

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE ZONING REGULATIONS, AND ZONING MAP, AS PREVIOUSLY AMENDED, BY GRANTING A CHANGE IN ZONING FROM AGRICULTURE OPEN SPACE "AO" TO PLANNED DEVELOPMENT "PD" NO. 128 FOR DATA CENTER RELATED USES ON 65.578± ACRES OUT OF THE GEORGE PHILLIPS SURVEY, ABSTRACT NO. 701, AND ADOPTING DEVELOPMENT REGULATIONS, A CONCEPT PLAN, AND BUILDING ELEVATIONS; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have concluded that Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as previously amended, should be amended.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:**

**SECTION 1.** The Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as heretofore amended be amended by granting a change in zoning from Agriculture Open Space "AO" to Planned Development "PD" No. 128 for Data Center Related Uses on 65.578± acres of land out of the George Phillips Survey, Abstract No. 701 ("the Property") described in "Exhibit A," attached hereto and incorporated herein by reference, by changing the zoning to create Planned Development "PD" No. 128 to be used and developed in accordance with the use and development regulations set forth in Section 2 of this Ordinance.

**SECTION 2.** The Property shall be developed and used in accordance with the applicable provisions of the Allen Land Development Code, as amended, ("ALDC") except to the extent modified by the Development Regulations set forth below:

- A. BASE ZONING DISTRICT:** The Property shall be developed and used only in accordance with Corridor Commercial "CC" Zoning District regulations except as otherwise provided herein.
- B. CONCEPT PLAN:** The Property shall be developed in general conformance with the Concept Plan attached hereto as Exhibit "B," and incorporated herein by reference. Minor modifications to streets that do not alter the general alignment shown on the Concept Plan may be made at the time of Site Plan approval.

**C. BUILDING ELEVATIONS:**

- (1) The buildings constructed on the Property shall be developed in general conformance with the Building Elevations (style and materials) attached hereto as Exhibit "C," and incorporated herein by reference.
- (2) Building elevations may include metal wall louvers, tilt-up concrete panels, precast concrete panels or metal panels, which may be significant components of the building facades.
- (3) Buildings are not required to have a minimum glazing percentage.

**D. SCREENING:**

- (1) Screening walls, fences, and/or landscaping shall be constructed and/or installed on the Property in substantial conformance with the Concept Plan attached hereto as Exhibit "B," and incorporated herein by reference.
- (2) Service yards viewable from public streets shall be screened as shown on the Concept Plan.
- (3) Screening of loading docks and equipment yard shall be as shown on the Concept Plan.

**E. PERMITTED USES:** The Property may be developed and used for any purpose allowed in the Corridor Commercial "CC" Zoning District as well as the following additional uses:

- (1) Data Center, which for purposes of this ordinance means a centralized repository for the storage, management, processing, conversion, and dissemination of data and information which may also house equipment that supports communications network infrastructure without being part of the physical network. A data center:
  - (a) may house equipment that includes, but is not limited to, computers, servers, data storage devices, and related equipment;
  - (b) may include, but shall not be limited to, accessory uses that include offices and accessory structures that include water storage tanks, cooling towers, network systems, fuel storage tanks, guardhouses and security offices, storage, chillers, electrical transformers, and engine generators. For purposes of this ordinance, the term "load bank" means a device that develops an electrical load, applies the load to an electrical power source, and converts or dissipates the resultant power output of the source for placing electrical systems under load for periodic maintenance testing.
- (2) On-site electricity generation in accordance with the City of Allen noise ordinance, except as otherwise provided herein for emergencies. Any other on-site wind or solar generation must be clearly depicted on the Concept Plan or Site Plan.
- (3) On-site water wells for irrigation and emergency use only.
- (4) Utility substation allowed by Specific Use permit.

**F. MINIMUM YARD DEPTH AND WIDTH:** Fencing and guardhouses shall not be subject to minimum setback regulations. Notwithstanding the preceding sentence to the contrary, the location of walls, fences, landscaping, and guardhouses must comply with all traffic safety and site distance requirements set forth in the ALDC and the Code of Ordinances, if any. Guard houses and gates shall provide for a turnaround of a WB-65 vehicle without the vehicle being required to reenter the street.

- G. OFF-STREET PARKING AND LOADING:** Off-street parking and loading areas shall be constructed as shown on the Concept Plan, or as subsequently approved on a Site Plan.
- H. ACCESS:** Access shall be provided as generally shown on the Concept Plan. Divided entry drives are permitted.
- I. LANDSCAPING:** Landscaping shall comply with the Corridor Commercial “CC” Zoning District standards, except as otherwise shown on the Concept Plan, an approved Site Plan or where modified as authorized by the Director of Community Development or the City Council to accommodate necessary security requirements for operation of a data center. Without limiting the generality of the foregoing, low water planting material selections and yard maintenance procedures may be approved as part of an approved Site Plan
- J. FENCING:**
- (1) Fences are permitted at any location on the Property, including within 20 feet of intersections except where the fence location would violate ALDC Section 7.07.1.c., d., or e.
  - (2) Perimeter fencing shall be not less than eight (8) feet nor greater than ten (10) feet in height, excluding the height of the pickets, unless otherwise approved on a Concept Plan or Site Plan.
  - (3) Security fences may be topped with outward turned pickets which may extend an additional two (2) feet above the maximum height permitted by this Subsection J.
  - (4) Perimeter fencing may be constructed of impact resistant steel, wrought iron or any other material identified on the Concept Plan or an approved Site Plan.
  - (5) In addition to fences, perimeter security bollards, vehicle barriers, boulders, knee-walls, and retaining walls shall be allowed as part of a continuous perimeter security system.
- K. TREE MITIGATION:**

In accordance with development plans made part of the request for the rezoning of the Property, it has been determined that a net of 1,373 caliper inches of protected trees will be removed from the Property during development of the Property that require mitigation pursuant to ALDC Section 7.06. Notwithstanding anything to the contrary in ALDC Sections 7.06.3 and 7.06.4, trees removed from the Property during development in accordance with the applicable tree removal permit shall be mitigated subject as follows:

- (1) The owner or developer of the Property shall cause trees with a total of not less than 686 caliper inches (“the Replacement Trees”) to be delivered to the City’s tree farm in accordance with a schedule established by the City’s Urban Forester, but in any case not prior to issuance of the certificate of occupancy for the first building constructed on the Property, along with a bill of sale or such document(s) in form approved by the City Attorney conveying title of the Replacement Trees to the City of Allen;
- (2) The owner or developer shall pay to the City the amount of \$137,200.00 (686 caliper inches X \$200/caliper inch) in lieu of planting or conveying to the City additional replacement trees (the “Tree Funds”) prior to the issuance of any development permits for the Property; provided, however, the payment of the Tree Funds may be made in two equal installments subject to the following:
  - (a) The first installment of \$68,600.00 must be paid to the City prior to the issuance of any development or building permit for the Property; and

- (b) Subject to Paragraph (3), below, the second installment of \$68,000 must be paid on or before the fifth (5<sup>th</sup>) anniversary of the issuance by the City of the issuance of the first building permit for the first building constructed on the Property.
- (3) The amount of the second installment of the Tree Funds described in Paragraph (2)(b), above, may be reduced if on or before the date second installment of the Tree Funds is due in accordance with Paragraph (2)(b), above:
  - (i) CyrusOne, LLC, or an Affiliate purchases the 24.362± acre tract of land shown on Exhibit “D,” attached hereto and incorporated herein by reference (“the Adjacent Tract”); and
  - (ii) Replacement Trees have been planted on the Adjacent Tract the cumulative caliper inches of which exceeds the number of caliper inches that must be planted on the Adjacent Tract to mitigate the removal of trees as part of the development of the Adjacent Tract.

The amount of the reduction of the second installment of Tree Funds pursuant to this Paragraph (3) shall be equal to \$200 times the number of caliper inches of Replacement Trees planted on the Adjacent Tract in excess of the caliper inches of Replacement Trees that must be planted with respect to removal of trees from the Adjacent Tract resulting from development of the Adjacent Tract;

- (4) Prior to the due date of either installment of the Tree, the City Manager shall have the authority, but not the obligation, to accept from the owner of the Property additional Replacement Trees to be planted at the City tree farm or on other City-owned or controlled land in lieu of payment of the Tree Funds required to be paid in accordance with paragraph (2), above, and provide a credit toward the installment due of \$200 per caliper inch of Replacement Trees delivered and accepted;
- (5) In no case shall the City be required to refund Tree Funds that are paid pursuant to this Subsection K;
- (6) All Replacement Trees shall be not less three (3) caliper inches in diameter at a height of four (4) feet above the base of the main trunk of the Replacement Tree, shall consists of one or more species determined by the City’s Urban Forrester; and shall otherwise comply with the standards for replacement trees set forth in ALDC Section 7.06; and
- (7) For purposes of this Subsection K, the term “Affiliate” means an entity in which CyrusOne, LLC, owns a controlling interest which owns a controlling interest in CyrusOne, LLC.

**L. MISCELLANEOUS:**

- (1) Outdoor storage is permitted within the equipment yards identified on the Concept Plan.
- (2) The Concept Plan satisfies the requirements of a General Development Plan required by the Subdivision Regulations.
- (3) Lighting that does not comply with the technical requirements of ALDC Section 7.03.4 may be approved through the Site Plan approval process to the extent the modifications to lighting are found to be necessary for (1) security in connection with a data center use; or (2) for the typical operations of a data center use.

- (4) The operation of generators and other emergency equipment is allowed during and to the extent of any emergency as needed to maintain operations of the data center.
- (5) Except as otherwise set forth herein, there are no restrictions on the hours of operation of a data center or its accessory uses, including, but not limited to, the hours of operation for generators, water storage tanks, or other uses or structures. There are no restrictions on staging and use of emergency vehicles and structures on the Property, including, but not limited to, mobile water trucks, mobile generators, mobile load banks, and mobile chillers. In addition, noise levels associated with the use of emergency equipment, including, but not limited to, generators, are permitted to exceed the maximum noise levels authorized by the City of Allen Code of Ordinances for a period not to exceed 120 days. The City Manager may approve an extension of said 120-day period following receipt and review of a written request for such extension setting forth the nature of the emergency and the reasons for the extension. The City Manager shall act on a request for an extension within five business days after receipt of a request for an extension. If the City Manager denies a request for an extension, the applicant may appeal that decision to the City Council, and the appeal shall be placed on the next available City Council meeting agenda. In the event of a conflict between other City ordinances and the ordinance creating this PD, the ordinance creating this PD controls.
- (6) Maximum noise levels from normal testing of generators, or operation of any other equipment shall, shall comply with maximum noise levels authorized by the City of Allen Code of Ordinances.
- (7) Mechanical equipment, exhaust stacks, and water storage tanks may be visible above screen walls or parapet conditions, assuming the majority is screened from grade level view at the property line.
- (8) Fuel storage and water storage shall be allowed on site in either above or below ground tanks, assuming tank construction and installation comply with applicable State law. There shall be no volume limits on fuel or water storage, assuming use is restricted to providing power or water supply to the data center or its related operations. Storage facilities shall be located in the equipment yard and screened from public street view.
- (9) Gas well drilling is prohibited on the Property.
- (10) The Director of Community Development may approve changes to the Concept Plan without an amendment to this Ordinance provided such changes are limited to minor changes in:
  - (a) the location of (i) buildings, (ii) parking areas, (iii) internal circulation, (iv) screening walls, fences, and/or landscaping, (iv) site access points, and
  - (b) the orientation of buildings.

**SECTION 3.** To the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

**SECTION 4.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Allen Land Development Code, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance or the Allen Land Development Code, as amended hereby, which shall remain in full force and effect.

**SECTION 5.** An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 6.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

**SECTION 7.** This Ordinance shall take effect on the later of (a) the date of its passage and publication of the caption in accordance with the provisions of the Charter of the City of Allen, and (b) the date that a deed conveying the Property to CyrusOne, LLC, is recorded in the Real Property Records of Collin County, Texas, and it is accordingly so ordained; provided, however, if this Ordinance fails to become effective on or before October 11, 2017, this Ordinance shall be deemed to be repealed without further action of the City Council.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 9<sup>TH</sup> DAY OF MAY 2017.**

**APPROVED:**

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**Stephen Terrell, MAYOR**

**APPROVED AS TO FORM:**

**ATTEST:**

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**Peter G. Smith, CITY ATTORNEY**  
(kbl:4/265/17:84547)

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**Shelley B. George, CITY SECRETARY**

**EXHIBIT "A"**  
**DESCRIPTION OF PROPERTY**

Being a 65.578 acre tract of land situated in the City of Allen, Collin County, Texas, being a part of the George Philips Survey, Abstract Number 701 and being a part of the 88.7 acre tract of land conveyed in partial interest to Brookside Partners, LTD by deed of record in Volume 4066, Page 1839 of the Official Public Records, Collin County, Texas, and a part of the 88.7 acre tract of land conveyed in partial interest to Nimbus Partners, L.P. by deed of record in Volume 5823, Page 6149 of said Official Public Records, said 65.578 acre tract being more particularly described as follows:

**COMMENCING** at a 5/8" iron rod with cap stamped "Westwood PS" set in a public road locally known as Ridgeview Drive at the intersection of the east right-of-way line of Chelsea Boulevard with the south line of the 173.0607 acre tract of land conveyed to Allentowne Mall, LP by deed of record in Document No. 20060403000429310 of said Official Public Records, same being the northwest corner of said 88.7 acre tract;

**THENCE** North 89 degrees 13 minutes 42 seconds East departing said intersection and continuing with the south line of said 173.0607 acre tract and along said Ridgeview Drive, distance of 940.00 feet to a 5/8" iron rod with cap stamped "Westwood PS" set for the most northerly northwest corner of the herein described tract, the **TRUE POINT-OF-BEGINNING**;

**THENCE** North 89 degrees 13 minutes 42 seconds East continuing with said south line and along said Ridgeview Drive, a distance of 656.28 feet to a 1/2" iron rod found for the northeast corner of said 88.7 acre tract;

**THENCE** South 04 degrees 31 minutes 00 seconds West, at 55.04 feet passing a 1/2" iron rod found at the southwest corner of the 0.488 acre tract of land conveyed to the City of Allen by deed of record in Volume 4817, Page 980 of said Official Public Records and the northwest corner of Lot 2R, Block A of the Replat of Ridgeview Memorial Park, an addition to the City of Allen, according to the plat of record in Volume M, Page 460 of the Plat Records, Collin County, Texas and continuing along the west line thereof, a total distance of 1,567.68 feet to a 1/2" capped iron found for the southwest corner of said Lot 2R and the northwest corner of Lot 1, Block A of Allen Commerce Center Addition, an addition to the City of Allen, according to the plat of record Volume 2016, Page 772 of said Plat Records;

**THENCE** South 05 degrees 14 minutes 11 seconds West, a distance of 1,117.65 feet to a 1/2" capped iron rod stamped "Collins 1764" found in the north line of Allen Commerce Parkway for the southeast corner of said 88.7 acre tract;

**THENCE** South 89 degrees 41 minutes 09 seconds West, along and with the north line of said Allen Commerce Parkway, a distance of 1,331.15 feet to a 1/2" iron rod with cap stamped "DAA" found for the southeast corner of Lot 1R, Block B of the North Allen Substation, an addition to the City of Allen, according to the plat of record Volume 2008, Page 517 of said Plat Records, same being the southwest corner of said 88.7 acre tract;

**THENCE** North 00 degrees 55 minutes 51 seconds West, at 195.23 feet passing a 5/8" iron rod found for the northeast corner of said Lot 1R and continuing along the east right-of-way line of said Chelsea Boulevard, a total distance of 950.00 feet to a 5/8" iron rod with cap stamped "Westwood PS" set for the most westerly northwest corner of the herein described tract;

**THENCE** North 89 degrees 40 minutes 30 seconds East, departing said east right-of-way line and continuing over and across said 88.7 acre tract, a distance of 296.76 feet to a 5/8" iron rod with cap stamped "Westwood PS" set for an ell corner in the west line of the herein described tract;

**THENCE** North 19 degrees 54 minutes 06 seconds East, a distance of 527.65 feet to a set 5/8" iron rod with cap stamped "Westwood PS";

**THENCE** North 19 degrees 42 minutes 38 seconds East, a distance of 1,302.90 feet to the **POINT OF BEGINNING** and containing **2,856,572 square feet** or **65.578 acres of land**.



# EXHIBIT "B" CONCEPT PLAN

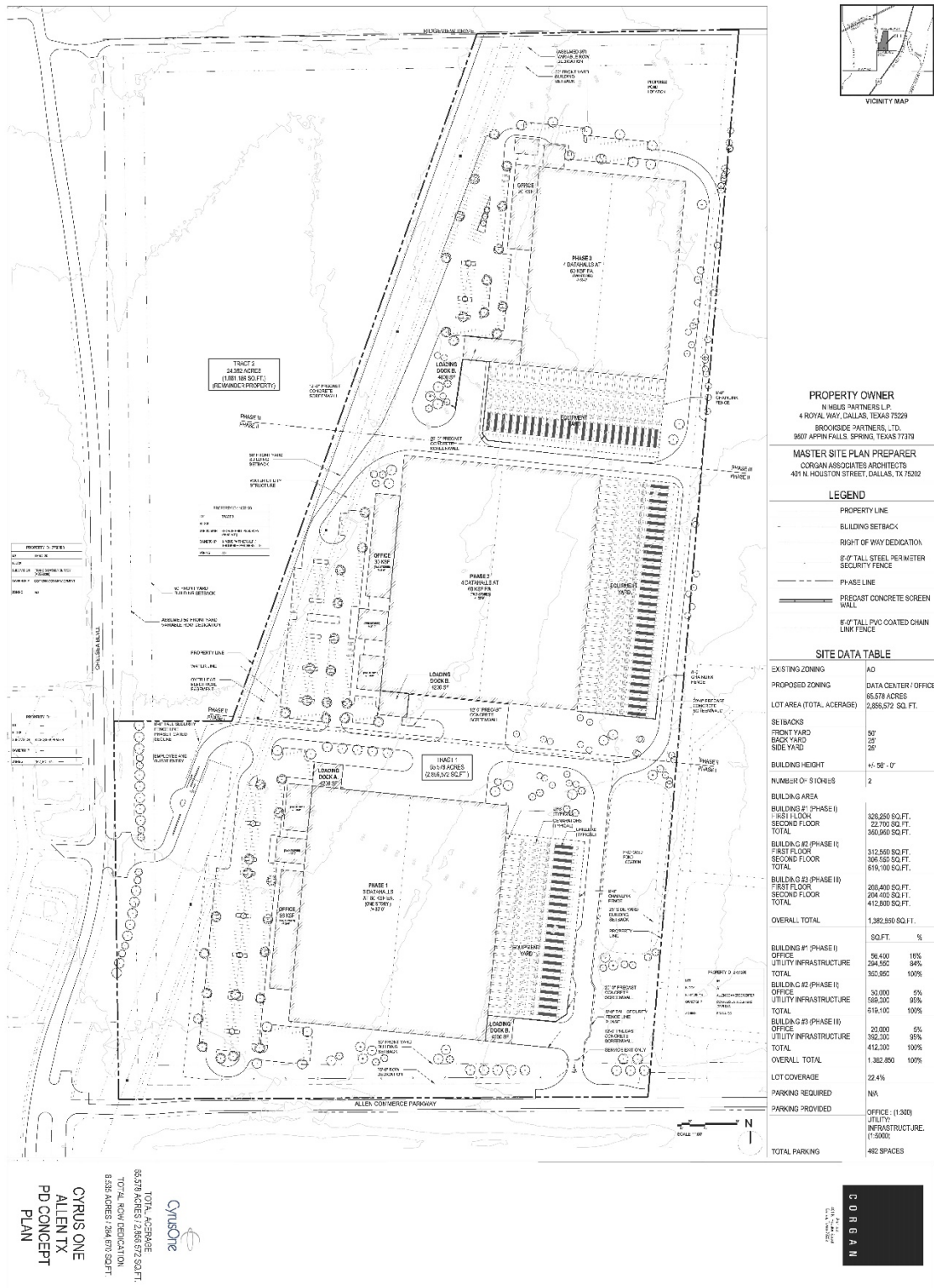
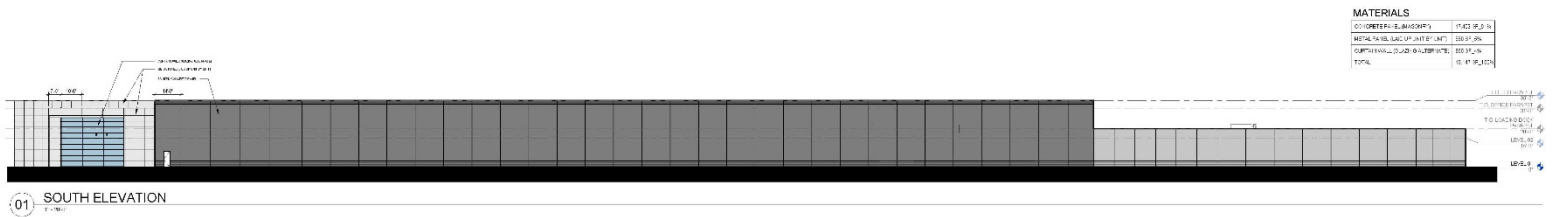
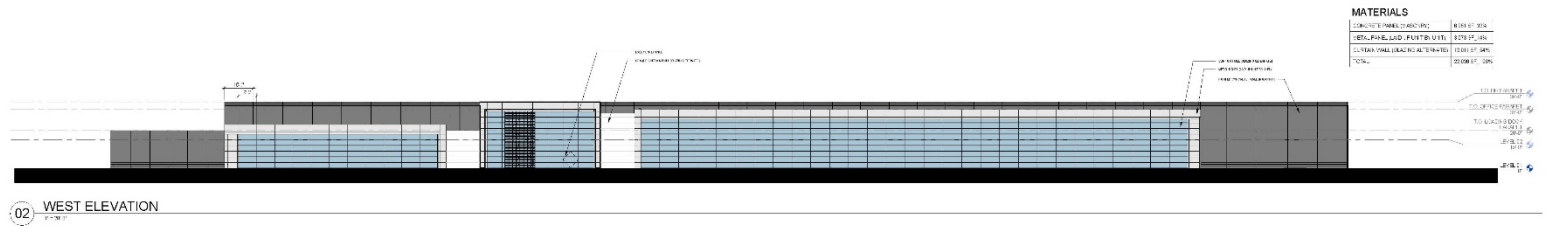
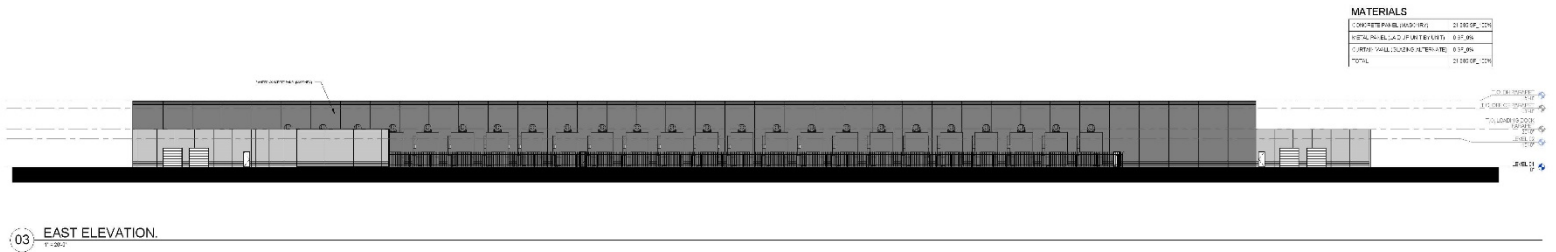
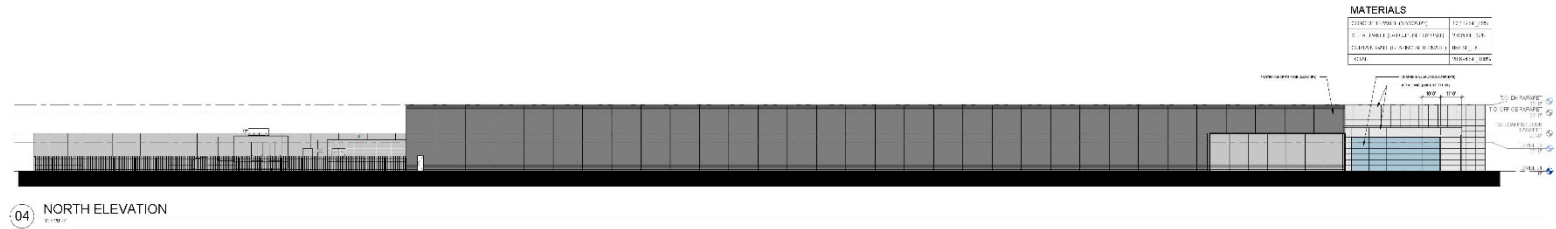
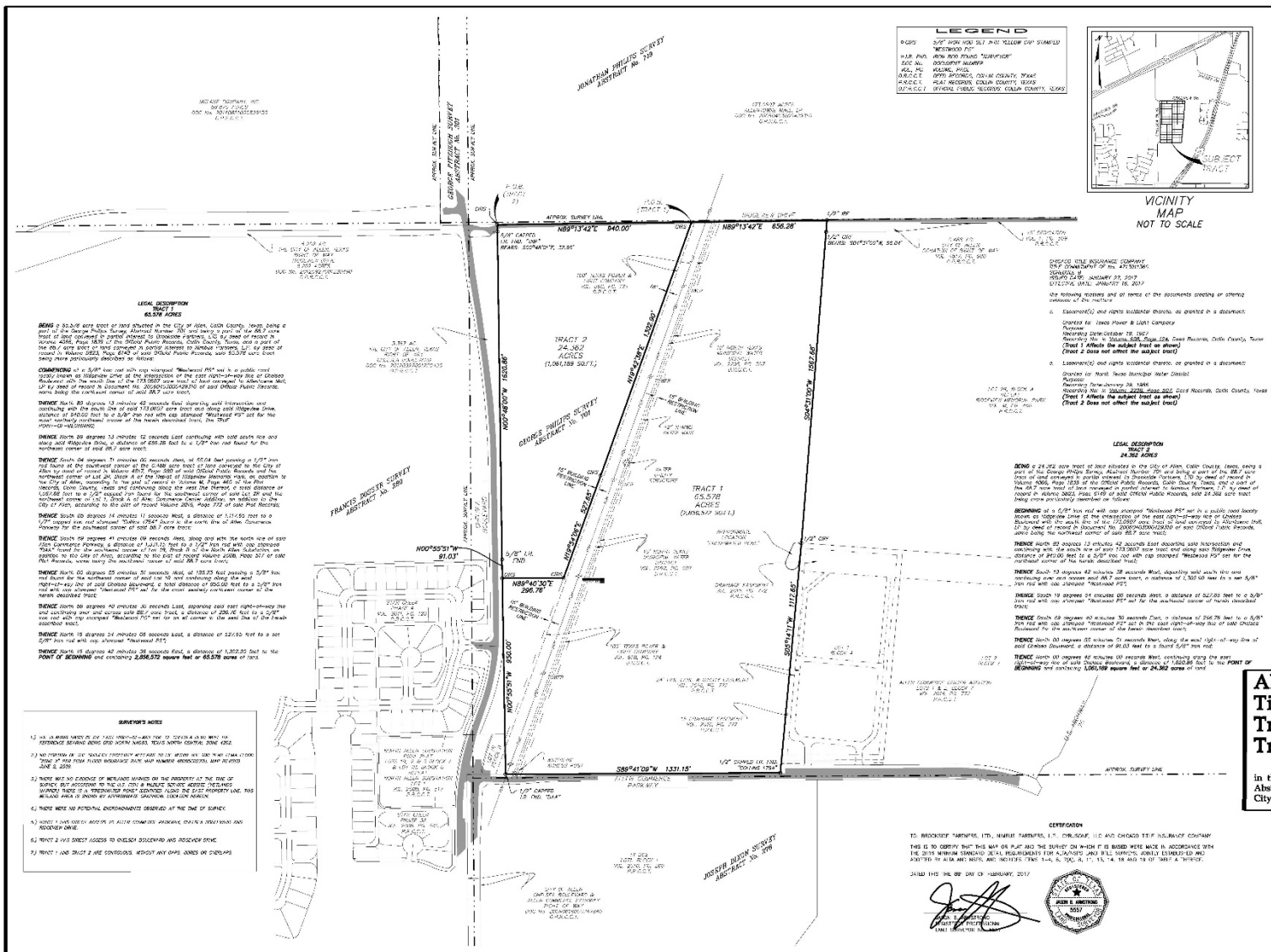


EXHIBIT "C"  
BUILDING ELEVATIONS





## Westwood

**Westwood Professional Services, Inc.**  
2410 North Dallas Parkway, Suite 200  
Plano, TX 75063

**Phone:** (972) 793-0300  
**Toll-Free:** (800) 927-0100

**Survey Firm Number:** 100742001  
[www.westwoodcs.com](http://www.westwoodcs.com)

Designed: \_\_\_\_\_  
 Checked: \_\_\_\_\_  
 Drawn: \_\_\_\_\_  
 Record Drawing by/date: \_\_\_\_\_

**Revisions:**

Prepared for:

**Cyrus One**

1649 West Frankford Road  
Carrollton, Texas 75007

ALTA/NSPS Land  
Title Survey  
Tract 1 65.578 Ac.  
Tract 2 24.362 Ac.

in the George Philips Survey,  
Abstract No. 701  
City of Allen, Collin County, Texas

Ridgeview Road  
and Chelsea  
Boulevard,  
Allen

Date: 02/08/17  
Sheet: 1 of 1

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