDING THE EFFECTIVE DATE.

WHEREAS, the present rules and regulations of the City of Mesquite regulating the platting and developing of subdivisions are inadequate to protect the public interest; and,

WHEREAS, after holding public hearings, it is the opinion of the City Council of the City of Mesquite that the following rules and regulations should be adopted; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE:

SECTION 1. That the following rules and regulations be, and the same are, hereby adopted as the Subdivision Regulations for the City of Mesquite.

MESQUITE SUBDIVISION REGULATIONS

ARTICLE I

INTERPRETATION AND PURPOSE

(Ord. 3323, 9-20-99)

A. INTERPRETATION

In the interpretation and application of the provisions of these regulations, it is the intention of the City Council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions in the City of Mesquite and, where other ordinances of the City are more restrictive in their requirements, such other ordinances shall control.

B. PURPOSE

The procedures and standards for the development, layout and design of subdivisions of land are intended to: (Ord. 2721, 1-21-91)

1. Promote and develop the utilization of land in a manner to assure the best possible community environment in accordance with, the Comprehensive Plan of the City of Mesquite.
2. Guide and assist the developers in the correct procedures to be followed and to inform them of the standards which shall be required.
3. Protect the public interest by supervising the location, design, class and type of streets, sidewalks, utilities, and essential areas and services required.
4. Protect and promote the health, safety and general welfare of the people.

C. JURISDICTION

These regulations shall apply to all subdivision of land located within the corporate limits of the City of Mesquite and within the City's extraterritorial jurisdiction, as provided by law, and to all subsequent additions of land to the corporate limits or the extraterritorial jurisdiction of the City.

ARTICLE II

DEFINITIONS

For the purpose of this ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, and not discretionary.

ALLEY: A minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

BUILDING SETBACK LINE: The line which defines the minimum horizontal distance between a building and the adjacent street line.

CITY ENGINEER:__ The City Engineer of the City of Mesquite or his authorized representative.

CITY MANAGER: The City Manager of the City of Mesquite or his authorized representative.

CITY PLANNER: The City Planner of the City of Mesquite or his authorized representative.

COMMISSION: The Planning and Zoning Commission of the City of Mesquite.

COUNCIL: The City Council of the City of Mesquite.

DEVELOPMENT REVIEW COMMITTEE: A committee comprised of employed personnel of the City of Mesquite assigned the responsibility for the review of plats, site plans, and building plans submitted for approval prior to construction or development. This Committee can make certain recommendations to the Commission and the Council.

DEVELOPER: The term developer shall include any person, partnership, firm, association, or corporation who acts to subdivide or develop land by platting; place or cause to have utilities placed in or on the ground; and/or construct or cause to have permanent structures constructed.

DIRECTOR OF COMMUNITY DEVELOPMENT: The Director of Community Development of the City of Mesquite or his authorized representative.

EASEMENT: A right granted for the purpose of limited public or semi-public use across, over, or under private land.

ENGINEER: A professional engineer registered in the State of Texas and experienced in Civil Engineering.

FLOOD PLAIN: The relatively flat low lands adjoining the channel of a river, stream, or watercourse, which has been or may be covered by flood water. Any land covered by the water of a one hundred (100) year frequency storm is considered in the flood plain and must comply with the engineering criteria found in the City of Mesquite Comprehensive Drainage Ordinance and subsequent revisions.

GREEN BELT: A piece of land, normally relatively narrow in comparison to its length, reserved to provide for both passive and active recreation, to function as a corridor connecting park areas, to serve as a buffer between various land uses, or to provide for open space. It frequently utilizes flood plains along creeks and is often left in its natural state.

LOT: Land occupied or to be occupied by a building and accessory building and including such open spaces as are required by ordinances of the City and having its principal frontage on a public street or officially approved place.

LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded with the County Clerk, Dallas or Kaufman County, as applicable., Dallas County, or a parcel of land, the deed for which was recorded with the County Clerk, Dallas or Kaufman County, as applicable., Dallas County.

OPEN SPACE: That part of any lot or tract that is used for recreational purposes, both passive and active, but not including areas used for parking or maneuvering of automobiles, or drives or approaches to and from parking areas. Flood plains, or 50% of any standing surface water, may be considered as open space, provided such open space is contiguous and part of the platted lot and is maintained and utilized in the same manner and to the same degree as all other open space areas as designated on the site plan as filed with the building permit application. (Ord. 1250, 6-16-75)

PLAT: A complete and exact subdivision plan submitted to the Commission for approval and if approved, shall be filed with the County Clerk, Dallas or Kaufman County, as applicable., Dallas County.

STANDARDS: The official maps, plans, ordinances, and resolutions of the City of Mesquite.

STREETS: The term "street" is a way for vehicular traffic, whether designated street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or otherwise designated.

ARTERIAL STREETS: Provide routes to move large volumes of traffic of a local nature to the freeway or expressway systems. Interchange of traffic **from freeway systems** to the local streets occur via the arterial street.

COLLECTOR STREETS: Pass through neighborhoods collecting traffic from local streets and distributing the traffic to arterial streets. These streets also serve neighborhood facilities.

RESIDENTIAL STREETS: Provide the basic function of serving private property with access to other streets.

CUL-DE-SAC: Is a short minor street having but one (1) vehicular access to another street and terminated by a vehicular turn-around.

DEAD-END STREET: Is a street, other than a cul-de-sac, with only one (1) outlet.

SUBDIVISION: The division of a parcel of land into two or more lots or tracts, or the creation from said parcel of one or more lots or record, for the purpose of transfer of ownership; for dedication of streets, alleys, or easements; for use for building development; or for the assimilation of separate, contiguous tracts into one or more tracts under common ownership. This definition includes resubdivision, and shall relate to either the process of subdividing or to the land subdivided, as appropriate to the context. (Ord. 3323, 9-20-99)

SUBDIVIDER: Any person or agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. in any event, the term "subdivider" shall be restricted to include only the owner, equitable owners, or authorized agent of such owner or equitable owner of land sought to be subdivided.

SURVEYOR: A Registered State Land Surveyor or a Registered Public Surveyor, as authorized by the state statutes to, practice the profession of surveying.

UTILITY EASEMENT: An interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over, or under private land, together with the right to enter thereon with machinery, vehicles, and people necessary for the maintenance of said utilities.

ARTICLE III
PLATTING PROCEDURES

A. PRE-APPLICATION

The subdivider shall avail himself of the advice and assistance of the City Staff before preparing the preliminary plat and formal application for approval.

B. PROCEDURE FOR APPROVAL OF PRELIMINARY PLAT

(1) On reaching conclusions, informally, as recommended above, regarding a general program and objectives, the subdivider shall prepare a preliminary plat, with improvement plans and other supplementary material as applicable in other sections of these regulations.

(2) Sixteen (16) copies of the preliminary plat and supplementary materials specified and printed on good grade ozalid process paper or direct black and white paper shall be submitted by the developer, his engineer, or some other authorized representative of the developer to the City of Mesquite with the filing fee as provided herein and written application for approval at least twelve (12) days prior to the Commission meeting at which the plat is to be considered.

Copies or prints of the proposed subdivision drawn on sheets a maximum size of twenty-four (24) inches by thirty-six (36) inches and drawn to scale of one hundred (100) feet or fifty (50) feet to the inch (one inch equals one hundred feet or one inch equals fifty feet) shall be submitted in the number specified hereinabove. In cases of large developments which exceed the dimensions of the sheet of one hundred (100) foot scale, preliminary plats may be two hundred (200) feet to the inch (one inch equals two hundred feet). The sixteen (16) copies or prints of the proposed subdivision shall show the following:

a. Boundary lines, bearings, and distances sufficient to locate the exact area proposed for the subdivision.

b. Name and location of all adjoining subdivisions or large tracts shall be drawn to the same scale and shown in dashed lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys, lots, and all other features that may influence the layout of the development of the proposed subdivision. Adjacent unplatted land shall show property lines, owners of record, and all existing conditions and features, such as drainage channels, which may influence or have bearing on the development of the proposed subdivision.

c. The location and width of all streets, alleys, and easements, existing or proposed, within the subdivision. In case of easements, a written statement as to the easement use shall be included on the plat. All drainage structures, public and private, must be placed in a drainage easement. (Ord. 3426, 4-16-03)

d. Primary control points or descriptions, and ties to such control points to which all dimensions, angles, bearings, block numbers, and similar data are referred.

The plat must show two property corners with grid coordinates. Grid coordinates must be referenced from a GPS point. Grid coordinates must be in North American Datum (NAD) 83, Texas State Plane, North Central FIPS Zone 4202. The plat must hold grid bearings. Bearings may not be from an assumed North. Distances on the plat will be surface distances.

e. The location of all existing property lines, buildings, storm drainage facilities, water and sanitary sewer mains, gas mains, electrical power lines, telephone lines, cable television, survey abstract lines, municipal corporation lines, or any other existing features within the area proposed for the subdivision.

f. Proposed subdivision of property, including lot and block numbers.

g. The proposed building lines shown in conformance with the Zoning Ordinance or provisions herein.

h. The title under which the proposed subdivision is to be recorded, the name and address of owner with name of the Registered Land Surveyor, or Registered Professional Engineer platting the tract.

i. Sites, if any, to be reserved or dedicated for parks, playgrounds, schools, or other public uses.

j. Scale, north arrow, date, and other pertinent data.

k. Each subdivision shall be prepared on a topographical base map showing contours at intervals not greater than five (5) feet. Any subdivision which in the opinion of the City Planner would be affected by the topographical features of the terrain shall also show contours at two (2) foot intervals. All topographical maps shall be based on sea-level data.

1. All physical features of the property to be subdivided, including location and size of all watercourses, ravines, bridges, culverts, existing structures, drainage area in acres or areas draining into subdivisions, and other features pertinent to the subdivision. The outline of wooded areas or the location of important individual trees may be required.

The ultimate and FEMA 100-year floodplain and FEMA floodway boundaries must be shown. Also, finished floor elevations for any structure, including garages (2 feet above the ultimate 100-year water surface elevation) must be shown for all lots within or adjacent to the 100-year floodplain. (Ord. 3426, 4-16-03)

m. Vicinity map showing the location and the relationship of the property to be subdivided with other developments in the area.

(3) The following notice shall be placed on the face of each preliminary plat by the developer:
"Preliminary Plat - For Review Purposes Only"

(4) The Development Review Committee shall make a study of the plat and the City Planner shall present a written report to the Commission before final action on the plat.

(5) Following review of the preliminary plat and other material submitted for conformity thereof to these regulations, and negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made, the Commission shall, within thirty (30) days after the filing of such preliminary plat, act thereon as submitted, or modified, and if approved, the Commission shall express approval and state the conditions of such approval or if disapproved, shall express disapproval and reasons.

(6) The action of the Commission shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions required by the Commission. Action of the Commission shall be certified by the City Planner. One (1) copy shall be returned to the subdivider and the other retained in the files of the City of Mesquite.

(7) Approval of a preliminary plat by the Commission shall serve as a guide to the installation of streets, water, sewer, and other required improvements and utilities and in the preparation of the final plat.

(8) Approval of a preliminary plat shall expire after one (1) year from date of approval unless a final plat has been filed and accepted by the Commission. If no development or change in development requirements has occurred within that one (1) year period which would affect the proposed plat, the Commission may extend its approval for another year. No filing fee is required for such reapproval.

C. PROCEDURE FOR APPROVAL OF FINAL PLAT

(1) The final plat shall conform to the preliminary plat as approved incorporating all changes, directions, and additions imposed by the Commission. The final plat may be withheld from filing until detailed engineering plans for construction have been approved by the City of Mesquite.

(2) If so desired by the developer, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and develop, provided, however, that such portion conforms to all the requirements of these regulations.

(3) Engineering plans showing details of streets, sidewalks, alleys, culverts, bridges, storm sewers, drainage channels, water mains, sanitary sewers, fire hydrants and fire lanes in compliance with the General Basic Schedule of the State Board of Insurance, and other engineering data of the proposed subdivision shall be submitted to the City Engineer. Such plans shall be prepared by a professional engineer registered in the State of Texas and experienced in Civil Engineering and shall conform to the design standards established by the City of Mesquite.

The final plat may not be released for filing until detailed engineering plans have been approved by the City Engineer.

(4) Upon receipt of the final plat, accompanied by a final filing fee as prescribed herein, the City Planner shall check the plat to ascertain compliance with these regulations and the action of the Commission. When the copy of the final plat has been checked and found to meet all general requirements and design standards, the developer or his engineers shall submit sixteen (16) copies of the final plat to the City Planner. The City Planner shall stamp on each of the sixteen (16) copies the certificate of approval of the Commission attested by the Chairman. '

At the time the developer files the final plat with the City Planner, the City Tax Assessor shall sign a certificate showing that all taxes have been paid on the tract to be subdivided and that no delinquent taxes exist against the property.

The developer or his authorized agent shall take the final plats to the County Clerk, Dallas or Kaufman County, as applicable., Dallas County, for filing within thirty (30) days of the date of the final approval, otherwise the approval of the Commission becomes invalid. Fourteen (14) copies of the recorded final plat shall be returned immediately to the City Planner.

(5) All final plats shall be submitted on sheets twenty-four (24) inches by thirty-six (36) inches and to a scale of not less than one hundred (100) feet to the inch or longer. When more than one sheet is required to encompass the subdivision, an index sheet (24 inches by 36 inches) shall be filed showing the entire subdivision together with the complete dedication, attests, dates, titles, and seals on one (1) sheet.

An electronic version of the final plat is required at the time the recorded plat is returned to the Planning and Zoning division office. The electronic file will be a ".dwg" file composed in Auto Cad, and version. The electronic version must be submitted on CD-ROM. If any revisions are made to the final plat, an updated electronic copy of the final plat must be forwarded. (Ord. 3426, 4-16-03)

(6) The exterior boundary of the subdivision shall be indicated by a distinctive dashed line and corner markers by individual symbols.

(7) The length and bearing of all straight lines, radii, arc lengths, tangent lengths, and central angles of all curves shall be indicated along the boundary line of the subdivision and each block. All dimensions along the lines of each lot shall be shown. The curve data pertaining to block or lot boundary may be placed in a curve table at the base of the plat and prepared in the following manner:

CURVE TABLE

Curve Number	Description	Elements	Outer Property Line	Center Line	Inner Property Line
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(8) The names of all adjoining subdivisions, the dimensions of all abutting lots, lot and block numbers and accurate reference ties to courses and distances of at least two (2) recognized land corners shall be shown if no existing legally platted subdivision is adjacent to the subject property.

(9) The names and accurate location of all streets adjoining, abutting, or within not more than five hundred (500) feet of the subdivision shall be shown unless a platted subdivision exists adjacent to the property under consideration.

(10) The location and dimension of any utility easement adjoining or abutting the subdivision or proposed within the subdivision shall be shown.

(11) The description and location of all survey monuments placed in the addition or subdivision shall be shown. In all subdivisions and additions, corners shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than three-fourths (3/4) inch in diameter and twenty-four (24) inches deep flush with the top of the sidewalk. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half (1/2) inch and eighteen (18) inches deep set flush with the top of the sidewalk. In addition, curve point markers shall be established of the same specification as lot corners. All lot corners shall be installed prior to filing of the final plat.

(12) The final plat shall show a title including the name of the addition or subdivision, the name of the owner and engineer or surveyor, scale and location of subdivision with reference to original land grant or survey and abstract number and a north point with true or magnetic north.

(13) A certificate of ownership giving a metes and bounds description of the property, dedication of all streets, alleys, easements, parkways, and parks where dedicated to the City and dedication or reservation of all easements and drainage ways to the public use, signed and acknowledged before a Notary Public by the owner of the land, the Maintenance Agreement for Drainage Facilities, shall appear on the face of the plat or index sheet of the plats where two (2) or more sheets are required.

(14) The certificate of the Registered Professional Engineer or Registered Public Land Surveyor who surveyed, mapped, and monumented the land, which certificates shall be attested before a Notary Public, shall be placed on the face of the plat or on index sheets of the plats together with the seals of the engineer or surveyor and Notary Public. Printed seals and signatures are prohibited except for extra prints that the owner or developer may need certified for other purposes. The certificates of the engineer or surveyor to be placed on the plat shall be as follows:

KNOWN ALL MEN BY THESE PRESENTS:

That I, ... do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed, under my personal supervision, in **accordance with** the Subdivision Regulations of the City of Mesquite, Texas.

D. PROCEDURE FOR SHORT FORM PLAT

(1) A preliminary plat may be designated a "Short Form Plat" and may follow the abbreviated preliminary approval procedures if it falls within the following criteria:

a. The land in question shall be bounded by legally dedicated streets) railroads, and alleys or by legally subdivided land and shall not exceed five (5) acres.

b. The subdivision or use of the land shall not necessitate any appreciable alteration of utilities installation, streets, alleys or building setback lines.

c. The tracts so subdivided shall conform in size and shape to the lots in the vicinity.

d. The plat shall not involve resubdivision or replatting in a single family or duplex subdivision in which some or all of the lots have been sold.

(2) The DRC shall be authorized to review and grant preliminary plat approval and to state conditions for such approval for any designated "Short Form Plat". Such "Short Form Plat" shall be reviewed by the Planning and Zoning Commission only if the applicant is dissatisfied with the DRC determinations and appeals the staff decision to the Commission.

(3) The DRC shall also be authorized to review requests for waiver of required sidewalks and/or alleys on "Short Form Plats" in accordance with the following criteria:

a. A sidewalk or alley shall be required unless a connection need (either planned or existing) is clearly shown not to exist.

b. If alley is not required, provisions must be made for service access to the property, including a provision for public utilities, sanitation services, and off-street loading, unloading and parking for the lots proposed.

c. If the applicant is dissatisfied with the Staff determination, he may appeal the decision to the Planning and Zoning Commission.

(4) A "Short Form Plat" shall comply with all standards, regulations and requirements as set out herein for preliminary plats, except that the plat may be approved by the DRC as stated.

(5) Final plat procedures for a "Short Form Plat" shall be the same as set out herein for any final plat. (Ord. 2355, 11-3-86)

E. IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF SUBDIVISION BY THE CITY

(1) Survey Monuments:

a. Survey monuments as prescribed hereinabove shall be placed at all comers as required hereinabove.

(2) Street and Alley Improvements:

a. The developer shall prepare or have prepared and submit two (2) copies of the complete engineering plans of streets, alleys, curbs and gutters, storm sewers and drainage structures, water and sanitary sewer improvements for the area covered by the final plat. The developer shall have these plans prepared by a Professional Engineer, registered in the State of Texas, and experienced in Civil Engineering, subject to approval by the City of Mesquite. The City Engineer shall review the plans and specifications and if approved, shall request three (3) additional sets of plans for stamping approval. Two (2) sets of plans will be returned to the developer. If not approved, one (1) set shall be marked with the objections noted and returned to the developer for correction.

After approval of the plat, plans, and specifications, the developer shall cause his contractor to install the facilities in accordance with the approved plans and specifications. The developer shall cause his engineer to design, stake, and supervise the construction of such improvements and shall cause his contractor to construct the said improvements in accordance with these regulations. The City Engineer shall inspect the installation of the improvements.

Acceptance of the completed improvements by the City will be after receipt of a one (1) year maintenance bond from each separate contractor in the amount of ten (10) percent of the contract price, three (3) sets of "AS BUILT" plans for each project, and a letter stating the contractor's compliance with these regulations.

b. Residential streets shall be paved twenty-seven (27) feet wide from back-of-curb to back-of-curb. Collector streets shall be paved thirty-seven (37) feet wide from back-of-curb to back-of-curb.

c. Residential alleys shall be paved twelve (12) feet wide within eighteen (18) feet right-of-way for front or rear entry.

(3) Storm Drainage:

a. An adequate storm sewer system shall be installed in accordance with the Comprehensive Drainage Ordinance, and all subsequent revisions. Areas subject to flood conditions as established by the City of Mesquite will not be considered for development until adequate drainage has been provided. (Ord. 2351, 10-20-86)

(4) Water:

a. All subdivisions shall be provided with an approved water system designed and constructed in accordance with the City's water distribution plan and "Water and Sewer Specifications". In the corporate limits of the City of Mesquite, all subdivisions shall be connected with the City of Mesquite water supply distribution system, unless otherwise approved by the City of Mesquite. (Ord. 2351, 10-20-86)

(5) Sewer Improvements:

a. All subdivisions shall be provided with an approved sewage disposal system designed and constructed in accordance with the City's Sewer Plan and the "Water and Sewer Specifications". In the corporate limits of the City of Mesquite, all subdivisions shall be connected with the City of Mesquite sanitary sewer system, unless otherwise approved by the City of Mesquite. (Ord. 2351, 10-20-86)

b. In locations where sanitary sewers are not available and where there is no immediate prospect for installation of sanitary sewers, then septic tanks of approved type may be installed in conformity with the rules, regulations, and ordinances of the City of Mesquite pertaining to public health, provided that in no case shall septic tanks be installed without the express approval and inspection of the City of Mesquite.

(6) As Built Plans:

- a. The developer or his engineer shall present the City with three (3) sets of blue line or black line prints on paper of As Built Plans for all paving, drainage structures, water mains, and sewer mains within sixty (60) days after completion of each contract.

(7) Engineering Inspection Fee:

An engineering inspection fee of two percent (2%) of the actual contract costs of city-maintained improvements shall be established. The fee shall be based on a percentage of the estimated cost of public improvements including but not limited to water, sanitary sewer, lift stations, storm sewer, drainage structures, bridges, culverts, paving, screening walls, etc. The fee shall be due and payable at the time of the preconstruction meeting for residential developments and at the time of the building permit for industrial and commercial developments. (Ord. 3392, 9-19-2000)

F. WITHHOLDING IMPROVEMENTS UNTIL APPROVED

(1) The City of Mesquite hereby defines its policy to be that the City will withhold ALL CITY IMPROVEMENTS of whatsoever nature including the maintenance of streets and the furnishing of sewage facilities, water service, fire hydrants, and fire lanes from all additions, the platting of which has not been approved by the Commission.

(2) The Director of Community Development may withhold the issuing of a street number or building permit for the erection of any building in the City of Mesquite until all requirements of these subdivision regulations have been complied with, including installation of and acceptance by the City of all waterworks, sewage, and paving improvements for the area designated.

(3) No construction work shall begin on the proposed improvements in any proposed subdivision prior to approval of the final plat by the City of Mesquite and filing of such plat with the County Clerk, Dallas or Kaufman County, as applicable. of Dallas County, unless expressly authorized by the Director.

ARTICLE IV

FILING FEES

The applicant shall submit with the application a fee in the amount set by the City Council for the purpose of defraying the administrative costs of processing the subdivision/plat. The fee shall be charged on all plats, regardless of the action taken by the Commission, whether the plat is approved or denied.

PLATTING FEES (Ord. 3523):

SHORT	FORM	\$500	Combined
PLAT.....		Preliminary/Final Fee	
		(Due at Preliminary Submission)	

SUBDIVISION PLAT

Preliminary.....	\$500 + \$25 per acre
.....	
Final.....	\$500 + (All Acreages)
.....	

ARTICLE V

GENERAL REQUIREMENTS AND DESIGN STANDARDS

A. STREETS

(1) The arrangement, character, extent, width, grade, and location of all streets shall conform to the City of Mesquite Thoroughfare Plan, and shall be considered in relation to existing and planned streets, to topographical conditions, to public safety and in appropriate relation to the proposed uses of the land to be served by such streets. (Ord. 2351, 10-20-86)

(2) When such street is not on the Thoroughfare Plan, the arrangement of streets in a subdivision shall either:

a. Provide for the continuation or appropriate projection of existing streets in surrounding areas; or

b. Conform to a plan for the neighborhood approved or adopted by the Commission to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impracticable.

(3) Streets constructed within the City of Mesquite shall be classified as follows:

a. Residential - twenty-seven (27) feet pavement within fifty (50) feet of right-of-way with a minimum thickness of six (6) inches. The reinforcing steel will be number four (4) bars on eighteen (18) inch centers both ways. (Ord. 3426, 4-16-03)

b. Collector - thirty-seven (37) feet pavement within sixty (60) feet right-of-way

c. Arterial

Single section - forty-eight (48) feet pavement within eighty (80) feet right-of-way

Four lane boulevard - Two (2) twenty-four (24) feet paved sections with fourteen (14) feet median within minimum eighty (80) feet right-of-way

Six lane boulevard - Two (2) thirty-four (34) feet paved sections with fourteen (14) feet median within minimum one hundred (100) feet right-of-way

(4) Residential streets shall be so laid out that use for through traffic will be discouraged.

(5) Arterial streets shall intersect at ninety (90) degree angles unless otherwise approved by the City. Other street intersections shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect another street at less than sixty (60) degrees.

(6) Half-streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with other requirements of these regulations, and where the Council finds it will be practical to require the dedication of the other one-half (1/2) when the adjoining property is subdivided. Whenever a partial street exists along a common property line, the other

portion of the street shall be dedicated. Where part of a street is being dedicated along a common property line and the ultimate planned width is fifty (50) feet, the first dedication will be twenty-five (25) feet; where the ultimate planned width is sixty (60) feet, the first dedication will be thirty (30) feet.

(7) Strips of privately owned property reserved for the obvious purpose of controlling access to streets shall be prohibited except where control is definitely placed in the City under conditions approved by the Commission.

(8) Street alignments with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

(9) New streets of like alignment shall bear the names of existing streets and shall be dedicated at equal or greater widths than the existing streets. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Commission.

(10) A cul-de-sac shall not be longer than six hundred (600) feet and at the closed end shall have a turn-around provided, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. Medians or islands in cul-de-sacs shall be prohibited, unless expressly approved by the City.

(11) New streets shall not dead-end. Some means of traffic circulation must be provided. Properly designed cul-de-sacs are acceptable.

(12) All new streets within a subdivision shall be constructed in accordance with the Paving and Drainage Specifications. (Ord. 2351, 10-20-86)

(13) At the intersection of a new subdivision street with an existing boulevard arterial, the developer of the subdivision shall construct a median opening in the boulevard street to allow direct access to the subdivision from the boulevard, unless otherwise directed by the City. The developer may also be required to construct a left-turn lane in the boulevard to insure adequate traffic control and safety at that intersection.

(14) Street signs, including street name, regulatory and warning signs shall be furnished and installed by the developer of the subdivision in accordance with city specifications. The developer shall meet with the city to ascertain the required number and location of all street signs. The developer shall show the type and location of the required street signs on the engineering plans for the subdivision. No building permit will be issued for the subdivision until all street signs are installed in accordance with the approved plans. Until such time as the subdivision or, if applicable, the subdivision phase, is built out, repair, maintenance and replacement of street signs that are damaged or removed from the subdivision shall be the responsibility of the developer. Stop signs shall be repaired or replaced within two (2) hours of notification. All other signs must be reinstalled within five (5) calendar days of notification. (Ord. 3540, 11-4-02)

B. ALLEYS

(1) Alleys shall be required in all new developments and replatting of existing subdivisions unless expressly waived because of drainage, topographical features, or other existing conditions which may preclude the use of an alley in a particular location.

(2) The requirement for the construction of alleys may be waived when other definite and assured provision is made for service access to the property, including a provision for public utilities, sanitation services, off-street loading, unloading, and parking required for the property use proposed.

(3) Alleys in residential districts (including multifamily districts) shall be provided parallel, or approximately parallel, to the property frontage on the street. Alley right-of-way dedications in residential districts shall be a minimum of eighteen (18) feet in width and pavement shall be constructed a minimum of twelve (12) feet in width except where the alley connects to a residential street. The alley width will be sixteen (16) feet wide to the proposed street right-of-way. The alley width will transition from sixteen (16) feet at the street right-of-way to twelve (12) feet in a distance of twenty (20) feet. The alley right-of-way will transition from twenty-two (22) feet at the street right-of-way to eighteen (18) feet in that same transition length. (Ord. 3426, 4-16-03)

(4) Alleys in non-residential districts shall be a minimum of twenty-five (25) feet in right-of-way width, with a minimum paved width of twenty-two (22) feet. (Ord. 2351, 10-20-86)

(5) Where the deflection of alley alignment exceeds thirty (30) degrees, a cutback of a minimum fifteen (15) feet or of such greater distance to provide safe vehicular movement shall be established on the inside property line and the paving of the alley shall be cut back in the same manner.

(6) Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end as determined by the Commission.

(7) Access to residential property for required off-street parking shall be from the alley wherever paved alley access is available. Access from the alley shall not exclude another means of access from the front or side. No side lot or rear lot access to residential property shall be allowed from any arterial street as defined herein. (Ord. 2351, 10-20-86)

C. SIDEWALKS

(1) Sidewalks shall be constructed in each new subdivision or development in accordance with the Paving and Drainage Specifications. (Ord. 2351, 10-20-86)

(2) Pedestrian sidewalks not less than four (4) feet wide shall be provided around the perimeter of all blocks adjacent to the right of way/property line. Sidewalks not less than five (5) feet in width adjacent to the curb may be approved by the DRC if connecting walks are adjacent to the curb, if placement on the right of way line will cover utilities, or if the required landscape/screening option along a major street specifies a sidewalk adjacent to the curb. The

DRC shall deny requests to place sidewalks adjacent to a curb where such sidewalk will cover utilities lines unless the above conditions are met. (Ord. 2351, 10-20-86)

(3) When a lot is platted and developed adjacent to a drainage, utility or other right of way or easement, the extension of the sidewalk across such right of way or easement shall be required to provide a continuous sidewalk connection. If no connecting sidewalk exists on the opposite side of the easement or right of way, extension of the sidewalk to the midpoint of the easement or right of way shall be required. (Ord. 2351, 10-20-86)

D. EASEMENTS

(1) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be of such width as may be reasonably necessary for the intended purpose.

(2) Storm drainage easements shall be granted by the developer as required by the Comprehensive Drainage Ordinance and all subsequent revisions. (Ord. 2351, 10-20-86)

(3) The land area of any easement on any lot shall be included or excluded in computation of the lot according to the usability of the land within the easement area.

(4) No building or structure may be erected on an easement except as provided in the Comprehensive Drainage Ordinance and all subsequent revisions. (Ord. 2351, 10-20-86)

E. BLOCKS

(1) The length, width, and shape of blocks shall be determined with due regard to:

- a. Provision of adequate building sites suitable to special needs of the type of use contemplated.
- b. Zoning requirements as to lot size and dimensions.
- c. Needs for convenient access, circulation, control and safety of street traffic.
- d. Topographical situation of the proposed block.

(2) In general, intersecting streets, determining blocks, lengths and widths shall be provided at such intervals as to serve cross traffic adequately, and to meet existing streets or customary subdivision practices.

Where no existing subdivision controls, block lengths shall not exceed one thousand six hundred (1,600) feet and shall generally be one thousand (1,000) feet to one thousand two hundred (1,200) feet in length.

Where no existing subdivision controls, blocks shall not be less than five hundred (500) feet in length.

In cases where physical barriers or property ownership create conditions where it is appropriate that these standards be varied, the length may be increased or decreased to meet existing

conditions, having due regard for connecting streets, circulation of traffic, existing and proposed topographic conditions, and public safety.

(3) Where blocks in the vicinity of school, park, or shopping center are platted one thousand (1,000) feet or longer, the Commission may require a walkway near the middle of the block or at a street that terminates between the streets at the end of the block. The walkway shall not be less than four (4) feet nor more than eight (8) feet in width, shall have a four (4) foot concrete walk through the block from sidewalk to sidewalk, or to rear property line, if no street.

Where no existing subdivision controls, block width or depth shall be platted to give lots with a depth to width ratio of generally not more than two and one-half (2 1/2) to one (1) and in no case, more than four (4) to one *M*.

Platting shall be such that the block width or depth generally shall not exceed three hundred fifty (350) feet nor be less than two hundred fifteen (215) feet. When possible, the block width and length shall be such to allow two (2) tiers of lots back to back to an alley.

F. LOTS

(1) Lots shall conform to the minimum requirements of the zoning classification district in which the subdivision is located.

(2) Every lot shall abut a dedicated public street or a private street.

(3) Where corner lots are key lots, that is where the lots face the frontage street and other lots face the side street, the corner lot shall have a building setback line on both streets as required by the Zoning Ordinance and subsequent revisions.

(4) Key lots or irregular shaped lots shall have sufficient width at the building line to meet frontage requirements of the appropriate zoning classification district in which they are located. The rear width shall be sufficient to provide access for all utilities including sanitation services, but not less than ten (10) feet.

(5) No lot shall be platted less than one-hundred (100) feet in depth unless specifically approved in the applicable zoning, except that the Commission may waive the depth requirement to prevent a hardship to the developer in cases where an irregular shaped tract is platted into lots and a remnant piece of property is sufficient to plat one or more lots. (Ord. 2351, 10-20-86)

(6) Side lot lines shall be substantially at right angles or radial to street lines.

(7) Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantage of topography and orientation. Where lots have double frontage, a front building line shall be established for each street.

(8) It shall be lawful to increase the size of lots from that originally platted, provided, that there is no remaining portion of a lot or lots smaller than the original lot and provided that the final plat is submitted in accordance with the requirements of a final plat as contained hereinabove.

(9) In areas where city sewer is not immediately available, a lot shall be platted of such area as to meet the minimum requirements' of the State of Texas, pertaining to septic tank operation. When

the sewer line is within one hundred (100) feet of the lot, the property owner is required to connect to same.

(10) No lot shall be replatted to reduce the size of lots originally platted by a common dedicator without public hearings and procedures as set out in State Law. No lot may be reduced below the minimum size and width **required** in its zoning classification. (Ord. 2351, 10-20-86)

(11) When an applicant exhibits a duly executed and recorded deed covering a lot having dimensions of fifty (50) feet by one hundred twenty (120) feet or more, which has been sold by metes and bounds prior to May 15\$ 1953, and such lot is being assessed for city taxes and conforms to the established lot pattern and zoning classification in the block where located, then a building permit may be issued provided the requested use of such property conforms to the permanent zoning of the property covered by the application.

G. BUILDING LINES

Building lines shall be shown on the final plat on all lots intended for business or residential use and shall provide the minimum setback as required by the Zoning Ordinance and subsequent revisions.

H. DRIVEWAYS FOR INGRESS AND EGRESS

(1) Access driveways to multifamily and nonresidential uses shall comply with Section 15-150, Access Management and Driveway Standards, of the Code of the City of Mesquite. (Ord. 3573, 4-21-03)

(2) Wherever possible, major driveway entrances into apartment, retail, commercial, church and industrial sites shall be aligned with similar drives on opposite sides of the street. (Ord. 3573, 4-21-03)

(3) Deleted by Ord. 3573, 4-21-03

I. MEDIAN DESIGNS AFFECTING DRIVEWAY ENTRANCES

The developer may be required to construct median openings and left-turn lanes in boulevard streets at major access driveways to insure adequate traffic control and safety at that intersection. The median openings and driveways should be provided in accordance with Section 15-150, Access Management and Driveway Standards, of the Code of the City of Mesquite. (Ord. 3573, 4-21-03)

J. PARKING AREAS

(1) Off street parking shall be provided in accordance with the requirements of the Zoning Ordinance and shall be paved in accordance with the standard specifications and requirements of the City of Mesquite. (Ord. 2351, 10-20-86)

(2) The design and layout of all off-street parking facilities shall conform with the parking layout and design standards set forth by the City of Mesquite. (Ord. 2351, 10-20-86)

(3) Premises used as motor vehicle service stations or parking lots shall have six-inch raised curbs or other approved traffic barriers along the entire street frontage except at the driveway approaches and access walks. The curbs shall be placed so that automobile bumpers shall not extend over the sidewalk or public property. (Ord. 3573, 4-21-03)

K. STORM DRAINAGE

The construction or improvement of storm drainage facilities in any development shall be in accordance with the Comprehensive Drainage Ordinance and all subsequent revisions and the Paving and Drainage Specifications. (Ord. 2351, 10-20-86)

L. SITE PLANS

(1) Prior to any construction or change in use of a tract, a site plan shall be submitted, reviewed by the Development Review Committee, and approved by the Commission. Development shall conform to the approved site plan. The approved site plan may be revised or amended if the revision or amendment is approved.

(2) All on-site improvements shall be specified on the site plan.

(3) All adjacent property uses shall be shown on the site plan.

(4) All means of ingress and egress shall be shown.

(5) All inside and outside storage facilities shall be shown.

(6) Off-street parking facilities shall be provided as indicated on the approved site plan and shall not be less than the requirement of the Zoning Ordinance for each use and occupancy.

(7) Underground Utilities Required.

a. Site Plans and final plats approved after March 3, 1986 shall require all electrical, telephone and cable TV utilities (lateral and/or service distribution) lines and wires to be placed underground in new residential (Single Family-Detached, Single Family-Attached, Multifamily) subdivisions.

b. In case of special or unique circumstances, the City Planning and Zoning Commission may recommend to the City Manager's Office and Utility Company deviation from the ordinance but still adhere to the intent of the ordinance.

c. Where electrical service is to be placed underground, street lighting shall also be placed underground.

d. All electrical and telephone support equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installations shall be pad mounted or placed underground.

e. The utility companies shall be responsible for developing administrative policies and cost reimbursement procedures for the installation and extension of underground utilities.

f. Any utility location that deviates from the City's Standard Specifications shall be approved by the City of Mesquite.

g. The electrical utility company can, at its discretion, plan overhead feeds and/or feeder laterals on perimeters of subdivisions or property. Feeders is defined as those high voltage supply lines, that originate from sub-stations, used to distribute power throughout an area.

a. "Laterals" shall mean those electric lines that emanate from feeder line and used to distribute power to smaller areas of electric consumers. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse or disconnect switch. (Ord. 2283, 3-3-86)

M. RESIDENTIAL DEVELOPMENT ADJACENT TO ARTERIAL STREETS

Where a subdivision is platted so that the rear yards of residential lots are separated by an alley from an arterial street, as defined here in and shown on the Mesquite Thoroughfare Plan, a solid masonry wall, 6 to 8 feet in height, constructed of 1) clay fired brick of natural colors, either double wall brick or thin wall brick, or 2) a reinforced concrete, simulated brick type wall or other appropriate texture, in earthtone color achieved through color additives, shall be erected on the street right-of-way line with a 4 foot wide sidewalk adjacent to the wall on the arterial side. Such wall shall be structurally designed with plans and specifications approved by the Building Official and no wall shall be placed so as to obstruct traffic visibility. The City Council may modify or waive this requirement or approve alternate screening methods based on site and/or design considerations. Installation of the masonry wall is required prior to issuance of permits on any adjacent lots.(Ord. 2331, 9-15-86; Ord. 2443, 7-6-87).

N. LANDSCAPING ON PUBLIC RIGHTS OF WAY
(Ord. 2331, 9-15-86; Deleted by Ord. 2443, 7-6-87)

ARTICLE VI

PUBLIC SITES AND OPEN SPACES

The subdivider shall give consideration to suitable sites for schools, parks, playgrounds, and other areas for public use so as to conform with the recommendations of the Commission and reflect the Comprehensive Plan. Any provision for schools, parks, etc. shall be indicated on the preliminary plat.

No individual, partnership, firm, or corporation shall deepen, widen, fill, re-route, or change the course or location of any existing ditch, channel, stream, or drainage way, without first submitting engineering plans for approval by the City Engineer. Such plans shall be prepared by a Professional Engineer, registered in the State of Texas, and experienced in Civil Engineering.

In cases where a subdivision abuts a school or park site, the subdivider, or developer, shall dedicate one-half (1/2) of the right-of-way required for construction of the perimeter street and shall bear the cost of street construction to the extent of one-half (1/2) the cost of a collector street, or ninety (90) percent of one-half (1/2) the cost of an arterial street, in accordance with the City's Street Improvement Policy. The owner, or owners, of the public site abutting the subdivision street shall provide one-half (1/2) of the right-of-way required, and shall participate with the developer in the cost of street construction in accordance with the Street Improvement Policy. Street construction costs shall include the cost of storm drainage and engineering services, as well as the cost of actual street construction.

In cases where a subdivision abuts a school or park site, the developer shall be responsible for the installation of water and sanitary sewer utilities adjacent to the public site, and to owner, or owners of the public site shall reimburse to the developer one-half (1/2) of the installation cost upon acceptance of such utility work. (Ord. 2355, 11-3-86)

ARTICLE VII

UTILITIES

A. WATER SYSTEM

- (1) The water system in any development shall conform to the requirements of the Water and Sewer Specifications, unless otherwise approved by the City Engineer. (Ord. 2351, 10-20-86)
- (2) The water system shall be designed and constructed to meet the fire protection requirements pertaining to fire hydrant locations, water main sizes, and fire flows set forth in the Key Rate Schedule for Standard Cities, General Basic Schedule, and the National Fire Protection Association.
- (3) Generally, the water distribution lines should be located within the public street right-of-way, but outside the limits of the street pavement to the extent possible.
- (4) In accordance with the Water and Sewer Main Extension Ordinance, the City shall reimburse the developer the oversize cost of any water main larger than eight (8) inches in diameter, unless such larger water main is necessary to serve the property in question.

B. SANITARY SEWER

- (1) The sanitary sewer system in any development shall be designed and constructed to meet the requirements of the Water and Sewer Specifications, unless otherwise approved by the City Engineer. (Ord. 2351, 10-20-86)
- (2) The sanitary sewer system shall be designed to handle the anticipated sewage flow from the total drainage area contributing to flow in that system, as if the drainage area is fully developed.
- (3) Generally, the sanitary sewer collection lines should be located within public alley right-of-way or public utility easements.
- (4) In accordance with the Water and Sewer Main Extension Ordinance, the City shall reimburse the developer the oversize cost of any main larger than eight (8) inches in diameter, unless such larger main is necessary to serve the property in question.

In addition, the City may reimburse the developer for extra depth cuts made in the installation of sanitary sewers deeper than required to serve the property in question.

C. FIRE PROTECTION

- (1) Water mains shall be not less than six (6) inches in diameter, looped, in residential sections and not less than eight (8) inches in diameter in mercantile districts.
- (2) Fire hydrants are to be located so there will be a fire hydrant every three hundred (300) feet in the mercantile and industrial areas, and every five hundred (500) feet in residential areas. In any case, a fire hydrant shall be placed no more than one hundred (100) feet from the curb line at the intersection of two arterial streets as defined herein. Hydrants are to be located so that no structure shall be more than 500 feet in hose laying distance from a fire hydrant. Hose laying distances shall be computed as that distance the fire apparatus must travel for the purpose of laying a fire hose on public street or private drive or shall be the equivalent of an approved fire

lane including the required turning radius and shall include any distance between the structure and said street or drive. (Ord. 2351, 10-20-86)

(3) Where cul-de-sacs are proposed, a fire hydrant shall be placed near the opening of the cul-de-sac allowing a maximum distance of five hundred (500) feet as the fire hose is laid from the fire hydrant to the most distance residence.

(4) Fire department access routes shall be provided by the developer as required by city ordinances and shall be approved by the Fire Department.

ARTICLE VIII
ENFORCEMENT

Every building hereafter erected, altered, expanded, or otherwise located shall be on a platted lot of record, which creates a building site, except when situated on a bona fide farm or ranch. No building permit shall be issued until such platted building site is created. (Ord. 2351, 10-20-86)

Any subdivision of land being developed in violation of the terms and provisions of these regulations is hereby declared to be a public nuisance and the City Planner is hereby authorized to institute any action which may be necessary to restrain or abate such violations.

ARTICLE IX
VARIANCES

The Commission may authorize a variance from these regulations when in the opinion of the Commission, undue hardship will result from requiring strict compliance. In granting a variance, the Commission shall prescribe only conditions that are deemed necessary or desirable to the public interest and making the findings hereinbelow required. The Commission shall take into account the nature of the proposed use of land involved, and existing uses of the land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. No variance will be granted unless the Commission finds:

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
- (2) That the variances are necessary for the preservation and enjoyment of a substantial property right of the applicant, that the granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to other property in the area.
- (3) That the granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this ordinance. Such findings of the Commission together with specific facts on which such findings are based shall be incorporated under the official minutes of the Commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this ordinance so that the public health, safety, and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.
- (4) The Commission may not authorize a variance that would constitute a violation of any other valid ordinance of the City of Mesquite.

ARTICLE X

CONFLICTS

All ordinances or parts of ordinances, with the exception of the Building Code and the Comprehensive Zoning Ordinance for the City of Mesquite, which are inconsistent or in conflict with any of the provisions of this ordinance be, and the same are, hereby repealed. Where the Building Code of the City of Mesquite or the Comprehensive Zoning Ordinance of the City of Mesquite contain regulations which are more restrictive than the regulations contained herein, the ordinance which is more restrictive shall control.

ARTICLE XI

RESPONSIBILITIES

The developer shall be responsible for the conformance of all parties as encompassed in the improvements undertaken to the ordinances, rules, and regulations of the City of Mesquite.

ARTICLE XII

EXCEPTIONS

Plats of subdivisions which have received preliminary approval of the Commission within one (1) year prior to the effective date of this ordinance shall be excepted from the requirements of this ordinance, provided that the final plat of such subdivision is approved and filed for record within one hundred eighty (180) days after the effective date of this ordinance or within one (1) year after the approval date of the preliminary plat, whichever is greater.

SECTION 2. That should any word, phrase, sentence, paragraph, or section of this ordinance be held to be void and unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect the same as if no portion of this ordinance had been held to be void and unenforceable.

SECTION 3. EFFECTIVE DATE: All changes from the existing ordinance required by this ordinance shall become effective on October 1, 1973.

SECTION 4. The fact that the present regulations of the City of Mesquite are inadequate to properly protect the public health, safety, and welfare creates an urgency and an emergency and requires that this ordinance shall take effect immediately from and after its passage as the law in such cases provides.

DULY PASSED by the City Council of the City of Mesquite on the fourth day of September, 1973.

Bob Beard - Mayor

ATTEST:

Norma McGaughy
City Secretary

APPROVED AS TO FORM:

Elland Archer - City Attorney

EXHIBIT F
Special Regulations

I. General

- 1. Development Regulations.** The Development Regulations set forth in Exhibit G are incorporated herein by reference and shall be construed as Special Regulations.
- 2. Temporary Dead-Ends.** New streets in a phase of the Property may temporarily dead end at a boundary of that phase without the requirement of a temporary turnaround if the dead end is located within 150 feet of an intersection. Type III barricades shall be installed at the end of pavement with signage required by the TMUTCD.
- 3. Barrier Free Ramps.** Barrier free ramps located at all intersections adjacent to single family lots shall be constructed concurrently with adjacent sidewalks in accordance with TAS/ADAAG standards, as amended.
- 4. Parking Areas.** Parking areas associated with residential uses shall be constructed at or above the 100-year flood plain elevation.

II. Phase I One -Acre Lots

Sections 6, 7 and 8 shall only apply with respect to that portion of Phase I of the Project that consists of approximately 49 one-acre lots. For all other phases, or for any phase or portion thereof that includes lots smaller than one acre, or for all other construction specifications not addressed herein, Sections 6, 7 and 8 shall not apply.

6. Streets and Right-of-Ways.

- (a) Residential Street Widths (Variance No. 1)¹. Residential street widths shall be not less than 26 feet from thickened edge of concrete pavement to thickened edge, provided that the following conditions shall also apply: (i) lots drain front to back eliminating the need for borrow ditches; (ii) lot widths are not less than 100 feet; (iii) front setbacks are not less than 50 feet; and (iv) a circular drive with a minimum of 6 off-street paved parking spaces is provided per Section 1A-305-B of the Zoning Ordinance. Pavement thickness, reinforcing and specifications shall be in accordance with current City standard detail sheets.
- (b) Residential Street Rights-of-Way. The residential street right-of way shall be 65 feet.
- (c) Residential Street Pavement Thickness. Residential street pavement thickness shall be 6 inches of 3600-PSI concrete on 6-inches of lime-stabilized subgrade.

¹ Where indicated, a "variance" refers to the March 27, 2006, action of the Planning & Zoning Commission modifying certain subdivision standards expressly for the Project.

- (d) Cul-de-Sac Block Length (Variance No. 2). The maximum cul-de-sac block length may not exceed 1,300 linear feet, provided that the following conditions shall also apply: (i) residential street widths and construction standards shall conform to paragraph 2(a), above; (ii) the cul-de-sac turn-around shall have a minimum diameter of 100 feet within a 120-foot right-of-way; and (iii) cul-de-sac block lengths exceeding 600 feet shall include a mid-block turn-around, also with a minimum diameter of 100 feet within a 120-foot right-of-way..
- (e) Street Block Length (Variance No. 5). The maximum residential street block length may not exceed 2000 linear feet.
- (f) Street Capacities. All Streets shall be designed for the 100-year storm event. Depth of flow in all streets shall not exceed 8-inches or right-of-way-to-right-of-way, whichever is less. All streets shall be constructed at or above the 100-year flood plain elevation.
- (g) Alleys (Variance No. 3). Alleys are not required.
- (h) Sidewalks (Variance No. 4). Sidewalks shall be located in the street right-of-way or adjacent to the street right-of-way in an easement, provided that sidewalks shall not be required where an 8-foot hike and bike trail is provided on one side of a street within the 65-foot right-of-way or within a dedicated 15-foot access and utility easement adjacent to the right-of-way. Sidewalks and trails shall be serpentine.

7. Drainage.

- (a) Open Drainage Waterways. Open drainage waterways shall be allowed on the Property. Open drainage waterways shall include a 15-foot wide accessible maintenance strip adjacent to the open drainage waterway, except when borrow ditches are used. All borrow ditches shall be maintained by a homeowner's association and shall be designed as follows:
 - (i) 100-year ultimate storm
 - (ii) Side slopes no greater than 4H to 1V
 - (iii) Minimum grade of 1% to minimize standing water and mosquitoes
 - (iv) Have no velocities greater than 6 fps
 - (v) No deeper than 3 feet
 - (vi) All driveway culverts must be RCP with SET precast concrete headwalls
 - (vii) Top of slope shall be no closer than 5 feet from edge of paving
- (b) Lot Grading. The Owner shall submit lot grading plans for approval by the City.
- (c) Fences. Only pipe fences shall be permitted across drainage easements. Wooden and brick privacy fences shall not be permitted across drainage or other public easements.
- (d) Runoff Coefficient. The runoff coefficient shall be 0.5.

8. Water and Sanitary Sewer Systems. At the Planning and Zoning Commission meeting of March 27, 2006, the Owner requested certain variances from the water and sanitary sewer design standards pertaining to fire flow requirements (Variance No. 6), the temporary provision of sanitary sewer wet wells pending construction of the Lower East Fork interceptor and the location of sanitary sewer lines at the rear of lots (Variance No. 7), and the postponement of a looped water system pending the installation of water lines in subsequent phases of the development (Variance No. 8). The Commission approved the variances subject to a confirmed agreement between the City staff and the Owner, and if an agreement cannot be reached, the variances shall return to the Commission for further consideration. There is no agreement on these issues as of the date of this Development Agreement. In accordance with the Commission's action, any of the above variances that cannot be resolved to the mutual satisfaction of the Parties shall be referred back to the Planning and Zoning Commission for a final determination.

EXHIBIT G
Development Regulations

1. Definitions and Interpretations. The definitions of the Mesquite Zoning Ordinance shall apply.

2. Allowed Uses of the Property. The following uses are permitted by right on the Property under the conditions established in the Mesquite Zoning Ordinance:

- (a) Main Uses.
 - Single Family Detached Dwelling – Conventional Dwelling
 - Crop Production
 - Utility Facilities
 - Public Golf Courses, Playgrounds, and Parks
 - Elementary and Secondary Schools
 - Libraries
 - Residential Care Facility – Family Home
 - Museums, Art Galleries (Public)
 - Arboreta, Botanical Gardens (Public)
 - Churches
 - Public Safety Facilities
 - Child Day Care Center
 - Community/Recreation Room (Private)
 - Membership Sports and Recreation Clubs
- (b) Accessory Uses.
 - Accessory Structures (Private)
 - Parking (Private)
 - Gardening (Private)
 - Home Occupations
 - Home Day Care
 - Yard/Garage Sales
 - Keeping of Pets (Private)
 - Keeping Horses and Ponies (Private)
 - Refuse Containers (Private)
 - Landscape Irrigation Systems
 - Ponds

3. Development Regulations. There will be four Lot Types used for development of Single Family Residence detached uses: ETJ-1A, ETJ-100, ETJ-80 and ETJ-60. The minimum living area for all single-family structures shall be 2,500 square feet. The maximum height for all single-family structures shall not exceed 35 feet, or 2.5 stories, whichever is less. There will be one Lot Type used for non-residential development: ETJ-NR.

(a) Single Family Residence detached uses on Lot Type ETJ-1A shall comply with the following standards:

Lot Type ETJ-1A			
		Minimums:	
	Lot size	43,560 square feet	Or as approved on the preliminary plat, whichever is the greater
	Lot width	150 feet	
	Lot depth	200 feet	
Yards	Front	50 feet	
	Exterior side	30 feet	
	Interior side	15 feet	
	Rear	50 feet	

(b) Single Family Residence detached uses on Lot Type ETJ-100 shall comply with the following standards:

Lot Type ETJ-100			
		Minimums:	
	Lot size	12,000 square feet	Or as approved on the preliminary plat, whichever is the greater
	Lot width	100 feet	
	Lot depth	120 feet	
Yards	Front	30 feet	
	Exterior side	30 feet	
	Interior side	10 feet	
	Rear	25 feet	

(c) Single Family Residence detached uses on Lot Type ETJ-80 shall comply with the following standards:

Lot Type ETJ-80			
		Minimums:	
	Lot size	8,800 square feet	Or as approved on the preliminary plat, whichever is the greater
	Lot width	80 feet	
	Lot depth	110 feet	
Yards	Front	25 feet	
	Exterior side	15 feet	
	Interior side	5 feet	
	Rear	25 feet	

(d) Single Family Residence detached uses on Lot Type ETJ-60 shall comply with the following standards:

Lot Type ETJ-60			
		Minimums:	
Yards	Lot size	7,200 square feet	Or as approved on the preliminary plat, whichever is the greater
	Lot width	60 feet	
	Lot depth	110 feet	
	Front	25 feet	
	Exterior side	10 feet	
	Interior side	5 feet	
	Rear	25 feet	

(e) All non-residential uses on the Property shall comply with the following standards:

Lot Type ETJ-NR			
		Minimums:	
Yards	Lot size	20,000 square feet	Or the standard established in the Mesquite Zoning Ordinance, whichever is the greater
	Lot width	125 feet	
	Lot depth	150 feet	
	Front	25 feet	
	Exterior side	25 feet	
	Interior side	15 feet	
	Rear	30 feet	

(f) Lot Mix. Lots in the Property shall be distributed by lot type in accordance with the following table:

Lot Type	Number of Lots	Percentage of total lots
ETJ 1-Acre	82	6.6%
ETJ 100	258	20.9%
ETJ-80	592	47.9%
ETJ-60	305	24.7%
Total Number of Lots	1237	

4. Phasing of Development. The Project shall be developed according to the phasing sequence shown on the adopted Concept Plan. For any phase not shown on the Concept Plan, the number and types of lots developed in that phase shall either conform to the Concept Plan or approximate the percentages that each lot type bears to the Project as a whole as shown in section 3(f) above.

5. Anti-Monotony. No front elevation of a single-family structure, including its mirror image, shall be repeated any more often than once every eight (8) lots, and in no case more often than twice within any block. Prior to obtaining the first building permit for a single-family structure, a builder shall submit a palette of proposed elevations and façade materials to the City for review and approval by the Planning and Zoning Commission.

6. Exterior Fire Resistant Construction. The standards of the Mesquite Zoning Ordinance shall apply.