

STATE OF TEXAS
COUNTY OF COLLIN

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**IMPACT FEE REIMBURSEMENT AGREEMENT
(CYRUSONE- CHELSEA BOULEVARD EXTENSION)**

This **IMPACT FEE REIMBURSEMENT AGREEMENT** (“Agreement”) is made as of the Effective Date by and between the **City of Allen** (“City”), a Texas home rule municipality, and **C-1 Allen LLC** (“Owner”), a Delaware limited liability company, acting by and through their duly authorized representatives. City and Owner are collectively referred to herein as “Parties” and separately as “Party.”

RECITALS

WHEREAS, Owner is the owner of and is presently developing the Property; and

WHEREAS, in association with development of the Property, Owner is constructing a portion of Chelsea Boulevard located along the western portion of the Property as approximately shown on Exhibit “A,” attached hereto and incorporated herein by reference (“the Chelsea Extension”); and

WHEREAS, Chelsea Boulevard is a Roadway Facility identified as a Capital Improvement in the Impact Fee Study; and

WHEREAS, Allen Land Development Code §11.06(a) provides that “Any construction of, contributions to, or dedications of any facility appearing on the capital improvements plan which is required by the City to be constructed by the owner as a condition of development shall be credited against the impact fees otherwise due from the development;” and

WHEREAS, Owner has requested to receive reimbursement and/or credit of Roadway Impact Fees paid by Owner in relation to the construction of the Chelsea Extension; and

WHEREAS, the Parties desire to enter this Agreement for the purpose of setting forth the terms and conditions relating to Owner’s request.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

1. **Term.** The term of this Agreement shall begin on the Effective Date and terminate on the earlier of (i) the date all Parties have fully satisfied their respective obligations under this Agreement and (ii) the last day of the calendar month in which falls the fifth (5th) anniversary of the Effective Date (whichever applies being “the Termination Date”).

2. **Definitions.** The following words and phrases as used in this Agreement shall have the following meanings unless the context of the Agreement clearly indicates a different meaning:

Capital Improvement, Capital Improvements Plan, Impact Fee Study, Roadway Facilities, and Roadway Impact Fees shall have the same meaning given to those terms in Article XI of the Allen Land Development Code, as amended.

Chelsea Extension means approximately six hundred thirty-five (635) linear feet of a four-lane boulevard street located adjacent to the Property and constructed or to be constructed substantially as shown on Exhibit "A," attached hereto and incorporated herein by reference.

Chelsea Extension Cost means the actual costs for construction of the elements of the Chelsea Extension that constitute Roadway Facilities, which cost is agreed to not exceed \$206,861.00 ("the Maximum Refund Amount").

Effective Date means the date this Agreement bears the signatures of the authorized representatives of all of the Parties.

Property means the real property owned by Owner and described as Lot 2, Block 1 of LOTS 1 AND 2, BLOCK 1, CYRUS ONE ALLEN, an Addition to the City of Allen, Collin County, Texas, according to the plat thereof recorded as Instrument No. 20170719010003410, Real Property Records, Collin County, Texas.

3. ***Construction of Chelsea Extension.*** Owner agrees to construct, or cause the construction of, the Chelsea Extension at Owner's cost in accordance with plans and specifications approved by City's Director of Engineering or designee.

4. ***Impact Fee Refund.*** Not later than ten (10) business days after (i) completion of construction and acceptance by City of the Chelsea Extension and (ii) delivery to City of such records and other information reasonably requested by City's Director of Engineering establishing the Chelsea Extension Cost, City agrees to provide a refund in an amount equal to the lesser of (i) Roadway Impact Fees previously paid by Owner to City relating to development of the Property pursuant to applicable provisions of the Allen Land Development Code, as amended, and (ii) the actual amount of the Chelsea Extension Cost, but in no case in an amount exceeding the Maximum Refund Amount. The Parties acknowledge and agree that Owner has paid \$453,321.40 in Roadway Impact Fees relating to the development of the Property prior to the Effective Date.

5. ***Notice.*** Any notice required or permitted to be delivered here under shall be deemed received when sent by United States Mail, postage prepared, certified mail addressed to the Party at the address set forth below or to such Party and address designated in writing by a Party, or by courier otherwise by hand delivery.

If intended for Owner, to:

C-1 Allen LLC
c/o CyrusOne LLC
2101 Cedar Springs Road, Suite 900
Dallas, Texas 75201
Attention: Robert M. Jackson, Esq.

With Copy to:

Troutman Sanders LLP
1001 Haxall Point
Richmond, Virginia 23219
Attention: Nicholas H. Grainger

CyrusOne LLC
2101 Cedar Springs Road, Suite 900
Dallas, Texas 75201
Attn: Sylvia Kang

If intended for City:

City of Allen, Texas
Attn: City Manager
305 Century Parkway
Allen, Texas 75013

With Copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard, Suite 1800
Dallas, Texas 75201

6. ***Successors and Assigns.*** This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement may not be assigned without the express written consent of City.

7. ***Severability.*** In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be enforceable and shall be enforced as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

8. ***Governing Law.*** The validity of this Agreement shall be governed by the laws of the State of Texas; and exclusive venue for any action concerning this Agreement shall be in State District Court of Collin County, Texas. The Parties agree to submit to the subject matter and personal jurisdiction of said court.

9. ***Entire Agreement.*** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements between the parties and relating to the matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

11. ***Recitals.*** The recitals to this Agreement are incorporated herein as part of this Agreement.

12. ***Exhibits.*** All exhibits to this Agreement are incorporated herein as a part of this Agreement.

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

14. *Survival of Covenants.* Any representatives, covenants and obligations of the parties, as well as the rights and benefits of the parties pertaining to a period of time following the termination or expiration of this Agreement shall survive termination.

(signatures on following pages)

SIGNED AND AGREED this _____ day of _____, 2018.

CITY OF ALLEN, TEXAS

By: _____
Peter H. Vargas, City Manager

ATTEST:

By: _____
Shelley B. George, City Secretary

APPROVED AS TO FORM:

By: _____
Peter G. Smith, City Attorney

SIGNED AND AGREED this 12 day of July, 2018.

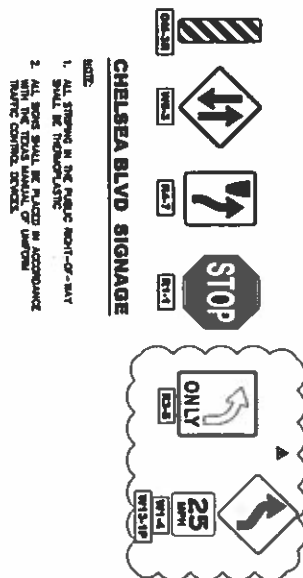
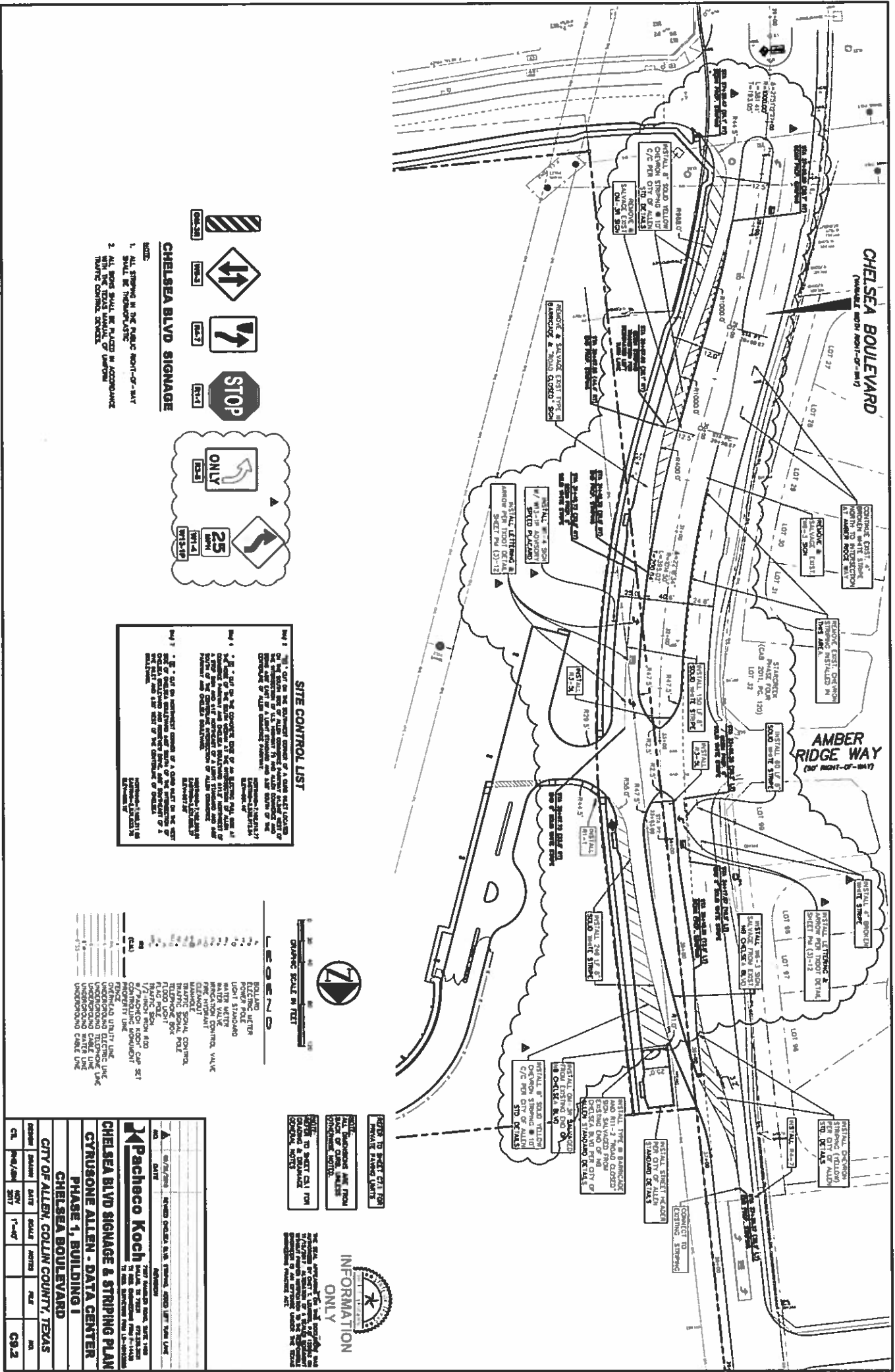
C-1 Allen LLC, a Delaware limited liability company

By:  _____

Name: John Hatern _____

Title: Executive Vice President
Design Construction # _____

Exhibit "A" Depiction of Chelsea Extension



- CHELSEA BLVD SIGNAGE**
1. ALL STOPPING IN THE PUBLIC RIGHT-OF-WAY SHALL BE PROHIBITIVE.
 2. ALL SIGNS SHALL BE PLACED IN ACCORDANCE WITH THE TEXAS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES.

- SITE CONTROL LIST**
- Box 1: ...
 - Box 2: ...
 - Box 3: ...
 - Box 4: ...
 - Box 5: ...
 - Box 6: ...
 - Box 7: ...
 - Box 8: ...
 - Box 9: ...
 - Box 10: ...
 - Box 11: ...
 - Box 12: ...
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 - Box 50: ...

- LEGEND**
- 1. ELECTRIC METERS
 - 2. LIGHT STUBS AND
 - 3. WATER METERS
 - 4. WATER VALVE
 - 5. FIVE AMPERE
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Pacheco Koch 7807 MAIN STREET, SUITE 1100 DALLAS, TEXAS 75247 TEL: 972.341.4000 FAX: 972.341.4001 WWW.PACHECO-KOCH.COM				
CHELSEA BLVD SIGNAGE & STRIPING PLAN CYRUSONE ALLEN - DATA CENTER PHASE 1, BUILDING 1 CHELSEA BOULEVARD CITY OF ALLEN, COULIN COUNTY, TEXAS				
DATE	REVISION	BY	CHKD BY	NO.
08/21/2018	ISSUED FOR PERMITS	JLM	JLM	08.2
08/21/2018	REVISED FOR PERMITS	JLM	JLM	08.2
08/21/2018	REVISED FOR PERMITS	JLM	JLM	08.2

REFER TO SHEET 08.1 FOR
 REMAINING SIGNAGE
 ALL SIGNAGE SHALL BE
 PLACED IN ACCORDANCE
 WITH THE TEXAS MANUAL
 OF UNIFORM TRAFFIC
 CONTROL DEVICES.
 SEE SHEET 08.1 FOR
 SIGNAGE NOTES.

INFORMATION ONLY

THE CITY ENGINEER SHALL REVIEW AND APPROVE ALL SIGNAGE AND STRIPING PLANS. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE SIGNAGE AND STRIPING PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE USER OF THIS INFORMATION SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE APPROPRIATE AGENCIES.