



**REGULAR MEETING
OF THE TOWN COUNCIL**

Tuesday, March 7, 2023

6:00 PM

Little Elm Town Hall

100 W Eldorado Parkway, Little Elm, TX 75068

1. **Roll Call/Call to Order Regular Town Council at 6:00 p.m.**
 - A. Invocation.
 - B. Pledge to Flags.
 - C. Items to be Withdrawn from Consent Agenda.
 - D. Emergency Items if Posted.
 - E. Request by the Town Council for Items to be Placed on a Future Agenda for Discussion and Recognition of Excused Absences.
 - F. **Presentation of Monthly Updates.**

Presentation of monthly updates from department heads: concerning law enforcement activities, municipal court, customer service, emergency medical services, fire department response, fire prevention activities, emergency management, ongoing economic development projects, building permits, code enforcement activities, library activities, human resources updates, information technology report, revenue and expenditure report, street construction status, sanitation services, highway construction

status, utility operations, parks and recreation activities, as well as facility and fleet updates.

- G. Town Council to Highlight Items on the Agenda Needing Further Discussion or Comments Prior to the Regular Session.

2. **Presentations.**

- A. Present **Police Department Awards.**
- B. Present a **Life-Saving Award to Officer Cara Penrod.**
- C. Present **Town Manager Challenge Coins.**
- D. Present **Recognition for Outstanding Customer Service.**

3. **Public Comments**

Persons may address the Town Council on any issue. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meeting Act, the council may not comment or deliberate such statements during this period, except as authorized by Section 551.007, Texas Government Code.

4. **Consent Agenda**

All matters listed under the Consent Agenda are considered to be routine by the Town Council and require little or no deliberation. There will not be a separate discussion of these items and the agenda will be enacted by one vote. If the Council expresses a desire to discuss a matter listed, that item will be removed from the consent agenda and considered separately.

- A. Consider Action to Approve the **Minutes from the February 21, 2023, Regular Town Council Meeting.**
- B. Consider Action to Approve the **Quarterly Investment Report for the Period Ending December 31, 2022.**
- C. Consider Action to Approve the **Fiscal Year 2022-2023 Unaudited Quarterly Budget Report for the Quarter Ending December 31, 2022.**

- D. Consider Action to Approve the **Second Amendment to the Ground Lease Purchase Agreement for Certain Multi-Family Property in Little Elm, Denton County, Texas by and between the Little Elm Economic Development Corporation and Village at Lakefront, LLC.**
- E. Consider Action to **Authorize the Town Manager to execute on behalf of the Town Settlement Documentation relative to the State of Texas' and other Governmental Entities' Litigation against Allergan, CVS, Walmart, and Walgreens for the Marketing, Sale, and Dispensing of Opioids, and to take all actions incident and related thereto.**
- F. Consider Action to Approve an **Estoppel Certificate related to the Chadnic Villages at Lakefront, LLC Multi-Family Development.**

5. **Regular Items.**

- A. Present, Discuss, and Consider Action to **Appoint Seven (7) Members and Three (3) Alternates to the Little Elm Youth Council.**
- B. Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1703 Regarding a Request for a New Specific Use Permit, at 25691 Smotherman Road, Suite 120, Currently Zoned as Planned Development - Light Commercial (PD-LC) Through Ordinance No. 1539, in Order to Allow for a New Smoking Establishment, Not to Exceed 1,250 Square Feet, for the Purposes of On-Premise Retail Sales Only.**

Open Public Hearing:
Receive Public Comments:
Close Public Hearing:
Take Action on Ordinance No. 1703:

- C. Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1704 Regarding a Request to Rezone Approximately 4.219 Acres of Land, Currently Zoned as Office (O), Generally Located Along Crestwood Place, within Little Elm's Town Limits, in Order to Establish a New Planned Development (PD) District Based on Light Commercial (LC) with Modified Development Standards, to Capture Existing Campus Conditions and Allow for School Campus Expansion.**

Open Public Hearing:
Receive Public Comments:
Close Public Hearing:
Take Action on Ordinance No. 1704:

- D. Present, Discuss, and Consider Action on a **Development Agreement between the Town of Little Elm and North Texas Collegiate Academy.**

6. **Convene in Executive Session pursuant to Texas Government Code:**

- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
- Section 551.072 to discuss certain matters regarding real property.
- Section 551.074 of the Texas Government Code to discuss and deliberate personal matters to evaluate performance duties, of a public officer or employee(s).
- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

7. **Reconvene into Open Session**

Discussion and consideration to take any action necessary as the result of the Executive Session:

- COVID-19 Pandemic and the Town's response thereto, including the consideration of an emergency declaration ordinance.
- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
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- Section 551.074 of the Texas Government Code to discuss and deliberate personal matters to evaluate performance duties, of a public officer or employee(s).
- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

8. **Adjourn.**

Pursuant to the Texas Open Meeting Act, (Chapter 551, Texas Government Code), one or more of the above items will be taken or conducted in open session following the conclusion of the executive closed session.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aide of service such as interpreters for the hearing impaired, reader or large print are requested to contact the secretary at 214-975-0452 two days prior to the meeting so appropriate arrangements can be made.
BRILLE IS NOT PROVIDED.

Respectfully,

Town Secretary

This is to certify that the above notice was posted on the Town's website this 3rd day of March 2023 before 5:00 p.m.



Date: 03/07/2023
Agenda Item #: 2. A.
Department: Administrative Services
Strategic Goal: Ensure excellence in public services while keeping up with the growth in the community
Staff Contact: Rodney Harrison, Police Chief

AGENDA ITEM:

Present **Police Department Awards.**

DESCRIPTION:

Police Chief Rodney Harrison will present the 2022 Officer of the Year Award to Corporal Brooke Taylor and the 2022 Supervisor of the Year Award to Sergeant Megan Lescallett.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 03/07/2023
Agenda Item #: 2. B.
Department: Administrative Services
Strategic Goal: Ensure excellence in public services while keeping up with the growth in the community
Staff Contact: Rodney Harrison, Police Chief

AGENDA ITEM:

Present a **Life-Saving Award to Officer Cara Penrod.**

DESCRIPTION:

Police Chief Rodney Harrison will present a Life-Saving Award to Officer Cara Penrod for performing life-saving measures (CPR) on a victim while waiting for medics to arrive on the scene.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 03/07/2023
Agenda Item #: 2. C.
Department: Administrative Services
Strategic Goal: Ensure excellence in public services while keeping up with the growth in the community
Staff Contact: Kate Graham, Assistant to the Town Manager

AGENDA ITEM:

Present **Town Manager Challenge Coins.**

DESCRIPTION:

Town Manager Matt Mueller will recognize Town employees by presenting them Town Manager Challenge Coins.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 03/07/2023
Agenda Item #: 2. D.
Department: Administrative Services
Strategic Goal: Ensure strong relationship within the community and region
Staff Contact: Kate Graham, Assistant to the Town Manager

AGENDA ITEM:

Present **Recognition for Outstanding Customer Service.**

DESCRIPTION:

CWD Driver, Randy Moore, is being recognized for his outstanding customer service with residents in the community.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 03/07/2023
Agenda Item #: 4. A.
Department: Administrative Services
Strategic Goal: Maintain operational integrity and viability
Staff Contact: Caitlan Biggs, Director of Administrative Services/Town Secretary

AGENDA ITEM:

Consider Action to Approve the **Minutes from the February 21, 2023, Regular Town Council Meeting.**

DESCRIPTION:

The minutes from the February 21, 2023, regular Town Council meeting are attached for approval.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Minutes - February 21, 2023

DRAFT

Minutes
Town of Little Elm
100 W Eldorado Parkway
Little Elm, Texas 75068
214-975-0404
<http://www.littleelm.org>

REGULAR TOWN COUNCIL MEETING TUESDAY FEBRUARY 21, 2023 - 6:00 p.m.

Present: Mayor Curtis J. Cornelious; Council Member Neil Blais; Council Member Jamell Johnson; Council Member Tony Singh; Mayor Pro Tem Lisa Norman; Council Member Michael McClellan

Staff Present: Caitlan Biggs, Director of Administrative Services/Town Secretary; Jennette Espinosa, Executive Director; Joe Florentino, Assistant Town Manager; Matt Mueller, Town Manager; Chad Hyde, Director of Community Services; Doug Peach, Deputy Town Manager; Fred Gibbs, Director of Development Services; Jason Shroyer, Director of Public Works; Kate Graham, Assistant to the Town Manager; Kelly Wilson, Chief Financial Officer; Paul Rust, Fire Chief; Robert Brown, Town Attorney; Rodney Harrison, Police Chief

1. Call to Order Council Workshop at 6:00 p.m.

Meeting was called to order at 6:00 p.m.

A. Present and Discuss **Town Council Orientation 2023.**

Town Manager Matt Mueller presented an overview of the item. Staff will reach out to Town Council with a more specific time frame for the selected dates.

B. Present and Discuss a **Keep Little Elm Beautiful 2022 Report.**

KLEB Chair Neeraj Madan gave an overview of the item with the attached presentation.

2. Roll Call/Call to Order Regular Town Council Immediately Following Council Workshop.

A. Invocation.

Boy Scout Troop 45 gave the invocation and prayer.

B. Pledge to Flags.

C. Items to be Withdrawn from Consent Agenda.

None.

D. Emergency Items if Posted.

None.

E. Request by the Town Council for Items to be Placed on a Future Agenda for Discussion and Recognition of Excused Absences.

None.

F. Presentation of Monthly Updates.

Presentation of monthly updates from department heads: concerning law enforcement activities, municipal court, customer service, emergency medical services, fire department response, fire prevention activities, emergency management, ongoing economic development projects, building permits, code enforcement activities, library activities, human resources updates, information technology report, revenue and expenditure report, street construction status, sanitation services, highway construction status, utility operations, parks and recreation activities, as well as facility and fleet updates.

Town Manager Matt Mueller gave an update on the monument wall on the west side of town that is knocked over. He stated that staff is working with the insurance company to replace it.

G. Town Council to Highlight Items on the Agenda Needing Further Discussion or Comments Prior to the Regular Session.

None.

3. Presentations.

A. Present the 2022 Achievement of Library Excellence Award.

The Mayor presented a certificate of recognition.

4. Public Comments

Persons may address the Town Council on any issue. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meeting Act, the council may not comment or deliberate such statements during this period, except as authorized by Section 551.007, Texas Government Code.

None.

5. **Consent Agenda**

All matters listed under the Consent Agenda are considered to be routine by the Town Council and require little or no deliberation. There will not be a separate discussion of these items and the agenda will be enacted by one vote. If the Council expresses a desire to discuss a matter listed, that item will be removed from the consent agenda and considered separately.

Motion by Council Member Neil Blais, seconded by Council Member Michael McClellan **to approve the Consent Agenda.**

Vote: 6 - 0 - Unanimously

- A. Consider Action to Approve the **Minutes from the February 7, 2023, Regular Town Council Meeting.**
- B. Consider Action to Approve the **Amended Administrative Services Agreement between the Town of Little Elm and the Little Elm Economic Development Corporation.**
- C. Consider Action to Approve **Planning & Zoning Commissioner Appointments.**

6. **Convene in Executive Session pursuant to Texas Government Code:**

- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
- Section 551.072 to discuss certain matters regarding real property.
- Section 551.074 of the Texas Government Code to discuss and deliberate personal matters to evaluate performance duties, of a public officer or employee(s).
- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

Town Council convened into Executive Session at 6:33 p.m.

7. **Reconvene into Open Session**

Discussion and consideration to take any action necessary as the result of the Executive Session:

- COVID-19 Pandemic and the Town's response thereto, including the consideration of an emergency declaration ordinance.
- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
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- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

Town Council reconvened into Open Session at 7:18 p.m. No action was taken.

8. Adjourn.

Meeting was adjourned at 7:18 p.m.

Respectfully,

Caitlan Biggs
Town Secretary

Passed and Approved this 7th day of March 2023.



Date: 03/07/2023
Agenda Item #: 4. B.
Department: Finance
Strategic Goal: Maintain operational integrity and viability
Staff Contact: Kelly Wilson, Chief Financial Officer

AGENDA ITEM:

Consider Action to Approve the **Quarterly Investment Report for the Period Ending December 31, 2022.**

DESCRIPTION:

The purpose of this item is to provide Town Council an overview of the Town's cash and invested balances for the fiscal period ending December 31, 2022.

BUDGET IMPACT:

Interest earnings for the first quarter of the Fiscal Year 2022-2023 was \$1,004,240 for the reporting period of October to December 2022 with the year-do-date total earnings reflecting the same. This first quarter of investment earnings reflects 83.3% of the interest earnings collected all last year.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Memo to TM Q1 Investment Report FY2023
LE Quarterly Investment Report as of 12.31.2022

MEMORANDUM

TO: MATTHEW MUELLER, TOWN MANAGER
FROM: KELLY WILSON, CHIEF FINANCIAL OFFICER
SUBJECT: INVESTMENT REPORT FOR QUARTER ENDING DECEMBER 31, 2022
CC: MAYOR AND COUNCIL

Attached is the Quarterly Investment Report for the first quarter ending December 31, 2022 Fiscal Year 2022-2023. This report complies with the requirements of the Town's Investment Policy and the Public Fund's Investment Act as amended. For the period ending December 31, 2022, the Town's portfolio consisted of the following investments:

Portfolio by Type	Average Yield	Total Invested	Percent of Total
Money Market - Independent Financial	3.59%	\$79,087,249.58	47.96%
TexPool/TexPool Prime/LOGIC Prime	3.74%	48,005,016.82	29.11%
Certificate of Deposit	3.12%	4,768,018.65	2.91%
US Treasury Notes	2.83%	7,290,425.00	4.55%
US Agency Bonds	2.56%	24,848,970.00	15.46%
Total Portfolio (Avg)	3.17%	\$163,999,680.05	100.00%

The Town has been actively diversifying the investment portfolio in order to minimize risk of over 50% of funds in one portfolio type as well as capturing a better yield. As interest rates are following the federal government increasing rates, the Town is actively participating in other higher yield investments. All Funds on deposit with Independent Financial are fully secured and safeguarded as well as collateralized. Total interest earned for the first quarter ending December 31, 2022 was \$1,004,240. The Town's year-to-date interest earnings for Fiscal Year 2022-2023 reflects the same.

Total cash and investments for the period ending December 31, 2022 was \$163,999,680.05. The variance increase of \$21,143,787.38 from the last quarterly investment report is primarily due to the timing of property taxes collected. The cash flow is important for Finance to monitor in order to provide cash availability for expenditures while minimizing risk, preventing early redemptions of investments, and maximizing interest earnings.

The Town's current portfolio has significant resources available for same day access in order to cover normal and seasonal operational costs. The Town's investment and cash management strategy will be to maintain operational and capital needs in money market accounts and liquid asset pools but investing in other instruments in order to capitalize on interest earnings while keeping risk to a minimum. The Town's funds are swept to the above accounts and withdrawn as needed for operational cash flow requirements.

The total portfolio yield fiscal year-to-date is 3.17%. While some benchmarks to reference the US Treasury T-bill rates for 3 months is 4.40%; 1 year is 4.50%; and a 2 year is 4.60% as of the date of this report. The

FINANCE DEPARTMENT
QUARTERLY INVESTMENT REPORT

Town's portfolio yield at the time of this report does not exceed the 3 month bench mark but will continue to improve as we continue to invest in safe investments outlined in the Town's investment policy.

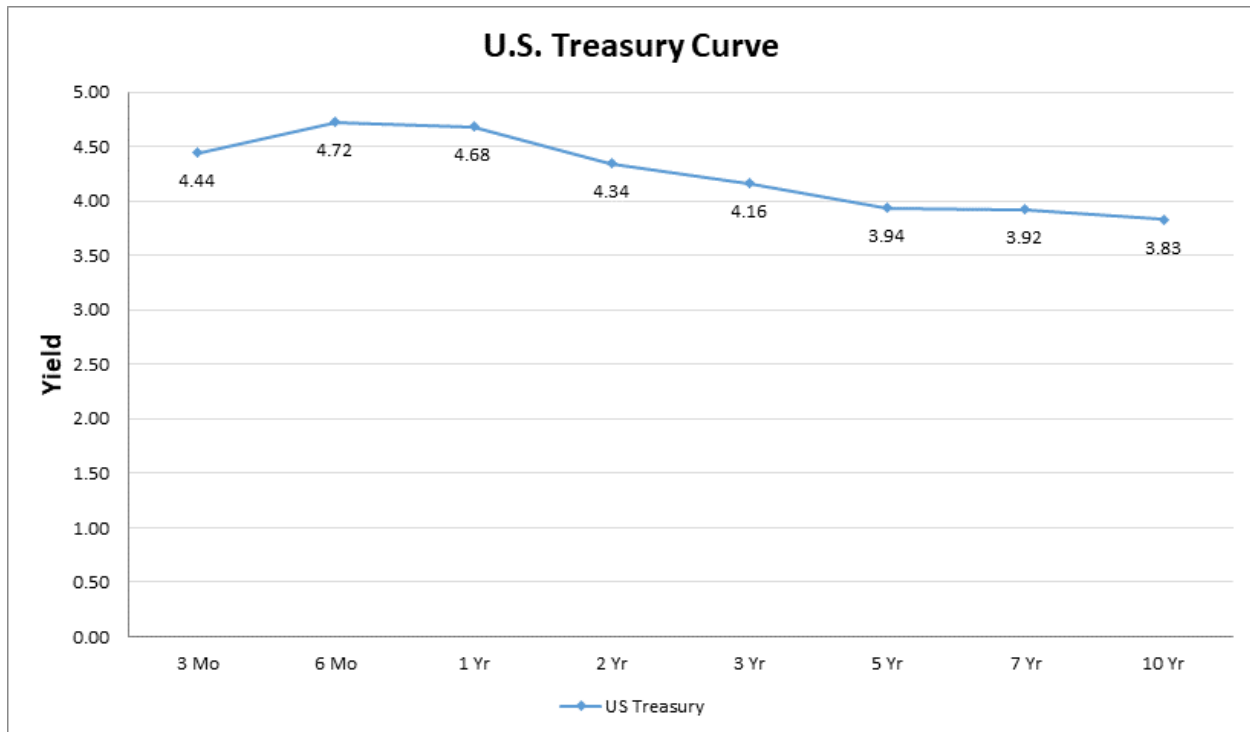
2023 Q1 Economic Recap and Rate Outlook

The U.S. economy appeared stubbornly resilient in the final quarter of 2022, despite the Fed's efforts to suffocate growth. The final reading of third quarter GDP was revised upward from +2.9% to +3.2% on stronger consumer spending, while the Atlanta Fed's (admittedly too-early-to-be-relevant) fourth quarter GDPNow measure was tracking at +3.7% as of December 23rd. Roughly two-thirds of economists in the December Bloomberg survey are forecasting a recession in 2023, but as 2022 closed out, growth was far from weak. On the too-strong side was employment. The unemployment rate held steady at 3.7% in both October and November, just a fraction above the five-decade low. Only six million Americans were actively seeking work in November, well below the 10.3 million job openings reported in the October JOLT survey.

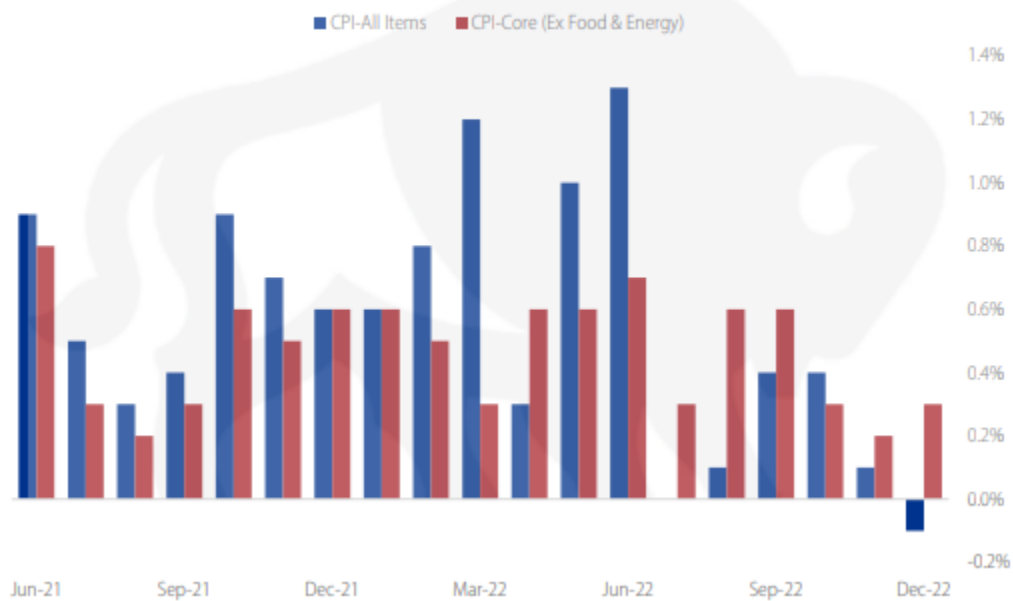
Fed officials hiked the overnight target rate by 75 basis points for the fourth consecutive time in early November before downshifting to a 50 bp increase in December. This marked 425 basis points of tightening in just nine months, the most aggressive pace in over 40 years. Rate hikes are designed to slow GDP growth, but that hasn't happened yet, so Fed officials remain in tightening mode. However, there is already ample evidence of waning demand. Households are gradually drawing down record cash holdings accumulated during the pandemic. The personal savings rate, which ended 2021 at 7.5%, had dropped to 2.4% by November, while total outstanding consumer debt reached a record high in October, according to Federal Reserve data.

Finance's new discipline will be to ladder the portfolios and this strategy will help sustain the yield for a longer period of time. We will continue this strategy as much as possible. Finance will continue to monitor our cash needs as revenue streams has been reflected for the property tax collections received in the first two quarters of the fiscal year and utilization of bond proceeds for CIP projects.

FINANCE DEPARTMENT
QUARTERLY INVESTMENT REPORT



Consumer Price Index (Month-over-Month Percent Change)



FINANCE DEPARTMENT
QUARTERLY INVESTMENT REPORT



Quarterly Investment Report

For the Quarter Ended

December 31, 2022

Prepared by the Town of Little Elm Finance Department

Overview of the Quarterly Investment Report

Funds on deposit with depository bank are fully collateralized.

- **YTD Cash and Investments on hand: \$163,999,680.05**
 - 47.96% in depository bank
 - 29.11% invested in Pools
 - 2.91% invested in CDs
 - 4.55% invested in US Treasury Notes
 - 15.46% invested in US Agency Bonds
- **Interest Earnings**
 - \$1,004,240 YTD
 - \$1,004,240 October-December 2022
- **Average Yield on Portfolio**
 - 3.17% YTD
 - 2.07% at end of 4th Quarter – FY 2021-2022
- **Average Yield Benchmarks**
 - 4.40% Three Month Rolling Treasury Yield
 - 4.50% One Year Rolling Treasury Yield
 - 3.74% TexPool/Logic Average Yield
- **Certification of Investment Policy (Government Treasurers' Organization of Texas)**
 - Awarded for 2-year period ending March 31, 2024
 - Town has obtained re-certification

The investment portfolio of the Town of Little Elm is in compliance with the Public Funds Investment Act and the investment Policy and Strategies.

Kelly Wilson

Kelly Wilson, Chief Financial Officer

Dianne Lawson

Dianne Lawson, Assistant Director of Finance

TOWN OF LITTLE ELM

Investment Portfolio Summary

Quarter Ending 12/31/2022



PERFORMANCE		9/30/2022	12/31/2022
Yield to Maturity @ Cost		2.07%	3.17%
TREASURY			
3 Month		3.26%	4.40%
1 Year		3.80%	4.50%
2 Year		4.10%	4.60%

Investment Policy Compliance

Authorized Investments	Compliance
Certificate of Deposit Negotiable	Yes
Commercial Paper	Yes
Guaranteed Investment Contracts	Yes
Local Government Investment Pools	Yes
Municipal Bonds Texas	Yes
Municipal United States	Yes
Mutual Funds	Yes
Repurchase Agreements	Yes
US Agency	Yes
US Treasury	Yes

	Days	Compliance
Maturity Range not to exceed 5 Years	174	Yes

MISSION

Effective cash management is recognized as essential to good fiscal management. A comprehensive and effective cash management system will be pursued to optimize investment interest as viable and material revenue to all operating and capital funds. The Town's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with local, state and federal law.

The Town of Little Elm, Texas, is in full compliance with the investment policy and strategy, and the Public Funds Investment Act | Chapter 2256.005 (n), Government Code, Section 404.024.

Kelly Wilson

Kelly Wilson, Chief Finance Officer

Dianne Lawson

Dianne Lawson, Assistant Director of Finance

TOWN OF LITTLE ELM

Investment Portfolio Summary

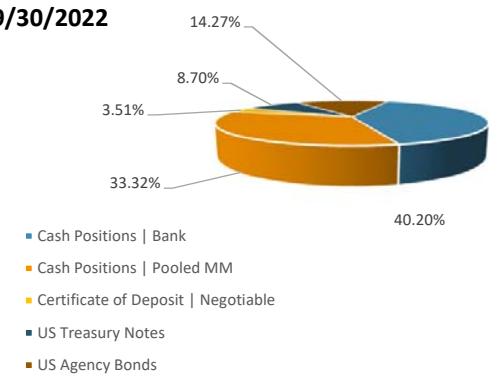
Quarter Ending 12/31/2022



Investment Policy Compliance

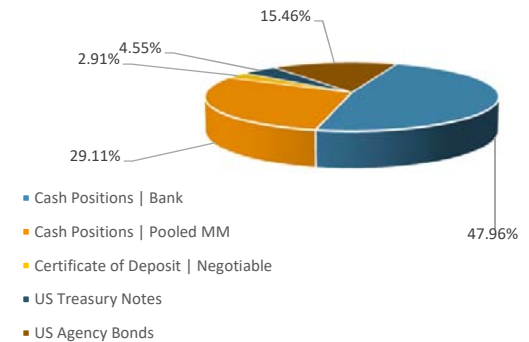
Asset Category	% of Portfolio	YTM @Cost	Days to Maturity	Par Value	Book Value	Market Value
Cash Positions Bank	40.20%	2.26	1	57,771,221.60	57,771,221.60	57,771,221.60
Cash Positions Pooled MM	33.32%	2.20	1	47,887,862.27	47,887,862.27	47,887,862.27
Certificate of Deposit Negotiable	3.51%	2.86	315	5,045,000.00	5,045,000.00	5,007,083.80
US Treasury Notes	8.70%	1.60	221	12,500,000.00	12,492,576.51	12,364,475.00
US Agency Bonds	14.27%	1.42	316	20,500,000.00	20,467,950.00	19,825,250.00
	100.00%	2.07%	171	143,704,083.87	143,664,610.38	142,855,892.67

9/30/2022



Asset Category	% of Portfolio	YTM @Cost	Days to Maturity	Par Value	Book Value	Market Value
Cash Positions Bank	47.96%	3.59	1	79,087,249.58	79,087,249.58	79,087,249.58
Cash Positions Pooled MM	29.11%	3.74	1	48,005,016.82	48,005,016.82	48,005,016.82
Certificate of Deposit Negotiable	2.91%	3.12	248	4,805,000.00	4,805,000.00	4,768,018.65
US Treasury Notes	4.55%	2.83	395	7,500,000.00	7,441,932.77	7,290,425.00
US Agency Bonds	15.46%	2.56	224	25,500,000.00	25,390,945.83	24,848,970.00
	100.00%	3.17%	174	164,897,266.40	164,730,145.00	163,999,680.05

12/31/2022



Investment Policy Compliance

Authorized Investments	Compliance
Certificate of Deposit Negotiable	Yes
Commercial Paper	Yes
Guaranteed Investment Contracts	Yes
Local Government Investment Pools	Yes
Municipal Bonds Texas	Yes
Municipal United States	Yes
Mutual Funds	Yes
Repurchase Agreements	Yes
US Agency	Yes
US Treasury	Yes

Days	Compliance
Maturity Range not to exceed 5 Years	174 Yes

Town of Little Elm
Portfolio Holdings
Investment Portfolio - by Asset Category
As of 12/31/2022

Description	CUSIP/Ticker	Settlement Date	YTM @ Cost	Face Amount/Shares	Cost Value	Book Value	Market Value	Maturity Date	Days To Maturity	Accrued Interest	% of Portfolio
Cash Positions Bank Investments											
Independent Bank Pooled Cash MM	MM5236	12/31/2022	3.587	74,086,060.39	74,086,060.39	74,086,060.39	74,086,060.39	N/A	1	0	44.97%
Independent Bank Section 125 MM	MM3949	12/31/2022	3.587	39,149.73	39,149.73	39,149.73	39,149.73	N/A	1	0	0.02%
Independent Bank Dispersal Funds MM	MM3595	12/31/2022	3.587	7,533.84	7,533.84	7,533.84	7,533.84	N/A	1	0	0.00%
Independent Bank American Recovery Act MM	MM7177	12/31/2022	3.587	2,542,168.79	2,542,168.79	2,542,168.79	2,542,168.79	N/A	1	0	1.54%
Independent Bank CIP Reserve MM	MM7607	12/31/2022	3.587	2,412,235.20	2,412,235.20	2,412,235.20	2,412,235.20	N/A	1	0	1.46%
Independent Bank Emergicon MM	MM7737	12/31/2022	3.587	101.63	101.63	101.63	101.63	N/A	1	0	0.00%
Sub Total / Average Cash Positions Bank Investments			3.587	79,087,249.58	79,087,249.58	79,087,249.58	79,087,249.58		1	0.00	48.01%
Cash Positions MM Pool Investments											
TexPool Consolidated Ops LGIP	LGIP449	12/31/2022	3.508	7,568,152.90	7,568,152.90	7,568,152.90	7,568,152.90	N/A	1	0	4.59%
TexPool Prime Consolidated Ops LGIP	LGIP590	12/31/2022	3.804	7,318,220.71	7,318,220.71	7,318,220.71	7,318,220.71	N/A	1	0	4.44%
TexPool Prime 2020 CO Bond LGIP	LGIP590	12/31/2022	3.804	454,363.23	454,363.23	454,363.23	454,363.23	N/A	1	0	0.28%
LOGIC Prime 2021 CO Bond LGIP	LGIP6001	12/31/2022	3.793	22,570,737.00	22,570,737.00	22,570,737.00	22,570,737.00	N/A	1	0	13.70%
LOGIC Prime 2022 CO Bond LGIP	LGIP6002	12/31/2022	3.793	10,093,542.98	10,093,542.98	10,093,542.98	10,093,542.98	N/A	1	0	6.13%
Sub Total / Average Cash Positions MM Pool Investments			3.740	48,005,016.82	48,005,016.82	48,005,016.82	48,005,016.82		1	0.00	29.14%
Certificate of Deposit Negotiable											
Bank India New York	06279K2V7	06/27/2022	2.300	240,000.00	240,000.00	240,000.00	239,942.40	01/04/2023	4	2,782.68	0.15%
Cross River Bank	227563BT9	06/27/2022	2.400	240,000.00	240,000.00	240,000.00	238,960.80	03/30/2023	89	2,903.67	0.15%
East-West Bank Pasadena California	27579TTX8	06/27/2022	2.600	240,000.00	240,000.00	240,000.00	239,076.00	03/30/2023	89	3,145.64	0.15%
Eclipse Bankcorp Inc	27884YAE9	06/27/2022	2.500	240,000.00	240,000.00	240,000.00	239,035.20	03/30/2023	89	16.44	0.15%
Ally Bank Sandy Utah	02007GUA9	06/27/2022	2.850	240,000.00	240,000.00	240,000.00	235,747.20	12/29/2023	363	18.74	0.15%
Bank Hapoalim BM New York	06251S4G2	06/27/2022	3.000	240,000.00	240,000.00	240,000.00	236,092.80	12/29/2023	363	19.73	0.15%
Jeanne D Arc Federal Credit Union	47220TAB5	06/27/2022	3.200	240,000.00	240,000.00	240,000.00	235,305.60	06/28/2024	545	21.04	0.15%
American Express National Bank	02589AD41	06/27/2022	3.300	240,000.00	240,000.00	240,000.00	235,442.40	07/01/2024	548	43.40	0.15%
Wex Bank	92937CKV9	07/01/2022	2.250	240,000.00	240,000.00	240,000.00	239,952.00	01/03/2023	3	2,707.40	0.15%
America's Christian Credit Union	03062CAJ1	09/21/2022	3.500	245,000.00	245,000.00	245,000.00	244,659.45	03/21/2023	80	2,372.81	0.15%
Seneca Savings	817178AC0	07/06/2022	2.400	240,000.00	240,000.00	240,000.00	238,900.80	04/06/2023	96	394.52	0.15%
Winter Hill Bank, FSB	975875BD6	07/07/2022	2.400	240,000.00	240,000.00	240,000.00	238,888.80	04/06/2023	96	378.74	0.15%
Evansville Teachers Credit Union	299547BA6	07/07/2022	3.000	240,000.00	240,000.00	240,000.00	238,394.40	07/07/2023	188	591.78	0.15%
Metro Credit Union	59161YAV8	07/13/2023	3.000	240,000.00	240,000.00	240,000.00	238,320.00	07/13/2023	194	591.78	0.15%
Goldman Sachs Bank	38150VDM8	07/06/2022	3.000	240,000.00	240,000.00	240,000.00	236,114.40	01/06/2023	6	3,511.23	0.15%
Essential Federal Credit Union	29669XAL2	09/30/2022	4.250	240,000.00	240,000.00	240,000.00	238,896.00	04/01/2024	457	27.95	0.15%
Sallie Mae Bank	795451BP7	07/06/2022	3.300	240,000.00	240,000.00	240,000.00	235,394.40	07/08/2024	555	3,862.36	0.15%
Vystar Credit Union	92891CCN0	09/30/2022	4.350	240,000.00	240,000.00	240,000.00	238,567.20	09/30/2025	1,004	858.08	0.15%
Touchmark National Bank	89155MBW6	12/29/2022	4.350	240,000.00	240,000.00	240,000.00	240,148.80	03/29/2023	88	57.21	0.15%
Valley National Bank	919853HM6	12/29/2022	4.400	240,000.00	240,000.00	240,000.00	240,180.00	04/03/2023	93	57.86	0.15%
Sub Total / Average Certificate of Deposit Negotiable			3.118	4,805,000.00	4,805,000.00	4,805,000.00	4,768,018.65		248	24,363.06	2.92%
US Treasury Notes											
US T-Note	912828R28	3/25/2022	1.682	2,500,000.00	2,498,437.50	2,514,709.94	2,476,750.00	4/30/2023	120	6,845.65	1.53%
US T-Note	9128286R6	3/25/2022	2.238	2,500,000.00	2,500,585.94	2,523,117.02	2,421,475.00	4/30/2024	486	9,478.59	1.53%
US T-Note	912828Y87	12/7/2022	4.578	2,500,000.00	2,404,105.81	2,404,105.81	2,392,200.00	7/31/2024	578	18,189.54	1.46%
Sub Total / Average US Treasury Notes			2.833	7,500,000.00	7,403,129.25	7,441,932.77	7,290,425.00		395	34,513.78	4.52%
US Agency Bonds											
FHLB	3130APQ8	11/22/2021	0.625	5,000,000.00	5,000,000.00	5,000,000.00	4,805,950.00	11/22/2023	326	3,385.42	3.04%
FHLB	3130AQQT3	2/23/2022	1.100	8,000,000.00	8,000,000.00	8,000,000.00	7,649,120.00	2/23/2024	419	31,288.89	4.86%
FFCB	3133EMX98	4/20/2022	1.745	2,500,000.00	2,468,437.50	2,467,950.00	2,489,350.00	2/2/2023	33	931.25	1.50%
FHLB	3130ARRU7	4/28/2022	2.212	5,000,000.00	5,000,000.00	5,000,000.00	4,970,250.00	4/28/2023	118	21,875.00	3.04%
FHLB	313384JV2	12/9/2022	4.853	2,500,000.00	2,423,545.83	2,423,545.83	2,435,800.00	7/31/2023	212	0.00	1.47%
FHLB	3130AU5T7	12/9/2022	4.802	2,500,000.00	2,499,450.00	2,499,450.00	2,498,500.00	4/9/2024	465	7,302.78	1.52%
Sub Total / Average US Agency Bonds			2.556	25,500,000.00	25,391,433.33	25,390,945.83	24,848,970.00		224	64,783.34	15.41%
Total / Average			3.167	164,897,266.40	164,691,828.98	164,730,145.00	163,999,680.05		174	123,660.18	1.00

TOWN OF LITTLE ELM

Investment Portfolio Summary

Quarter Ending 12/31/2022



Investment Policy Compliance | Maturity Range

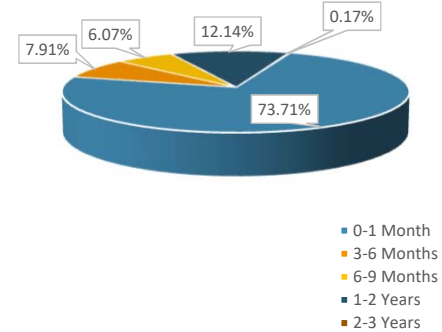
Maturity Range	% of Portfolio	YTM @Cost	Days to Maturity	Book Value
0-1 Month	73.71%	2.15	1	105,899,083.87
3-6 Months	7.91%	2.20	95	11,367,699.55
6-9 Months	6.07%	2.31	192	8,714,709.94
1-2 Years	12.14%	2.71	496	17,443,117.02
2-3 Years	0.17%	4.35	1096	240,000.00
	100.00%	2.75%	171	143,664,610.38

Maturity Range	% of Portfolio	YTM @Cost	Days to Maturity	Book Value
0-1 Month	77.15%	3.66	1	127,092,266.40
3-6 Months	7.67%	2.70	72	12,627,659.94
6-9 Months	1.76%	3.62	198	2,903,545.83
1-2 Years	13.27%	3.02	464	21,866,672.83
2-3 Years	0.15%	4.35	1,004	240,000.00
	100.00%	3.47%	174	164,730,145.00

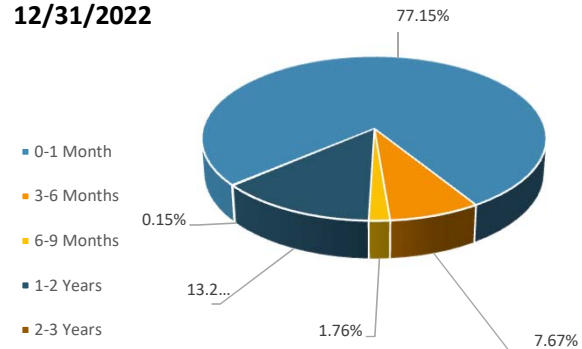
Investment Policy Compliance

Authorized Investments	Days	Compliance
Maturity Range not to exceed 5 Years	174	Yes

9/30/2022



12/31/2022



Town of Little Elm
Portfolio Holdings
Investment Portfolio - by Maturity Range
As of 12/31/2022

Description	CUSIP/Ticker	Maturity Date	Days To Maturity	Settlement Date	Book Value	Market Value	% of Portfolio
0-1 Month							
Independent Bank Pooled Cash MM	MM5236	12/31/2022	1		74,086,060.39	74,086,060.39	44.97%
Independent Bank Section 125 MM	MM3949	12/31/2022	1		39,149.73	39,149.73	0.02%
Independent Bank Dispersal Funds MM	MM3595	12/31/2022	1		7,533.84	7,533.84	0.00%
Independent Bank American Recovery Act MM	MM7177	12/31/2022	1		2,542,168.79	2,542,168.79	1.54%
Independent Bank CIP Reserve MM	MM7607	12/31/2022	1		2,412,235.20	2,412,235.20	1.46%
Independent Bank Emergicon MM	MM7737	12/31/2022	1		101.63	101.63	0.00%
TexPool Consolidated Ops LGIP	LGIP449	12/31/2022	1		7,568,152.90	7,568,152.90	4.59%
TexPool Prime Consolidated Ops LGIP	LGIP590	12/31/2022	1		7,318,220.71	7,318,220.71	29.14%
TexPool Prime 2020 CO Bond LGIP	LGIP590	12/31/2022	1		454,363.23	454,363.23	0.28%
LOGIC Prime 2021 CO Bond LGIP	LGIP6001	12/31/2022	1		22,570,737.00	22,570,737.00	13.70%
LOGIC Prime 2022 CO Bond LGIP	LGIP6002	12/31/2022	1		10,093,542.98	10,093,542.98	6.13%
Total / Average 0-1 Month			1		127,092,266.40	127,092,266.40	77.15%
3-6 Month							
Bank India New York	06279K2V7	01/04/2023	4	6/27/2022	240,000.00	239,942.40	0.15%
Wex Bank	92937CKV9	1/3/2023	3	7/1/2022	240,000.00	239,952.00	0.15%
America's Christian Credit Union	03062CAJ1	3/21/2023	80	9/21/2022	245,000.00	244,659.45	0.15%
Goldman Sachs Bank	38150VDM8	1/6/2023	6	7/6/2022	240,000.00	236,114.40	0.15%
Cross River Bank	227563BT9	3/30/2023	89	6/27/2022	240,000.00	238,960.80	0.15%
East-West Bank Pasadena California	27579TTX8	3/30/2023	89	6/27/2022	240,000.00	239,076.00	0.15%
Eclipse Bankcorp Inc	27884YAE9	3/30/2023	89	6/27/2022	240,000.00	239,035.20	0.15%
Seneca Savings	817178AC0	4/6/2023	96	7/6/2022	240,000.00	238,900.80	0.15%
Winter Hill Bank, FSB	975875BD6	4/6/2023	96	7/7/2022	240,000.00	238,888.80	0.15%
Touchmark National Bank	89155MBW6	3/29/2023	88	12/29/2022	240,000.00	240,148.80	0.15%
Valley National Bank	919853HM6	4/3/2023	93	12/29/2022	240,000.00	240,180.00	0.15%
US T-Note	912828R28	4/30/2023	120	3/25/2022	2,514,709.94	2,476,750.00	1.53%
FFCB	3133EMX98	2/2/2023	33	4/20/2022	2,467,950.00	2,489,350.00	1.50%
FHLB	3130ARRU7	4/28/2023	118	4/28/2022	5,000,000.00	4,970,250.00	3.04%
Total / Average 3-6 Months			72		12,627,659.94	12,572,208.65	7.67%
6-9 Months							
Evansville Teachers Credit Union	299547BA6	07/07/2023	188	07/07/2022	240,000.00	238,394.40	0.15%
Metro Credit Union	59161YAV8	07/13/2023	194	07/13/2023	240,000.00	238,320.00	0.15%
FHLB	313384JV2	07/31/2023	212	12/09/2022	2,423,545.83	2,435,800.00	1.47%
Total / Average 6-9 Months			198		2,903,545.83	2,912,514.40	1.76%
1-2 Years							
Ally Bank Sandy Utah	02007GUA9	12/29/2023	363	6/27/2022	240,000.00	235,747.20	0.15%
Bank Hapoalim BM New York	06251S4G2	12/29/2023	363	6/27/2022	240,000.00	236,092.80	0.15%
Jeanne D Arc Federal Credit Union	472207AB5	6/28/2024	545	6/27/2022	240,000.00	235,305.60	0.15%
American Express National Bank	02589AD41	7/1/2024	548	6/27/2022	240,000.00	235,442.40	0.15%
Essential Federal Credit Union	299547BA6	04/01/2024	457	09/30/2022	240,000.00	238,896.00	0.15%
Sallie Mae Bank	59161YAV8	07/08/2024	555	07/06/2022	240,000.00	235,394.40	0.15%
US T-Note	912828R6	04/30/2024	486	03/25/2022	2,523,117.02	2,421,475.00	1.53%
US T-Note	912828Y87	07/31/2024	578	12/07/2022	2,404,105.81	2,392,200.00	1.46%
FHLB	3130APQN8	11/22/2023	326	11/22/2021	5,000,000.00	4,805,950.00	3.04%
FHLB	3130AQQT3	02/23/2024	419	02/23/2022	8,000,000.00	7,649,120.00	4.86%
FHLB	3130AU5T7	04/09/2024	465	12/09/2022	2,499,450.00	2,498,500.00	1.52%
Total / Average 1-2 Years			464		21,866,672.83	21,184,123.40	13.27%
2-3 Years							
Vystar Credit Union	92891CCN0	09/30/2025	1,004	09/30/2022	240,000.00	238,567.20	0.15%
Total / Average 2-3 Years			1,004		240,000.00	238,567.20	0.15%
Total / Average					164,730,145.00	163,999,680.05	1.00

TOWN OF LITTLE ELM

Investment Portfolio Summary

Quarter Ending 12/31/2022



Funds		Par Value	Book Value	Market Value	Accrued Interest
Cash Positions Bank					
Value at	9/30/2022	57,771,221.60	57,771,221.60	57,771,221.60	-
	Net Change	21,316,027.98	21,316,027.98	21,316,027.98	-
Value at	12/31/2022	79,087,249.58	79,087,249.58	79,087,249.58	-
Cash Positions Pool Investments					
Value at	9/30/2022	47,887,862.27	47,887,862.27	47,887,862.27	-
	Net Change	117,154.55	117,154.55	117,154.55	-
Value at	12/31/2022	48,005,016.82	48,005,016.82	48,005,016.82	-
Certificate of Deposit Negotiable					
Value at	9/30/2022	5,045,000.00	5,045,000.00	5,007,083.80	21.70
	Net Change	(240,000.00)	(240,000.00)	(239,065.15)	24,341.36
Value at	12/31/2022	4,805,000.00	4,805,000.00	4,768,018.65	24,363.06
US Treasury Notes					
Value at	9/30/2022	12,500,000.00	12,492,576.51	12,364,475.00	17,350.25
	Net Change	(5,000,000.00)	(5,050,643.74)	(5,074,050.00)	17,163.53
Value at	12/31/2022	7,500,000.00	7,441,932.77	7,290,425.00	34,513.78
US Government Bonds (Agencies)					
Value at	9/30/2022	20,500,000.00	20,467,950.00	19,825,250.00	43,879.16
	Net Change	5,000,000.00	4,922,995.83	5,023,720.00	20,904.18
Value at	12/31/2022	25,500,000.00	25,390,945.83	24,848,970.00	64,783.34
Total Portfolio		Par Value	Book Value	Market Value	Accrued Interest
Value at	9/30/2022	143,704,083.87	143,664,610.38	142,855,892.67	61,251.11
	Net Change	21,193,182.53	21,065,534.62	21,143,787.38	62,409.07
Value at	12/31/2022	164,897,266.40	164,730,145.00	163,999,680.05	123,660.18

TOWN OF LITTLE ELM

Investment Portfolio Interest Earnings

Quarter Ending 12/31/2022



Interest Earnings

Funds	FY 2020 Interest Earnings	FY 2021 Interest Earnings	FY 2022 Interest Earnings	Oct-22	Nov-22	Dec-22	FY 2023 Interest Earnings
General Operating	408,184	174,622	363,471	84,012	107,769	70,022	261,803
Special Revenue Fund	63,758	58,815	110,862	25,724	36,943	14,056	76,724
Interest and Sinking	41,213	22,613	22,116	2,866	4,952	3,625	11,442
Equipment Replacement Fund	53,632	32,981	40,284	9,955	13,816	2,543	26,313
Enterprise Funds	424,323	247,995	359,194	94,058	129,011	50,934	274,004
Economic Agreements/TIRZ	66,432	14,440	16,261	2,286	3,170	560	6,016
Community Development Type B Corporation	9,095	9,612	15,303	4191	6377	1184	11,752
General Capital Project Funds	303,605	94,018	278,338	99,356	131,266	105,564	336,186
Total Cash and Investments	1,324,115	655,096	1,205,829	322,449	433,304	248,487	1,004,240

Interest Earnings

Investment Type	FY 2020 Interest Earnings	FY 2021 Interest Earnings	FY 2022 Interest Earnings	Oct-22	Nov-22	Dec-22	FY 2023 Interest Earnings
Cash Positions Bank	922,000	497,865	685,298	163,682	208,173	233,883	605,737
Cash Positions Pooled	185,688	15,186	308,396	126,159	152,401	173,957	452,517
Investments	216,427	142,045	212,135	32,609	72,731	-159,352	-54,013
Total Cash and Investments	1,324,115	655,096	1,205,829	322,449	433,304	248,487	1,004,241



Date: 03/07/2023
Agenda Item #: 4. C.
Department: Finance
Strategic Goal: Maintain operational integrity and viability
Staff Contact: Kelly Wilson, Chief Financial Officer

AGENDA ITEM:

Consider Action to Approve the **Fiscal Year 2022-2023 Unaudited Quarterly Budget Report for the Quarter Ending December 31, 2022.**

DESCRIPTION:

The purpose of this item is to provide Town Council a report of financial performance of the Town regarding its Budget of Revenues and Expenditures for the 1st Quarter of the Fiscal Year 2022-2023.

BUDGET IMPACT:

At December 31, 2022, the budget for all major funds target at 25%. The first quarter of the fiscal year reflects the majority of property tax collections, which is a major revenue stream for the Town. Through the 1st quarter, the Town's property tax collection rate is 65.10%. Building permits is another indicator of the economy and the Town is seeing collections to date of 26% of the budgeted revenue for permits. The Park and Recreation Fund reflects the following divisions cost recovery through the first quarter: The Cove - 91% cost recovery; Recreation Center-100% cost recovery; Athletics-223%; Special Events-36%. Another major revenue stream for the Town is the reported sales tax. To date, the Town has exceeded projected budgeted sales tax revenue by 3.54% in tax collections. The Utility Funds are on target with their billed revenue for services. Finance tracks the amount of water purchases to our take or pay amount, and the Town is not expecting to exceed the take or pay amount with North Texas Municipal Water District due to our data trends to date.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Staff Memo-1st Qtr Budget to Actual FY 2022-2023
FY2022-2023 Budget to Actual Highlights
FY2022-2023 Q1 GF and Utility Fund report
FY 2022-2023 Q1 Parks and Rec Fund report

MEMORANDUM

TO: MATT MUELLER, TOWN MANAGER
FROM: KELLY WILSON, CHIEF FINANCIAL OFFICER
SUBJ: BUDGET REPORT FOR PERIOD DECEMBER 31, 2022
CC: MAYOR AND COUNCIL

The attached is Budget to Actual Information for the fiscal period ending December 31, 2022. This period ending represents 25% of the Town's fiscal year. This information is unaudited and provides a snapshot of our financial information in a budgetary basis.

Cash and Investment Position: The Town is in excellent cash position. All idle funds are in interest bearing accounts or secured investments. For further detailed information, please review the quarterly investment report.

Budget: At December 31, 2022, the budget is as follows for major funds with the **target at 25%**; the major funds are presented in summary below. The YTD figure includes actual expenditures. This report does not reflect encumbrances for purchases.

Revenues:

<i>Major Funds – Sources</i>		<i>Budget</i>		<i>YTD</i>	<i>% Earned</i>
General Fund	\$	47,217,021	\$	25,339,385	53.67%
Park and Recreation Fund		4,678,200		880,573	18.82%
Street Maintenance Fund		1,678,983		146,210	8.71%
Water and Sewer Fund		21,277,929		4,832,212	22.71%
Solid Waste Fund		4,125,881		874,896	21.21%
Storm Drainage System Fund		755,285		170,077	22.52%

Expenditures:

<i>Major Funds - Uses</i>		<i>Budget</i>		<i>YTD</i>	<i>% Used</i>
General Fund	\$	54,260,839	\$	15,481,682	28.53%
Park and Recreation Fund		5,018,859		1,240,052	24.71%
Street Maintenance Fund		2,280,377		7,348	0.32%
Water and Sewer Fund		21,820,120		3,456,771	15.84%
Solid Waste Fund		4,029,338		846,040	21.00%
Storm Drainage System Fund		703,181		71,631	10.19%

General Fund Revenue and Expense Summary: The total all sources of revenue in the General Fund year-to-date is \$25,339,385 or 53.67% of budgeted revenues of \$47,217,021. Compared to this time last year, the General Fund year-to-date revenues was 47% of budgeted revenues. Operationally, the Town's

FINANCE DEPARTMENT
BUDGET REPORT

revenue through the 1st quarter of the fiscal year is in line with our budgeted projections. Ad Valorem property tax collections as of December 31, 2022 reflect \$25,826,080 or 65.1% on a tax levy of \$39,418,440. Property Tax collections typically start in October and spike with collections in December. The Town reports the collected property tax net of obligations to the various economic development incentives that are accounted for throughout the year. The Town is seeing through our 1st quarter in building permit revenue less than this time last year but in line with what the Town budgeted in revenue. The total building permit revenue collected to date reflects \$724,341 or 25.87% of the \$2,800,000 annual budgeted revenue. The Town has collected strong sales tax revenue. As of the date of this report, the Town has received an additional 3.54% more than budgeted sales tax and continues to exceed last year's collections. Total General Fund Expenditures are \$15,481,682. Total expenditures represent 28.53% of the budgeted \$54,260,839.

General Fund and Debt Service Fund Property Taxes:

The Property Tax collections for the fiscal year are received through December are:

General & Debt	General Fund	YTD Actual	Debt Service Fund	YTD Actual
Current Levy	\$22,061,362	\$19,946,507	\$7,126,155	\$4,673,509
Penalty and Interest	50,000	11,319	15,000	2,944
Prior Year Property Taxes	25,000	28,688	20,000	7,083
Total	\$22,136,362	\$19,986,513	\$7,161,155	\$4,683,536

Sales Tax: The Town's total sales tax budget (2 cents) is \$13,351,865. On an accrual basis, the Town is reporting sales tax receipts as it is earned. Sales Tax received in October and November was accrued back into FY2022 as it was actually earned for sales for the months of August and September. The table below summaries total sales tax collections through February 2023. The figures below do not include any reduction to Sales Tax associated with any development, 380 or economic development agreements.

Fiscal Year	Total Sales Tax Received	1¢ City	.50¢ EDC	.25¢ CDC	.25¢ SMF
2023 Budget	13,351,865.00	6,675,933.00	3,337,966.00	1,668,983.00	1,668,983.00
2023 Actual	3,672,021.44	1,836,010.72	918,005.36	459,002.68	459,002.68

Interest Earnings and Cash Position: The Town's funds are fully invested and secure. Total interest earned year to date ending December 31, 2022 was \$1,205,829. Total cash and investments on hand for the period ending September 30, 2022 are \$163,999,680. (See Cash and Investment Report for more detail)

Water and Sewer Fund: The Town's Water-Wastewater Utility YTD revenue as of December 31, 2022 is \$4,832,212 or 23% of budget revenues of \$21,277,929. The Town implemented a multi-year rate plan that goes out to 2024. This year water payers saw an increase of 2% in water rates. Sewer rates remained unchanged. Water sales total \$2,498,563 or 21.45% of the total budgeted amount of \$11,647,483. Actual expenditures for the year as of December 31, 2022 are \$13,456,771 or 15.84% of the total amended budget

FINANCE DEPARTMENT
BUDGET REPORT

amount of \$21,820,120. The water purchases take or pay budget reflects \$6,274,356 or 29% of the budget. The town is reporting the water purchases for the 1st quarter of \$1,552,089. The Town of Little Elm has billed 0.323 million gallons of water through the 1st quarter of FY 2023 and has purchased 0.402 million gallons of water for the fiscal year from NTMWD.

	Oct-22		Nov-22		Dec-22	
	WATER	SEWER	WATER	SEWER	WATER	SEWER
# of Accts Residential	12,038	11,778	12,041	11,777	12,026	11,768
#of Accts Commercial	448	226	446	225	449	228
Consumption-Residential	127,809,000	76,266,000	103,672,000	76,950,000	75,118,000	76,831,000
Consumption-Commercial	39,824,000	5,643,000	29,804,000	5,245,000	17,536,000	4,533,000
Average Residential Water Consumption	10,617		8,610		6,246	
Billed (\$) Residential	\$ 1,057,542	\$608,234	\$ 894,980	\$612,211	\$ 701,195	\$611,944
Billed (\$) Commercial	\$ 275,521	\$31,589	\$ 215,675	\$29,712	\$ 136,290	\$26,526
Total Billed (\$)	\$1,333,063	\$639,823	\$1,110,656	\$641,923	\$837,485	\$638,470
Rainfall	4.36		5.62		1.94	

TOWN OF LITTLE ELM
FY 2022-2023 Revenue and Expenditure Highlights

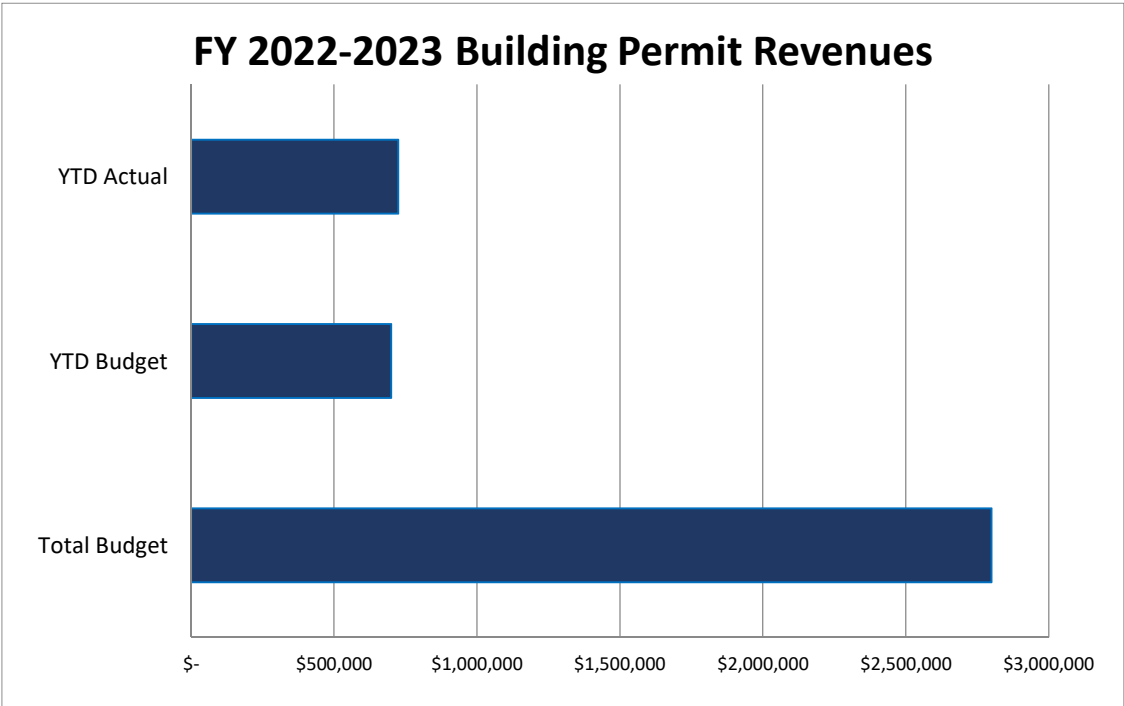
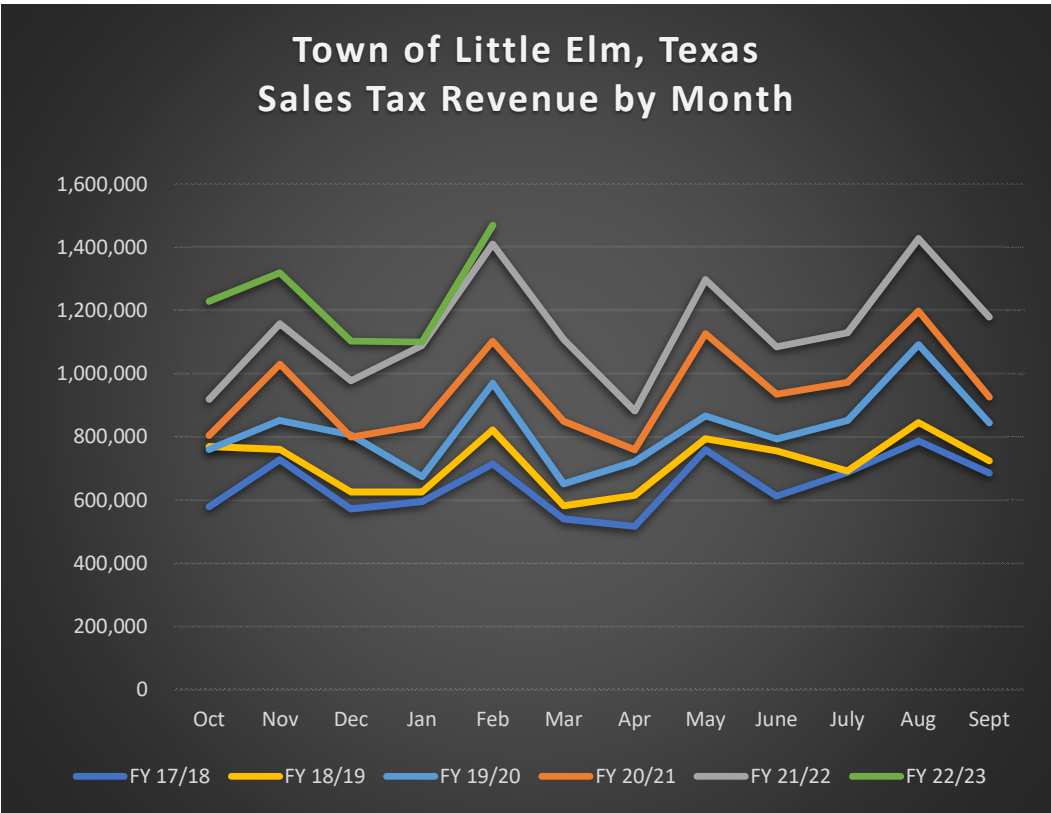
General Fund Revenues			
	Amended Budget	YTD Actual	Percent Difference
Total Revenue	47,217,021	25,339,385	54%
Top Five Sources of Revenue			
Property Taxes	22,136,362	19,986,513	90%
City Sales Tax	6,225,933	568,188	9%
Building Permits	2,800,000	724,341	26%
Franchise Fees	2,247,500	790,078	35%
ILA Agreements	5,604,362	1,287,179	23%

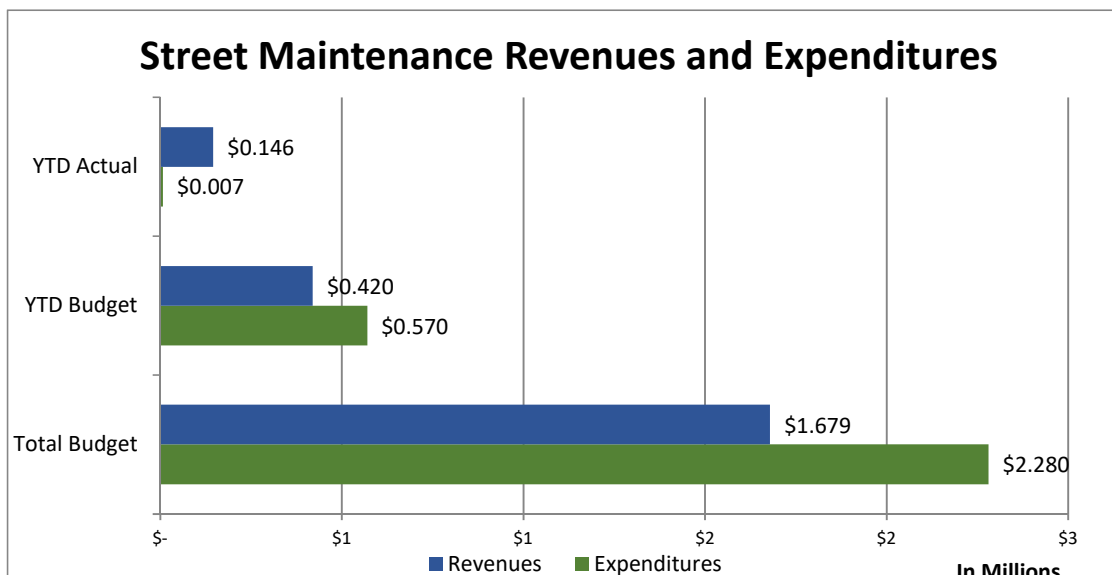
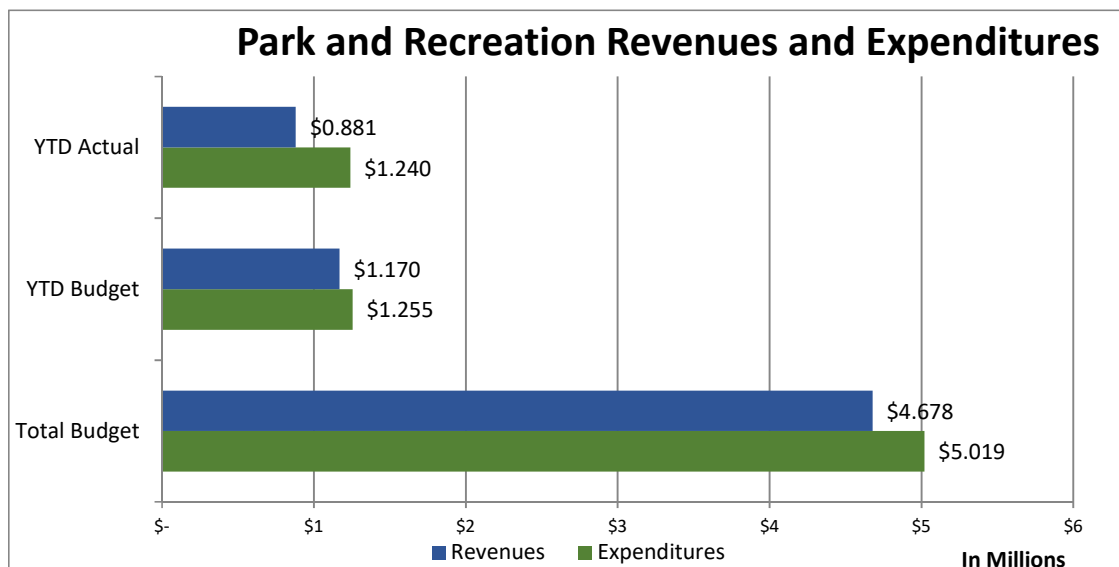
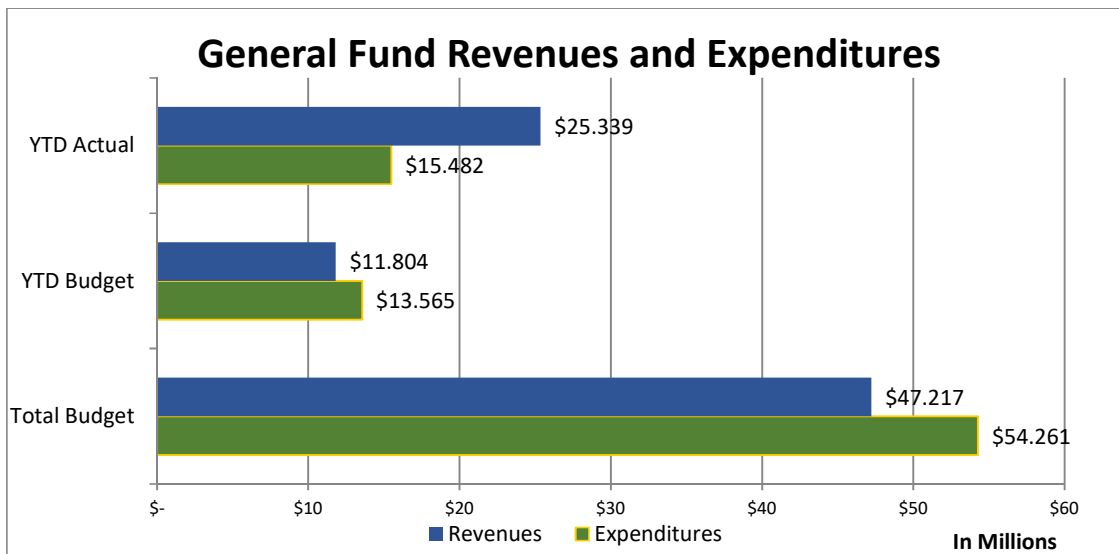
General Fund Expenditures				
	Amended Budget	YTD Actual	Remaining Budget	Percent of Budget
Total Expenditures	54,260,839	15,481,682	38,779,157	29%
Town Council	203,307	30,750	172,557	15%
Manager Administration	1,769,783	820,771	949,013	46%
Municipal Court	699,411	157,717	541,694	23%
Financial Services	2,824,724	526,079	2,298,645	19%
Library Services	706,728	188,780	517,948	27%
Development Services	1,512,804	322,176	1,190,628	21%
Information Technology	2,301,729	469,991	1,831,738	20%
Town Attorney	340,000	28,333	311,667	8%
Engineering	1,008,540	162,719	845,821	16%
Building Inspection / Code	2,082,814	272,362	1,810,452	13%
Police Department	16,186,714	4,145,122	12,041,592	26%
Non-Departmental	3,826,500	3,706,678	119,822	97%
Animal Services	497,443	102,343	395,100	21%
Fleet Maintenance	598,859	113,613	485,246	19%
Facility Maintenance	1,299,211	254,482	1,044,729	20%
Public Works / Streets	2,098,975	293,642	1,805,333	14%
Marketing and Communications	480,555	97,857	382,698	20%
Park Maintenance	2,488,241	534,830	1,953,411	21%
Parks - Senior Programs	241,435	48,809	192,626	20%
Fire Department	13,093,066	3,204,630	9,888,436	24%

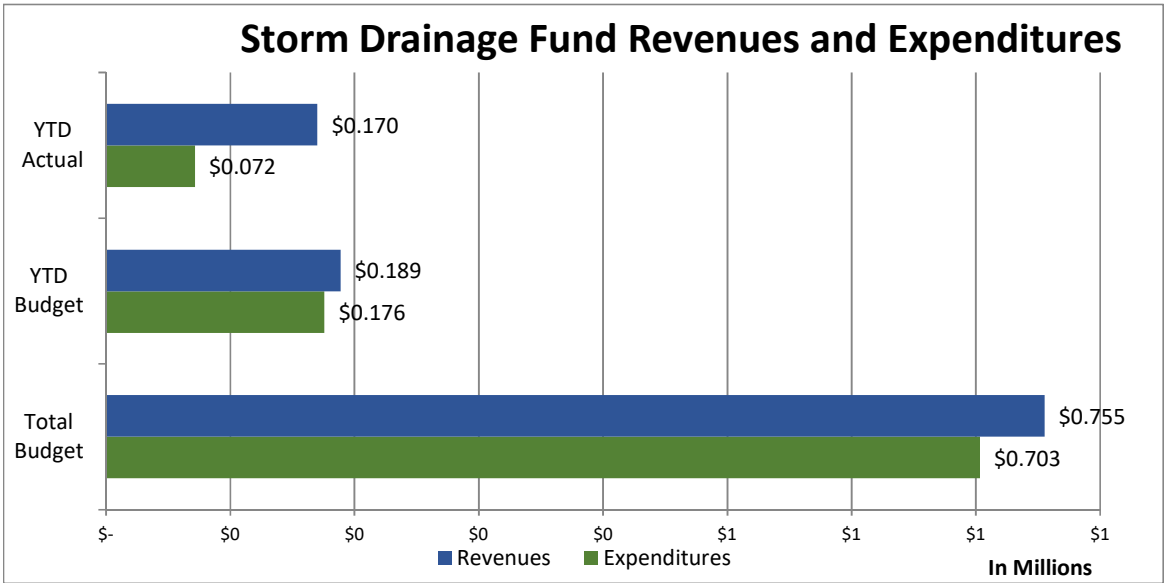
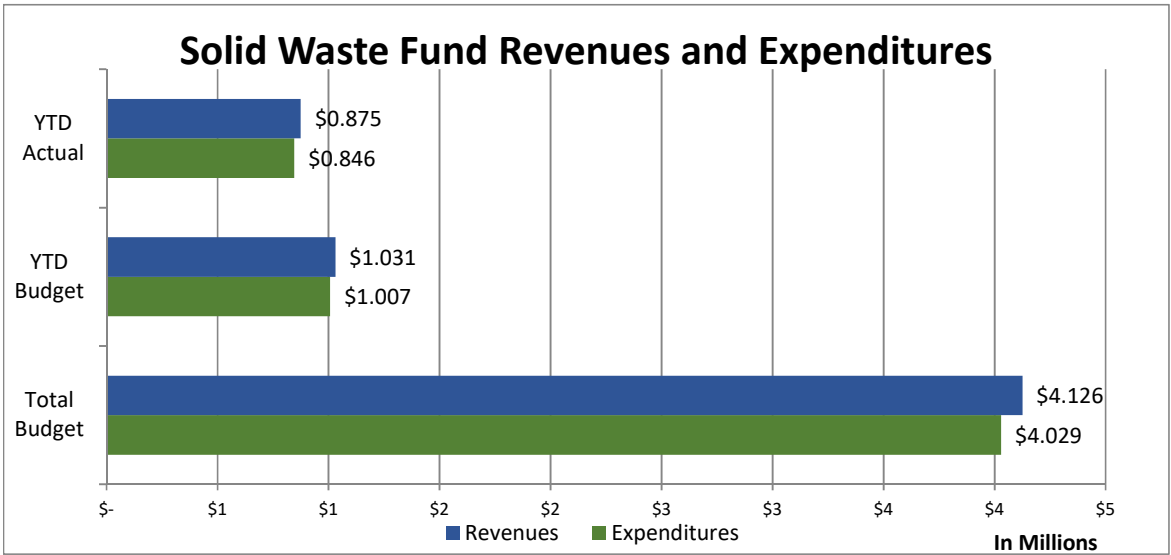
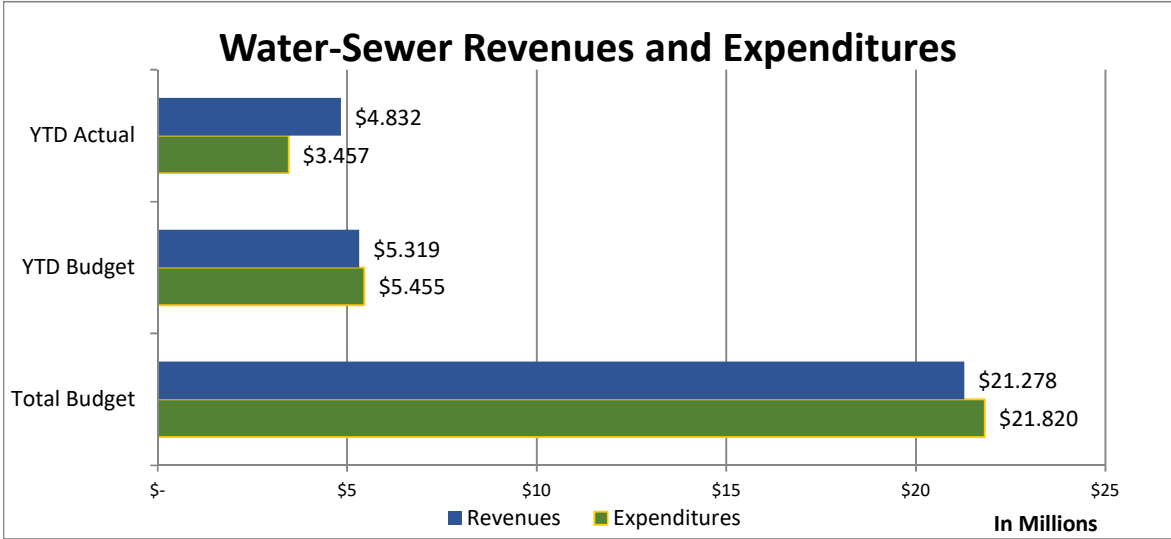
REPORTING PERIOD DECEMBER 31, 2022

Water and Sewer Fund Revenue			
	Amended Budget	YTD Actual	Percent Difference
Total Revenue	21,277,929	4,832,212	23%
Top Five Sources of Revenue			
Water Sales	11,647,483	2,498,563	21%
Sewer Sales	7,583,638	1,605,648	21%
Meter Set Fees	100,000	41,835	42%
Wholesale Water Sales	459,050	134,388	29%
Wholesale Sewer Sales	678,260	161,864	24%

Water and Sewer Program Expenditures				
	Amended Budget	YTD Actual	Remaining Budget	Percent Difference
Water Operations	10,417,378	2,258,694	8,158,684	22%
Wastewater Collection	1,079,250	153,270	925,980	14%
Wastewater Treatment	2,906,507	655,534	2,250,973	23%
Utility Administration	1,109,747	179,215	930,532	16%
Debt Service	4,291,370	-	4,291,370	0%
Utility Billing and Collection	1,320,668	209,932	1,110,736	16%
Construction/CIP	695,200	125	695,075	0%

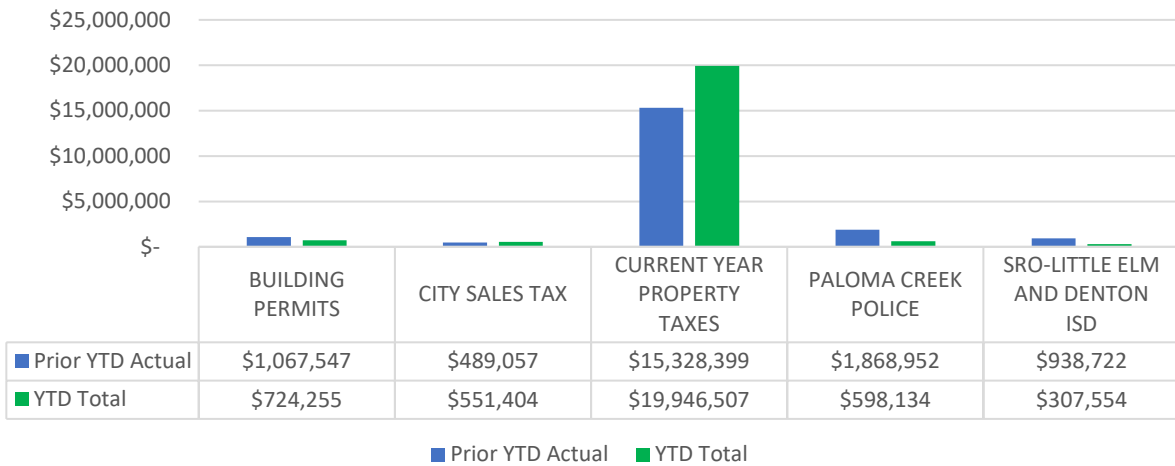




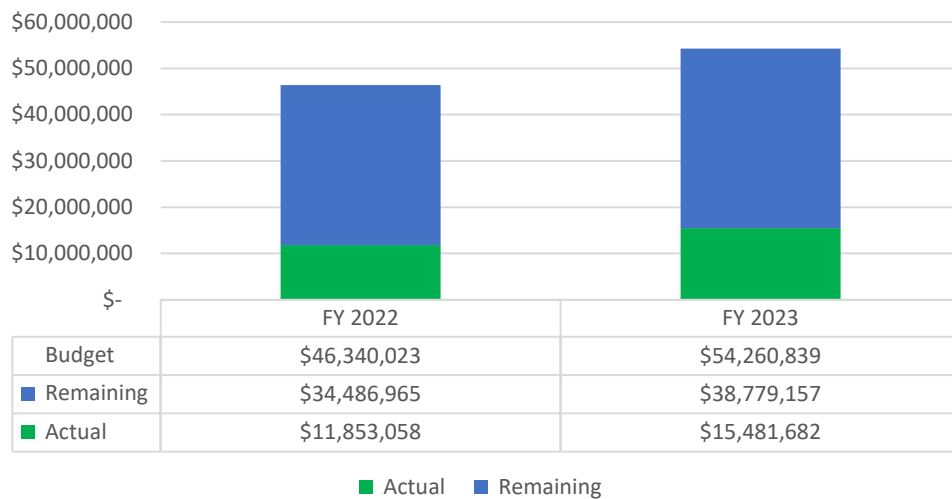


Q1 General Fund Revenue and Expenditure Summary

General Fund - Top 5 Revenue Sources

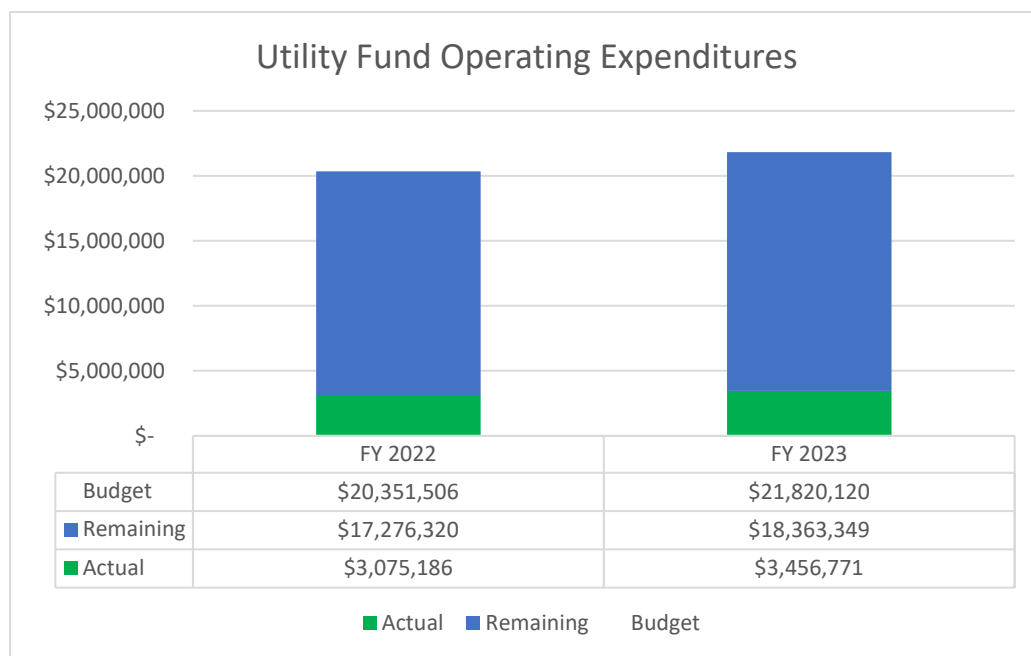
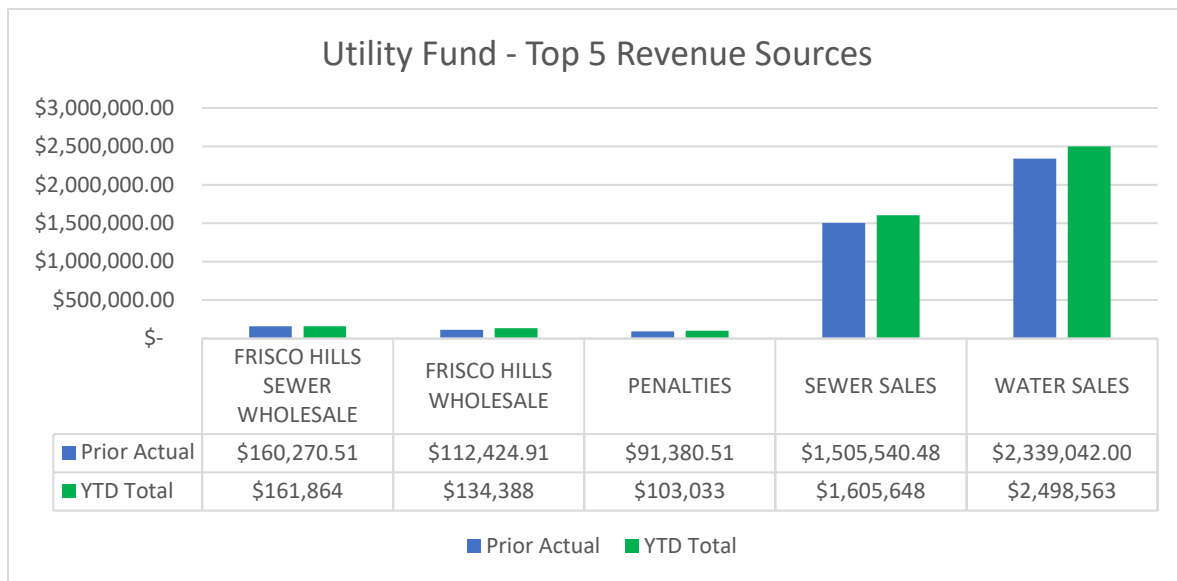


General Fund Operating Expenditures



General Fund Operating Expenditures							
Department	Prior Year Budget	Prior Actual	Adopted	Amended	YTD Total	Remaining	% Change
COMMUNITY SERVICES	\$ 3,727,975	\$ 736,357	\$ 4,533,968	\$ 4,604,158	\$ 757,256	\$ 3,846,902	3%
CULTURE AND RECREATION	\$ 3,190,500	\$ 752,197	\$ 3,436,404	\$ 3,436,404	\$ 772,418	\$ 2,663,986	3%
GENERAL GOVERNMENT	\$ 9,711,829	\$ 3,790,919	\$ 7,674,858	\$ 11,746,598	\$ 5,680,459	\$ 6,066,139	50%
PUBLIC SAFETY	\$ 26,232,985	\$ 5,990,337	\$ 30,135,211	\$ 30,476,634	\$ 7,609,812	\$ 22,866,822	27%
PUBLIC WORKS	\$ 3,476,734	\$ 583,247	\$ 3,931,039	\$ 3,997,045	\$ 661,736	\$ 3,335,309	13%

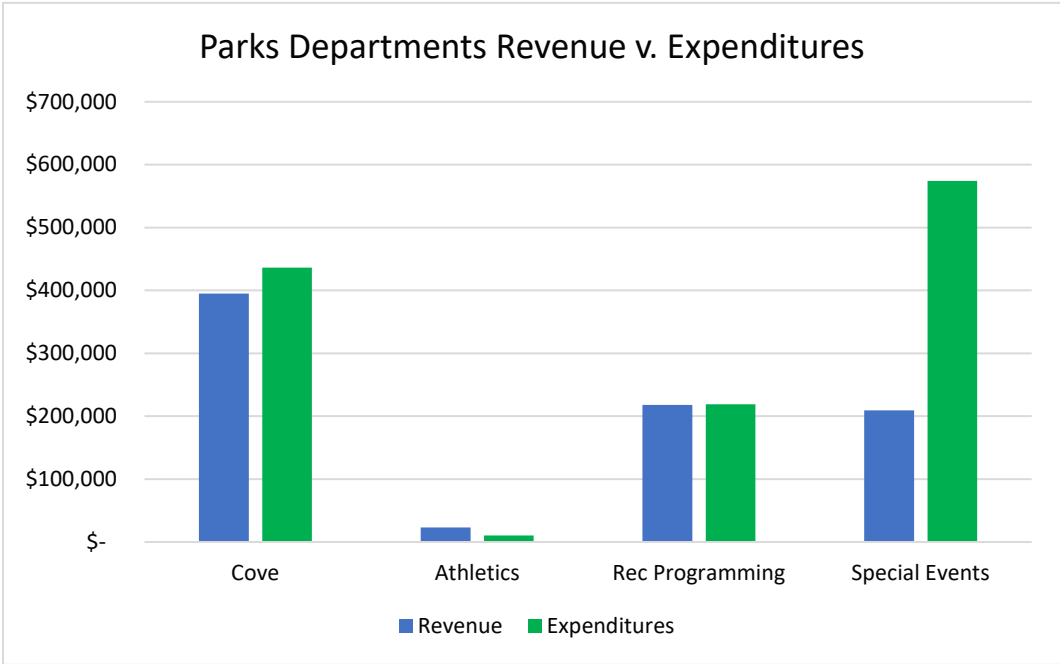
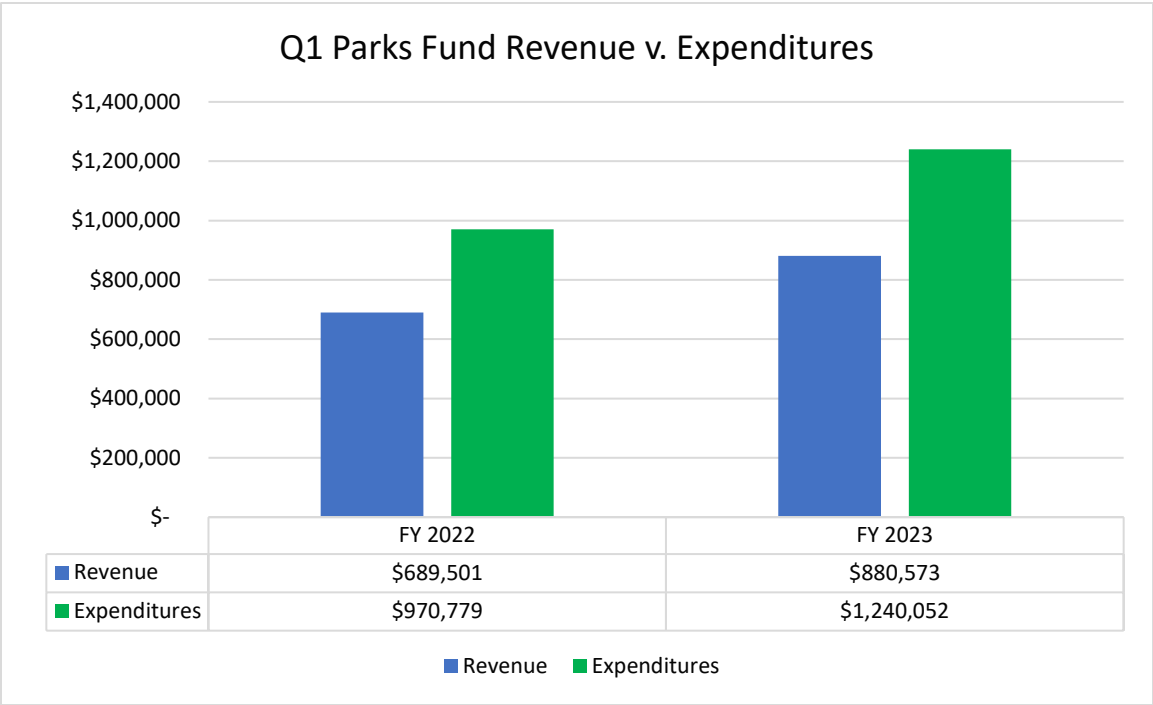
Q1 Utility Fund Revenue and Expenditure Summary



Utility Fund Operating Expenditures							
Department	Prior Year Budget	Prior Actual	Adopted	Amended	YTD Total	Remaining	% Change
UTILITY ADMIN	\$ 802,570	\$ 192,732	\$ 1,069,934	\$ 1,109,747	\$ 179,215	\$ 930,532	-7%
UTILITY BILLING	\$ 1,202,689	\$ 142,749	\$ 1,031,889	\$ 1,320,668	\$ 209,932	\$ 1,110,736	47%
UTILITY CIP	\$ 749,000	\$ 46	\$ 654,000	\$ 695,200	\$ 125	\$ 695,075	172%
UTILITY I&S	\$ 4,326,140	\$ -	\$ 4,291,370	\$ 4,291,370	\$ -	\$ 4,291,370	N/A
WASTEWATER COLLECTIONS	\$ 989,804	\$ 131,934	\$ 1,033,514	\$ 1,079,250	\$ 153,270	\$ 925,980	16%
WASTEWATER TREATMENT	\$ 2,704,783	\$ 530,100	\$ 2,906,507	\$ 2,906,507	\$ 655,534	\$ 2,250,973	24%
WATER OPERATIONS	\$ 9,576,520	\$ 2,077,625	\$ 10,405,152	\$ 10,417,378	\$ 2,258,694	\$ 8,158,684	9%



FY 2023 Q1 Parks and Rec Fund Revenue and Expenditure Summary



Description	Cove	Athletics	Rec Programming	Special Events
Revenue	\$ 394,850	\$ 23,084	\$ 218,199	\$ 209,456
Expenditures	\$ 436,280	\$ 10,332	\$ 219,173	\$ 574,267
Cost Recovered (%)	91%	223%	100%	36%



Date: 03/07/2023
Agenda Item #: 4. D.
Department: Economic Development Corporation
Strategic Goal: Maintain operational integrity and viability
Staff Contact: Jennette Espinosa, EDC Executive Director

AGENDA ITEM:

Consider Action to Approve the **Second Amendment to the Ground Lease Purchase Agreement for Certain Multi-Family Property in Little Elm, Denton County, Texas by and between the Little Elm Economic Development Corporation and Village at Lakefront, LLC.**

DESCRIPTION:

HUD has requested an amendment to the agreement to include more specific details regarding the property description and financial details for the refinancing of the loan with Village at Lakefront, LLC. As lessor, the Little Elm EDC is required to approve and execute the amendment as well as have Council acknowledge the change.

Details of the Amendment:

Section 2. Legal Description: Section 1.16 of the Original Agreement provides that Ground Lessee has the right to substitute the property description contained in the survey to the property description contained in Exhibit A to the Original Agreement. Accordingly, the parties to Second Amendment hereby agree that the depiction of the Ground Lease Property shown on Exhibit A to the Original Agreement should be deleted and replaced with the following legal description:

- Tract 1: Being Lot 1R-1, Block A, of the Palladium Addition, an Addition to the Town of Little Elm, County of Denton, State of Texas, according to the replat of the same, and recorded under Clerk's File No. 2021-60, Plat Records, Denton County, Texas; and
- Tract 2: Together with easement rights contained in that certain Minor Plat Palladium Addition Lots 1R-1 & 1R-2 recorded under Clerk's File No. 2021-60, of the Plat Records in Denton County, Texas.

Section 3. Incorporation of Lease Addendum Multi-Family

- Ground Lessee is obtaining a loan from Dwight Capital LLC, a Delaware limited liability company in the amount of \$31,388,500.00 ("Loan") to be secured by the Ground Lease Property and to be insured by the Secretary of Housing and Urban Development ("HUD"). As a condition of the Loan, HUD requires that the Original Agreement be amended to include

Lease Addendum (HUD HUD-92070M (6/18)) ("Lease Addendum"). Accordingly, the parties to this Second Amendment do hereby amend the Original Agreement to add and incorporate the Lease Addendum attached hereto as Exhibit B.

BUDGET IMPACT:

There is no budget impact to Little Elm EDC or Town of Little Elm for this item.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

2nd Amendment Lease Agreement Chadnic Multi Family

Tab #06a
Title Exception Documents to be Recorded

PEASELEY
—&—
DERRYBERRY
P L C
Ⓢ

504 Autumn Springs Ct, Suite 26, Franklin, TN 37067
Phone 615-807-2351 / Fax 888-351-6013

After recording return to:
LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION
100 W. Eldorado Parkway
Little Elm, Texas 75068-5060

**SECOND AMENDMENT
TO
GROUND LEASE PURCHASE AGREEMENT
FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY,
TEXAS**

THIS SECOND AMENDMENT TO GROUND LEASE PURCHASE AGREEMENT FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY, TEXAS (this “**Second Amendment**”) is made and entered into on the ____ day of _____, 2023 (the “**Effective Date**”) by and between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation, having its principal address as 100 W. Eldorado Parkway, Little Elm, Texas 75068-5060 (“**Landlord**” or “**Little Elm EDC**”), and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company, having its principal address as 13619 Inwood Rd. Suite 325, Farmers Branch, TX 75244, or its permitted assigns (“**Ground Lessee**” or “**Village at Lakefront**”).

RECITALS:

WHEREAS, on or about January 19, 2021, the Landlord and Ground Lessee entered into the Ground Lease Purchase Agreement, recorded on January 20, 2021, as Document No. 10235, Court Clerk for Denton County, Texas (the “**Original Agreement**”) concerning Land, defined in Section 1.16 of the Original Agreement consisting of approximately 6.4 acres located in Denton County, Texas, depicted on Exhibit A to the Original Agreement, and known as The Village at Lakefront FHA Project No. 113-11515 (the “**Ground Lease Property**”), being more fully described below; and

WHEREAS, on or about February 16, 2021, the Landlord and Ground Lessee entered into a First Amendment to the Ground Lease Purchase Agreement (the “**First Amendment**”), which First Amendment was not recorded and a copy of which First Amendment is attached hereto as Exhibit A;

WHEREAS, the Landlord and Ground Lessee now desire to further amend the Original Agreement and First Amendment, by this Second Amendment as set forth below.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord and Ground Lessee agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Second Amendment and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. LEGAL DESCRIPTION.

Section 1.16 of the Original Agreement provides that Ground Lessee has the right to substitute the property description contained in the survey to the property description contained in Exhibit A to the Original Agreement. Accordingly, the parties to Second Amendment hereby agree that the depiction of the Ground Lease Property shown on Exhibit A to the Original Agreement should be deleted and replaced with the following legal description:

Tract 1: Being Lot 1R-1, Block A, of the Palladium Addition, an Addition to the Town of Little Elm, County of Denton, State of Texas, according to the replat of the same, and recorded under Clerk's File No. 2021-60, Plat Records, Denton County, Texas; and

Tract 2: Together with easement rights contained in that certain Minor Plat Palladium Addition Lots 1R-1 & 1R-2 recorded under Clerk's File No. 2021-60, of the Plat Records in Denton County, Texas.

SECTION 3. INCORPORATION OF LEASE ADDENDUM-MULTIFAMILY

Ground Lessee is obtaining a loan from Dwight Capital LLC, a Delaware limited liability company in the amount of \$31,388,500.00 (**'Loan'**) to be secured by the Ground Lease Property and to be insured by the Secretary of Housing and Urban Development (**"HUD"**). As a condition of the Loan, HUD requires that the Original Agreement be amended to include Lease Addendum (HUD HUD-92070M (6/18)) (**"Lease Addendum"**). Accordingly, the parties to this Second Amendment do hereby amend the Original Agreement to add and incorporate the Lease Addendum attached hereto as Exhibit B.

SECTION 4. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Second Amendment:

- (a) **Amendments.** This Second Amendment constitutes the entire understanding and agreement of the parties as to the matters set forth in this Second Amendment. No alteration of or amendment to this Second Amendment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Second Amendment shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created

hereunder are performable in Denton County, Texas. Venue for any action arising under this Second Amendment shall lie in the state district courts of Denton County, Texas.

- (c) **Binding Obligation.** This Second Amendment shall become a binding obligation on the signatories upon execution by all signatories hereto. Landlord warrants and represents that the individual executing this Second Amendment on behalf of Landlord has full authority to execute this Second Amendment and bind Landlord to the same. Ground Lessee warrants and represents that the individual executing this Second Amendment on Ground Lessee's behalf has full authority to execute this Second Amendment and bind it to the same.
- (d) **Caption Headings.** Caption headings in this Second Amendment are for convenience purposes only and are not to be used to interpret or define the provisions of the Second Amendment.
- (e) **Counterparts.** This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (f) **Original Amendment and Any Other Amendments.** All of the terms, conditions, and obligations of the Original Amendment and the First Amendment remain in full force and effect except where specifically modified by this Second Amendment.
- (g) **Severability.** The provisions of this Second Amendment are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Second Amendment is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Second Amendment shall be enforced as if the invalid provision had never been included.

[The Remainder of this Page Intentionally Left Blank]

EXECUTED IN MULTIPLE ORIGINAL COUNTERPARTS, which constitute but one and the same instrument, as of the Effective Date.

LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**
a Texas non-profit corporation

By: _____
Ken Eaken, President

STATE OF TEXAS

§

§

COUNTY OF DENTON

§

This instrument was acknowledged before me on the ____ day of _____, 2023, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.

Notary Public, State of Texas

CONSENT:

TOWN OF LITTLE ELM, TEXAS

Curtis J. Cornelious, Mayor

Date: _____

GROUND LESSEE:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: _____
John L. Bailey, President of Manager

STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

This instrument was acknowledged before me on the ____ day of _____, 2023
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.

Notary Public, State of Texas

EXHIBIT A
FIRST AMENDMENT

(Follows this Page)

**FIRST AMENDMENT
TO
GROUND LEASE PURCHASE AGREEMENT
FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY,
TEXAS**

THIS FIRST AMENDMENT TO GROUND LEASE PURCHASE AGREEMENT (this “**First Amendment**”) is made and entered into on the 16 day of Feb, 2021 (the “**Effective Date**”) by and between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation, having its principal address as 100 W. Eldorado Parkway, Little Elm, Texas 75068-5060 (“**Landlord**” or “**Little Elm EDC**”), and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company, or its permitted assigns (“**Ground Lessee**” or “**Village at Lakefront**”).

RECITALS:

WHEREAS, on or about **January 19, 2021**, the Landlord and Ground Lessee entered into the Ground Lease Purchase Agreement concerning an approximate 6.4 acres of land (the “**Original Agreement**”); and

WHEREAS, the Landlord and Ground Lessee now desire to amend Section 2.2 of the Original Agreement to provide for a fifty-five (55) year lease term.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord and Ground Lessee agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this First Amendment and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. AMENDMENT TO ORIGINAL AGREEMENT.

(a) **Amendment to Original Agreement.** That Section 2.2 of the Original Agreement is hereby amended to read as follows:

“2.2 **Term of Agreement.** The term of the Agreement (the “**Term**”) shall commence on the Effective Date and shall terminate fifty-five (55) Lease Years after the Commencement Date for the Multifamily Development. This Agreement will terminate without further notice when the Term specified in this **Section 2.2** expires and any holding over by Ground Lessee after the Term expires will not constitute a renewal of this Agreement or give Ground Lessee any rights under the Agreement in or to the Premises. In connection therewith, Ground Lessee shall have the right at Ground Lessee’s expense, to examine and copy all books, records, files, documents, reports, and other information of the Landlord relating to the Premises,

including all leases, service agreements, insurance policies, and construction and maintenance related documents; provided that such examination and copying shall not interfere with the Landlord's business operations."

SECTION 3. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this First Amendment:

- (a) **Amendments.** This First Amendment constitutes the entire understanding and agreement of the parties as to the matters set forth in this First Amendment. No alteration of or amendment to this First Amendment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This First Amendment shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this First Amendment shall lie in the state district courts of Denton County, Texas.
- (c) **Binding Obligation.** This First Amendment shall become a binding obligation on the signatories upon execution by all signatories hereto. Landlord warrants and represents that the individual executing this First Amendment on behalf of Landlord has full authority to execute this First Amendment and bind Landlord to the same. Ground Lessee warrants and represents that the individual executing this First Amendment on Ground Lessee's behalf has full authority to execute this First Amendment and bind it to the same.
- (d) **Caption Headings.** Caption headings in this First Amendment are for convenience purposes only and are not to be used to interpret or define the provisions of the First Amendment.
- (e) **Counterparts.** This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (f) **Effective Date.** The effective date (the "Effective Date") of this First Amendment shall be the date of the latter to execute this First Amendment by the Landlord and Ground Lessee.
- (g) **Original Amendment and Any Other Amendments.** All of the terms, conditions, and obligations of the Original Amendment and any other amendments remain in full force and effect except where specifically modified by this First Amendment.
- (h) **Severability.** The provisions of this First Amendment are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this First Amendment is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the First Amendment shall be enforced as if the invalid provision had never been included.

Initial for Identification:


Little Elm EDC


Village at Lakefront

- (i) **Time is of the Essence.** Time is of the essence in the performance of this First Amendment.

[The Remainder of this Page Intentionally Left Blank]

Initial for Identification:



Little Elm EDC



Village at Lakefront

EXECUTED IN MULTIPLE ORIGINAL COUNTERPARTS, which constitute but one and the same instrument, as of the day and year first above written. Upon the final execution hereof by Landlord and Ground Lessee, the last to sign of such parties shall complete the date on the first page thereof.

LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**
a Texas non-profit corporation



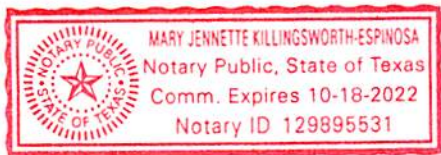
By: _____
Ken Eaken, President
Date: February 16, 2021

STATE OF TEXAS

§
§
§

COUNTY OF DENTON

This instrument was acknowledged before me on the 16 day of February, 2021, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.



Mary Jennette Killingsworth-Espinosa
Notary Public, State of Texas

Initial for Identification:

[Signature]
Little Elm EDC

Village at Lakefront

GROUND LESSEE:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: John L. Bailey
John L. Bailey, President of Manager

STATE OF TEXAS

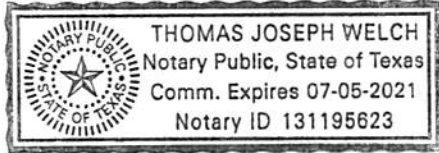
§

§

COUNTY OF DALLAS

§

This instrument was acknowledged before me on the 12 day of FEBRUARY, 2021,
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.



Thomas Joseph Welch
Notary Public, State of Texas

Initial for Identification:

Little Elm EDC

Village at Lakefront

EXHIBIT B
LEASE ADDENDUM MULTIFAMILY

(Follows this Page)

Lease Addendum - Multifamily

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 9/30/2021)

Public Reporting Burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

Project Name: The Village at Lakefront
HUD Project No: 113-11515

THIS LEASE ADDENDUM is attached to and made part of that certain lease agreement entered into on the 19th day of January 19, 2021, as amended on the 16th day of February 16, 2021, between Little Elm Economic Development Corporation, a Texas non-profit corporation ("**Landlord**") and Village at Lakefront, LLC, a Texas limited liability company ("**Tenant**") (collectively, the "**Parties**") (the "**Ground Lease**")

The Lease Addendum is required in connection with a mortgage loan insured by the U.S. Department of Housing and Urban Development ("**HUD**") for multifamily projects pursuant to the National Housing Act, as amended, found at 12 U.S.C. § 1701, *et seq.* ("**Act**"), and made by the following HUD-approved lender, Dwight Capital LLC, a Delaware limited liability company ("**Lender**"). The insured loan is secured by a Security Instrument on the leasehold estate set forth in the Ground Lease.

The definition of any capitalized term or word used in this Lease Addendum and not otherwise defined can be found in the Security Instrument and/or Note between Lender and Tenant; or the Regulatory Agreement between Tenant and HUD. The terms "**HUD**" and "**Lender**" as used in the Lease Addendum shall also include their successors and assigns, and the Tenant is the same legal entity as the Borrower under the Security Instrument. All references to "days" in this Lease Addendum shall mean calendar days.

Notwithstanding anything else in the Ground Lease to which this Lease Addendum is attached, and for valuable consideration, the receipt and sufficiency of which the Parties hereto hereby acknowledge and agree, and to induce the Lender to make the Loan to the Tenant described in the Security Instrument, and to induce HUD to insure said Loan, so long as this leasehold estate is subject to a security instrument insured, reinsured, or held by HUD or given to HUD in connection with a resale, or the Property is acquired and held by HUD because of a default under the Security Instrument, Landlord and Tenant acknowledge and agree to the following provisions.

Lease

The leasehold estate consists of the legally described land and includes all buildings, improvements, alterations, and fixtures now or in the future located on the legally described land. The Tenant does not own any of the buildings, improvements, alterations or fixtures. As such, the term “**Property**” means the legally described land in the Lease including the buildings, improvements, alterations and fixtures now or in the future located on the land.

1. Compliance with HUD Requirements. Pursuant to the Act, the following provisions may not be waived under any circumstances, whether for a new lease or an existing lease:

- (a) the term of the Lease and other Lease provisions comply with the section of the Act and related federal regulations under which the Note is endorsed for mortgage insurance;
- (b) the Landlord owns the Property in fee simple, and the leasehold estate is directly by the Landlord to the Tenant;
- (c) the leasehold estate underlying the Lease constitutes a mortgageable real property interest under state law;
- (d) the Lease and related Lease documents do not conflict with any Program Obligations^[1] promulgated by HUD with respect to such mortgage insurance; and
- (e) all ground rent amounts have prior written approval by HUD.

2. Modifications. The Lease and this Lease Addendum shall not be modified without the written consent of HUD and Lender. Modifications of the Lease and this Lease Addendum that are not authorized in writing by HUD and Lender are void and unenforceable.

3. Conflict Provision. The provisions of this Lease Addendum benefit Lender and HUD and are specifically declared to be enforceable against the parties to the Lease and all other persons by Lender and HUD. In the event of any conflict, inconsistency or ambiguity between the provisions of this Lease Addendum and the provisions of any other part of the Lease, the provisions of this Lease Addendum shall prevail and control.

^[1] “**Program Obligations**” means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Lease Addendum rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on “HUDCLIPS,” at www.hud.gov.

- 4. Recording.** The full Lease agreement and incorporated HUD Lease Addendum, or a memorandum of lease (if permitted under state law), must be recorded in the applicable land records office. If a memorandum of lease or a short form lease is to be recorded, it must set forth the following information, in addition to compliance with state law requirements:

- (a) names of the Parties;
- (b) legal description;
- (c) term and renewals;
- (d) reference to the HUD Lease Addendum; and
- (e) specific reference to HUD's option to purchase in Section 7 (unless Section 7 is expressly waived in writing by HUD in accordance with Program Obligations).

- 5. Estoppel Certificate.** As a condition of HUD's acceptance of a lease transaction, an estoppel certificate identifying the Lease documents and signed by the Landlord, dated within thirty (30) days of the Note endorsement, must be provided to Lender and HUD at closing. The Landlord must confirm in writing to Lender and HUD that the Security Instrument is authorized, the Lease is in full force and effect, there are no defaults or pending defaults under the Lease or conditions that would give rise to defaults given the passage of time, and that the description of the Property is correct. The document must provide the language required by 24 CFR Section 200.62, and also include the "Warning" language found at the beginning of this Lease Addendum.

Upon a reasonable request from Tenant, Lender, or HUD, Landlord further agrees to promptly provide from time to time an estoppel certificate to confirm the terms of, and no default under, the Ground Lease.

- 6. Consent for Mortgage.** Landlord agrees that the Tenant is authorized to obtain a loan, the repayment of which is to be insured by HUD and secured by the Security Instrument on this leasehold estate. The Tenant is further authorized to execute all documents necessary as determined by HUD and otherwise to comply with Program Obligations for obtaining such an insured loan.
- 7. HUD Option to Purchase.** In the event that HUD acquires title to this leasehold estate or otherwise acquires title to the Tenant's interest herein, HUD shall have the option to purchase good and marketable fee simple title to the Property, free of all liens and encumbrances except such as may be waived or accepted by HUD. Such option shall be exercised within twelve (12) months after HUD so acquires such leasehold estate or the Tenant's interest. 2. The purchase price shall be the sum of One Million One Hundred Fifteen Thousand Dollars (\$1,115,000.00), payable in cash, by check drawn on the U.S. Treasury, by electronic funds transfer or by wire transfer, provided all rents are paid to date of transfer of title. HUD shall, within said twelve (12) months, give written notice to the Landlord of its election to exercise said option to purchase. The Landlord shall, within thirty (30) days after HUD gives such notice, execute and deliver to HUD a warranty deed of conveyance to HUD as

grantee conveying the said fee simple title. Nothing in this Section 7 shall require the Landlord to pay any taxes or assessments that were due and payable by the Tenant.

- 8. Conveyance by Tenant.** If approved in writing by HUD in advance, the Tenant may convey, assign, transfer, lease, sublease or sell all or any part of its leasehold interest in the Property without the need for approval or consent by any other person or entity.

9. Insurance.

- (a) Insurance policies shall be in an amount, and with such company or companies and in such form, and against such risks and hazards, as shall be approved by Lender and HUD.
- (b) The Landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender. The Landlord may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender.

10. Condemnation.

- (a) If all or any part of the Property shall be taken or damaged by condemnation, that portion of any award attributable to the Tenant's interest in the Property or leasehold estate or damage to the Tenant's interest in the Property or leasehold estate shall be paid to Lender or otherwise disposed of as may be provided in the Security Instrument. Any portion of the award attributable solely to the Landlord's interest shall be paid to the Landlord. After the date of taking, the annual rent shall be reduced ratably by the proportion which the award paid to the Landlord bears to the total value of the Property as established by the amount HUD is to pay, as set forth in Section 7 of this Lease Addendum.
- (b) In the event of a negotiated sale of all or a portion of the Property, in lieu of condemnation, the proceeds shall be distributed and annual rent reduced as provided in cases of condemnation above, but the approval of HUD and Lender shall be required as to the amount and division of the payments to be received.

- 11. Tenant Default on Lease; Cure Rights; Termination.** The Landlord may terminate the Lease prior to the expiration day of the full term of this Lease ("**Expiration Date**") after a Tenant default under this Lease ("**Lease Event of Default**"), but only under the following circumstances and procedures.

- (a) If any Lease Event of Default shall occur, then and in any such event, the Landlord shall at any time thereafter during the continuance of such Lease Event of Default and prior to any cure, give written notice of such default(s) ("**Notice of Default**") to the Tenant, Lender, and HUD, specifying the Lease Event of Default and the methods of cure, or declaring that a Lease Event of Default is incurable. If the Lease Event of Default is a failure to pay money, the Landlord shall specify and itemize the amounts of such default. Failure to pay money shall be specified as a separate default and not combined with a non-monetary Lease Event of Default.
- (b) Within sixty (60) days from the date of giving the Notice of Default to the Tenant, the Tenant must cure a monetary default by paying the Landlord all amounts specified in the Notice of Default and must cure any specified Lease Event of Default that is capable of being cured within such period.
- (c) During the period of one hundred-eighty (180) days commencing upon the date Notice of Default was given to Lender and HUD, Lender or HUD may:
 - (1) cure any Lease Event of Default; and
 - (2) commence foreclosure proceedings or institute other state or federal procedures to enforce Lender's or HUD's rights with respect to the leasehold estate.
- (d) If HUD or Lender commences foreclosure or other enforcement action within such one hundred-eighty (180) days, then its cure period shall be extended during the period of the foreclosure or other action and for 90 days after the ownership of the Tenant's rights under the Lease is established in or assigned to HUD or such Lender or a purchaser at any foreclosure sale pursuant to such foreclosure or other action. The transfer of the Tenant's rights under the Lease to Lender, HUD or purchaser, pursuant to such foreclosure or other action shall be deemed a termination of any incurable Lease Event of Default and such terminated Lease Event of Default shall not give the Landlord any right to terminate the Lease. Such purchaser may cure a curable Lease Event of Default within said ninety (90) days.
- (e) If the Tenant, Lender or HUD reasonably undertake to cure any Lease Event of Default during the applicable cure period and diligently pursues such cure, the Landlord shall grant such further reasonable time as is necessary to complete such cure. If after the expiration of all of the foregoing cure periods, no cure or termination of an existing Lease Event of Default has been achieved as aforesaid, then and in that event, the Lease shall terminate, and, on such date, the term of this Lease shall expire and terminate and all rights of the Tenant under the Lease shall cease. All costs and expenses incurred by or on behalf of the Landlord (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any default by the Tenant under

this Lease shall constitute additional rent hereunder. The Landlord shall have no right to terminate this Lease except as provided in this Section 11.

12. Lender/HUD Option for New Lease.

- (a) Upon termination of this Lease pursuant to Section 11 above, the Landlord shall immediately seek to obtain possession of the Property. Upon acquiring such possession, the Landlord shall notify HUD and Lender in writing. Lender and HUD shall each have six (6) months from the date of receipt of such notice of acquisition to elect to take, as Tenant, a new lease on the Property.
- (b) Such new lease shall have a term equal to the unexpired portion of the term of this Lease immediately prior to such termination and shall, except as otherwise provided herein, be on the same terms and conditions as contained in this Lease, including without limitation, the option to purchase set forth under Section 7 above, except that Lender's or HUD's liability for rent shall not extend beyond their occupancy under such lease. The Landlord shall tender such new lease to Lender or HUD within thirty (30) days after a request for such lease and shall deliver possession of the Property immediately upon execution of the new lease.
- (c) Upon executing a new lease, Lender or HUD shall pay to the Landlord any unpaid rent due or that would have become due under this Lease to the date of the execution of the new lease, including any taxes which were liens on the Property and which were paid by the Landlord, less any net rentals or other income which the Landlord may have received on account of the Property since the date of default under this Lease.

13. Landlord Cooperation for Needed Authorizations. The Landlord agrees that within ten (10) days after receipt of written request from the Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any Governmental Authority in connection with any work which the Tenant may do hereunder and will also join in any grants for easements for electric, telephone, telecommunications, cable, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the Property and if, at the expiration of such ten (10) day period, the Landlord shall not have joined in any such application, or grants for easements, the Tenant shall have the right to execute such application and grants in the name of the Landlord, and for that purpose, the Landlord hereby irrevocably appoints the Tenant as its attorney-in-fact to execute such papers on behalf of the Landlord, only to the extent that a public body as Landlord may do so within the exercise of its municipal powers and responsibilities.

14. Taxes. Nothing in this Lease shall require the Tenant to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the Landlord or any income excess profits or revenue tax, or any other tax, assessment charge or levy upon the rent payable by the Tenant under this Lease.

15. Notices. All notices, demands and requests which are required to be given by the Landlord, Tenant, Lender or HUD in connection with the Lease and this Lease Addendum shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given.

All notices shall be addressed as follows:

- If to Lender: Dwight Capital LLC
400 Carillon Parkway, Suite 125
St. Petersburg, FL 33716
Attention: Loan Administration

- If to HUD: Department of Housing and Urban Development
Southwest Multifamily Region
307 W. 7th Street, Suite 1000
Fort Worth, Texas 76102
Attention: Account Executive

- If to Tenant: Village at Lakefront, LLC
14109 Inwood Rd.
Farmers Branch, TX 75244
Attn: John L. Bailey

- With a copy to: Paul R. Durr, PC
1777 S. Harrison St. Suite 1500
Denver, CO 80210
Attn: Paul R. Durr

- If to Landlord: Little Elm Economic Development Corporation
100 W. Eldorado Parkway
Little Elm, Texas 75068

- With a copy to: Brown & Hofmeister LLP
740 E. Campbell Rd. Suite 800
Richardson, TX 75081
Attn: Jeff Moore, Esq.

16. No Merger. There shall be no merger of this Lease or the leasehold estate created by this Lease with the fee estate in or ownership of the Property or any interest therein by reason of the fact that the same person or entity may acquire or hold, directly or indirectly, this Lease or the leasehold estate hereby created or any interest therein and fee estate in or ownership of the Property. No such merger shall

occur unless and until HUD specifically consents and agrees in writing to such merger.

(Signatures on following pages)

Each signatory below hereby certifies that each of their statements and representations contained in Ground Lease and this Lease Addendum and all their supporting documentation thereto are true, accurate, and complete. This Lease Addendum has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

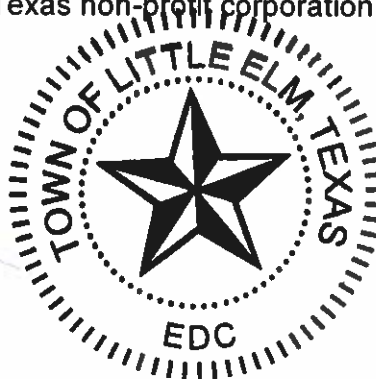
IN WITNESS WHEREOF, the parties hereto have executed this Lease Addendum as of the day and year first written above.

Little Elm Economic Development Corporation, a Texas non-profit corporation

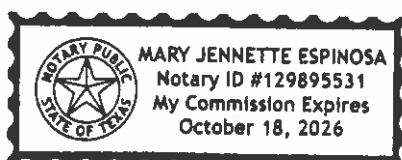
By: Ken Eaken, President

State of Texas

County of Denton



This instrument was acknowledged before me on the 14 day of NOVEMBER, 2022, by Ken Eaken, President of Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said company.



[NOTARY SEAL]

Mary Jennette Espinosa

Notary Public

My Commission Expires: 10-18-2026

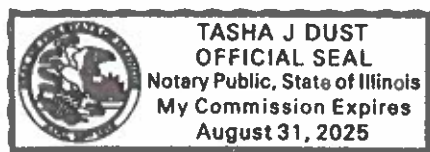
Village at Lakefront, LLC, a Texas limited liability company
By: Village Management, Inc., a Texas corporation, Manager

By: John L. Bailey
John L. Bailey, President of Manager

State of Illinois

County of St. Clair

This instrument was acknowledged before me on the 8th day of November 2022, by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront, LLC, a Texas limited liability company, on behalf of said company.



[NOTARY SEAL]

Tasha J. Dust
Notary Public
My Commission Expires: Aug 31, 2025



Date: 03/07/2023
Agenda Item #: 4. E.
Department: Administrative Services
Strategic Goal: Provide a safe and welcoming environment for Little Elm residents and visitors
Staff Contact: Caitlan Biggs, Director of Administrative Services/Town Secretary

AGENDA ITEM:

Consider Action to **Authorize the Town Manager to execute on behalf of the Town Settlement Documentation relative to the State of Texas' and other Governmental Entities' Litigation against Allergan, CVS, Walmart, and Walgreens for the Marketing, Sale, and Dispensing of Opioids, and to take all actions incident and related thereto.**

DESCRIPTION:

Several years ago, the State of Texas, along with a broad coalition of states and political subdivisions from across the country, sued three (3) major opioid distributors—McKesson, Cardinal Health and Amerisource Bergen—along with an opioid manufacturer, Johnson & Johnson—for their role in the national opioid crisis. Those manufacturers entered into a settlement agreement with the coalition of states and over governmental entities and upon the request and urging of the Office of the Texas Attorney General, most Texas local governments participated in the settlement. The Town opted to participate in November 2021 through the passage of Resolution No. 1102202101, with the funds required to be utilized for opioid remediation purposes.

Similarly, the State of Texas and other coalition members have settled their cases against Allergan, CVS, Walmart and Walgreens relative to the marketing, sale and dispensing of opioids, in the following amounts: Allergan—\$135 million; CVS—\$304 million; Walmart—\$170 million; and Walgreens—\$340 million. Again, the Office of the Attorney General has strongly encouraged Texas political subdivisions to participate in the settlement, with settlement amounts for each political subdivision yet undetermined. Settlement amounts will be based upon the number of participating governmental entities, and proceeds will be spent on additional opioid remediation. The Attorney General's Office has indicated that settlement discussions are proceeding against numerous other defendants in the opioid industry. Detailed information about the State of Texas' opioid litigation efforts may be found on the Texas Attorney General's website.

A copy of one of the Settlement Forms is attached. The Settlement Forms for each of the four defendants are identical.

BUDGET IMPACT:

At the present time, the amount of funds to be received by the Town is unknown.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Settlement Participation Form Example

EXHIBIT K
Subdivision and Special District Settlement Participation Form

Governmental Entity:	State:
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Allergan Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Allergan Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Allergan Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Allergan Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Allergan Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within fourteen (14) days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the MDL Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
4. The Governmental Entity agrees to the terms of the Allergan Settlement pertaining to Subdivisions and Special Districts as defined therein.
5. By agreeing to the terms of the Allergan Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Allergan Settlement solely for the purposes provided therein.



7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Allergan Settlement.
8. The Governmental Entity has the right to enforce the Allergan Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Allergan Settlement, including, but not limited to, all provisions of **Section V (Release)**, and along with all departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Allergan Settlement are intended to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Allergan Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Allergan Settlement.
11. In connection with the releases provided for in the Allergan Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Allergan Settlement.

12. Nothing herein is intended to modify in any way the terms of the Allergan Settlement, to which the Governmental Entity hereby agrees. To the extent this Settlement Participation Form is interpreted differently from the Allergan Settlement in any respect, the Allergan Settlement controls.



I have all necessary power and authorization to execute this Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____





Date: 03/07/2023
Agenda Item #: 4. F.
Department: Economic Development Corporation
Strategic Goal: Promote and expand Little Elm's identity
Staff Contact: Jennette Espinosa, EDC Executive Director

AGENDA ITEM:

Consider Action to Approve an **Estoppel Certificate related to the Chadnic Villages at Lakefront, LLC Multi-Family Development.**

DESCRIPTION:

The Estoppel Certificate reiterates all terms of the executed Lease Purchase Agreement between Little Elm EDC, landowner; and landlord and Chadnic, Villages of Lakefront, LLC, the tenant.

This Estoppel Certificate is furnished by Lessor to Dwight Capital LLC (the "Lender") and the Secretary of Housing and Urban Development ("HUD") in connection with a mortgage loan (the "Loan") that Lender is making to Lessee with respect to the Property, which Loan is being insured by HUD and which Loan will be secured by a Leasehold Multifamily Deed of Trust, Assignment of Leases and Rents and Security Agreement on the Property ("Security Instrument"). Lessor understands that the Lender and HUD are relying upon this Estoppel Certificate in connection with making and insuring the Loan.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Estoppel Certificate for Chadnic Multi family

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

Any agreement, undertaking, statement or certification required by the Commissioner shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the FHA, and of the Commissioner, and may be relied upon by the Commissioner as a true statement of the facts contained therein

ESTOPPEL CERTIFICATE

To: Dwight Capital LLC
Attn: HUD & GNMA Operations
787 Eleventh Avenue, 10th Floor
New York, NY 10019

U.S. Department of Housing and Urban Development
307 W 7th Street, Suite 1000
Ft. Worth, TX 76102

March ____, 2023

RE: Ground Lease Purchase Agreement for Certain Multi-Family Property in Little Elm, Denton County, Texas, executed by Little Elm Economic Corporation, a Texas non-profit corporation (“Lessor”) and Village at Lakefront, LLC, a Texas limited liability company (“Lessee”) dated February 16, 2021, and recorded on January 20, 2021 under Clerk’s File No., 2021-10235, Denton County, Texas, as amended by that unrecorded First Amendment to Ground Lease Purchase Agreement dated February 16, 2021, and as further amended by that Second Amendment to Ground Lease Purchase Agreement for Certain Multi-Family Property In Little Elm, Denton County, Texas dated March __, 2023, recorded under Denton County Clerk’s File No. _____ (“Ground Lease”), with respect to real property located at 201 E. Eldorado Parkway, Little Elm, TX 75068, and as more particularly described in Exhibit A to the Ground Lease, FHA Project No. 113-11515 (the “Property”).

Ladies and Gentlemen:

This Estoppel Certificate is furnished by Lessor to Dwight Capital LLC (the “Lender”) and the Secretary of Housing and Urban Development (“HUD”) in connection with a mortgage loan (the “Loan”) that Lender is making to Lessee with respect to the Property, which Loan is being insured by

HUD and which Loan will be secured by a Leasehold Multifamily Deed of Trust, Assignment of Leases and Rents and Security Agreement on the Property ("Security Instrument"). Lessor understands that the Lender and HUD are relying upon this Estoppel Certificate in connection with making and insuring the Loan.

Lessor hereby represents and certifies to the Lender and HUD and their respective successors and assigns, as follows:

1. Lessor is the holder of the lessor's interest in the Ground Lease and owns fee simple title to the Property.

2. A true and complete copy of the Ground Lease, including, if any, all amendments, assignments and modifications, is attached hereto as Exhibit A. Except as set forth in Exhibit A, the Ground Lease has not been amended or modified in any way.

3. The Ground Lease is presently in full force and effect according to its terms and is valid and binding upon Lessor.

4. To the best of Lessor's knowledge, Lessee is not in default under the Ground Lease. To the best of Lessor's knowledge, no state of facts exist which, with the passage of time or giving of notice, or both, could constitute a default by Lessee under the Ground Lease.

5. All rent, charges and other payments due to Lessor from Lessee under the Ground Lease as of the date hereof have been paid by Lessee.

6. Lessee has not paid any security deposit under the Ground Lease.

7. To the best of Landlord's knowledge, all conditions under the Ground Lease to be satisfied by Lessor or Lessee as of the date hereof have been satisfied.

8. Lessor confirms that the Security Instrument is authorized and confirms that the legal description of the Property set forth below is correct:

Tract 1: Being Lot 1R-1, Block A, of the Palladium Addition, an Addition to the Town of Little Elm, County of Denton, State of Texas, according to the replat of the same, and recorded under Clerk's File No. 2021-60, Plat Records, Denton County, Texas; and
Tract 2: Together with easement rights contained in that certain Minor Plat Palladium Addition Lots 1R-1 & 1R-2 recorded under Clerk's File No. 2021-60, of the Plat Records in Denton County, Texas.

Signature Page Follows

SIGNATURE PAGE TO ESTOPPEL CERTIFICATE

Executed as of the date first set forth above.

LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION,
a Texas non-profit corporation

By: _____
Name: _____
Title: _____

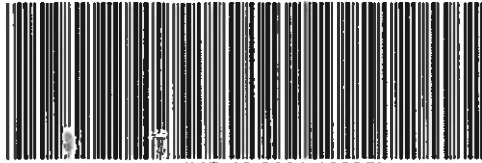
CONSENT:
TOWN OF LITTLE ELM, TEXAS

Curtis J. Cornelious, Mayor
Date: _____

Exhibit A

Copy of Ground Lease and Amendments

(see attached)



VG-19-2021-10235

Denton County
Juli Luke
County Clerk

chadric Ground Lease Agreement for Multifamily

Instrument Number: 10235

Real Property Recordings

AGREEMENT

Recorded On: January 20, 2021 09:30 AM

Number of Pages: 35

" Examined and Charged as Follows: "

Total Recording: \$162.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 10235
Receipt Number: 20210120000222
Recorded Date/Time: January 20, 2021 09:30 AM
User: Meredith K
Station: Station 38

Record and Return To:

JENNETTE ESPINOSA
LITTLE ELM ECONOMIC DEVELOPMENT
100 W ELDORADO PKWY
LITTLE ELM TX 75068



STATE OF TEXAS
COUNTY OF DENTON

I hereby certify that this instrument was FILED in the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke
County Clerk
Denton County, TX

Return To:



Jennette Espinosa
Little Elm Economic Development
100 W Eldorado Pkwy
Little Elm, Texas 75068

**GROUND LEASE PURCHASE AGREEMENT
FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY,
TEXAS**

THIS GROUND LEASE PURCHASE AGREEMENT (this “**Agreement**”) is made and entered into on the 19 day of January, 2021 (the “**Effective Date**”) by and between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation, having its principal address as 100 W. Eldorado Parkway, Little Elm, Texas 75068-5060 (“**Landlord**” or “**Little Elm EDC**”), and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company, or its permitted assigns (“**Ground Lessee**” or “**Village at Lakefront**”). This Agreement, together with the “Ground Lease Purchase Agreement for Certain Retail Property in Little Elm, Denton County, Texas, dated the same date as this Agreement and made by and between Little Elm EDC and Village at Lakefront (the “Retail Agreement”) together amend and replace the Ground Lease Purchase Agreement dated August 12, 2013, between Little Elm Economic Development Corporation and Palladium USA International, Inc. as amended, and shall take effect only upon execution of both this Agreement and the Retail Agreement.

WITNESSETH:

Subject to the terms, provisions and conditions of this Agreement, and each in consideration of the duties, covenants and obligations of the other hereunder, Landlord does hereby lease, demise, and let the Premises (as hereinafter defined) unto Ground Lessee, and Ground Lessee does hereby lease the Premises from Landlord.

ARTICLE I

CERTAIN DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings respectively indicated:

- 1.1 “**Additional Rent**” is defined in **Section 3.3** of this Agreement.
- 1.2 “**Affiliate**” means: (i) any entity controlled by, controlling or under joint control with an entity or any of the entity’s partners, shareholders or their affiliates; (ii) any entity which is owned in whole or in part, directly or indirectly, by an entity or any of the entity’s partners, shareholders or affiliates, or any entity which is otherwise affiliated with or related to an entity or any of the entity’s partners or shareholders; (iii) any entity which is the successor by merger or otherwise to all or substantially all of an entity’s assets used in connection with the Premises and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iv) any entity to whom an entity or an Affiliate [per clauses (i) through (iii)] provides development, management, operational, financing and/or leasing services in connection with a project on the Land.

1.3 **"Annual Base Rent"** means an amount for each full Lease Year of the Term determined and paid as follows:

- (i) For the first five (5) years of the Term of the Lease, the Multifamily Development (as defined below), commencing on the Commencement Date, an amount equal to Sixty-Nine Thousand Six Hundred Ninety-Six and no/100 Dollars (\$69,696.00) annually and paid in equal monthly installments of Five Thousand Eight Hundred Eight and no/100 Dollars (\$5,808.00) on the 1st day of each month.
- (ii) Commencing with the sixth (6th) Lease Year and on every fifth (5th) Lease Year thereafter (i.e., 11th, 16th, 21st, etc.), the Annual Rent shall be adjusted, if any, in direct proportion to the increase upon the formula set out below, based on the immediately preceding five (5) Lease Years. Each of the dates on which the Annual Rent is adjusted shall be referred to as an "Adjustment Date." The adjustment shall be calculated as follows:

For the sixth (6th) through tenth (10th) Lease Years, as to the Multifamily Development alone, the Annual Rent adjustment shall be calculated as the percentage increase in average annual Total Income of the Ground Lessee for such development during the first five (5) year period, over the annualized Total Income calculated in the month the Multifamily Development achieves physical occupancy of at least ninety percent (90%). For the eleventh (11th) through fifteenth (15th) Lease Years, and thereafter after each five (5) year period, escalations, if any shall be calculated as the percentage increase in average annual Total Income of the Ground Lessee for such development during the most recent five (5) year period, over the preceding five (5) year base annual Total Income.

A rental adjustment called for in this section shall never result in a reduction of the Annual Rent from that paid immediately prior to the Adjustment Date.

1.4 **"Award"** is defined in **Section 18.1(a)** of this Agreement.

1.5 **"Business Days"** means any day other than a Saturday, Sunday or other day on which national banks are required or authorized to be open for business in Dallas, Texas.

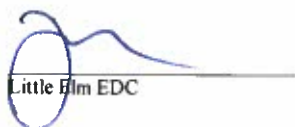
1.6 **"Commencement Date"** means December 5, 2017, the date the first certificate of occupancy for the Multifamily Development was obtained.

1.7 **"Date of Taking"** is defined in **Section 18.1(b)** of this Agreement.

1.8 **"Default Rate"** is defined in **Section 3.2** of this Agreement.

1.9 **"Effective Date"** shall mean the date specified in the first sentence of this Agreement.

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- 1.10 “**Event of Default**” means any event or condition designated as an “Event of Default” in **Article XIV** of this Agreement.
- 1.11 “**Hazardous Substances**” is defined in **Section 9.1** of this Agreement.
- 1.12 “**Impositions**” is defined in **Section 8.1(a)** of this Agreement.
- 1.13 “**Imposition Commencement Date**” is defined in **Section 8.1(a)** of this Agreement.
- 1.14 “**Improvements**” means any improvements hereafter developed on the Land by Ground Lessee, or otherwise as authorized by Ground Lessee.
- 1.15 “**Indemnified Parties**” is defined in **Article VII** of this Agreement.
- 1.16 “**Land**” means the approximate 6.4 acres allocated to the multifamily portion of the site, a legal description and/or depiction is attached hereto as **Exhibit A**, and including the following:
- (i) All and singular the rights and appurtenances pertaining to the Land and future Improvements, including, without limitation, all right, title and interest of Landlord in and to adjacent or appurtenant streets, roads, alleys, easements and rights-of-way, open or proposed, and all awards made or to be made in connection therewith (collectively, the “**Appurtenances**”);
 - (ii) If and to the extent the same would not comprise and be considered a part of the Appurtenances described above, all mineral rights, water rights, wastewater rights, utility rights and development rights associated with, or appurtenant to or otherwise allocable to, the Land and/or future Improvements;
 - (iii) All site plans, surveys, soil and substrata studies, water studies, environmental studies or audits, physical inspection reports, asbestos assessments, remedial plans, architectural renderings, plans and specifications, engineering plans and studies, floor plans, landscape plans and other plans diagrams or studies of any kind which relate, in whole or in part, to the Land and the future contemplated Improvements, together with any copyrights thereto; and
 - (iv) All rights, interest, privileges, appurtenances and properties in any way related to the properties described above.

Once the Survey has been obtained and approved by Landlord pursuant to **Section 4.2(b)**, Ground Lessee has the right to substitute the property description contained in the Survey for the property description contained in **Exhibit A**. If any re-subdivision plan(s) of the Land is (are) approved and filed with the Denton County Clerk’s office, Ground Lessee may substitute the platted lots per such approved and recorded subdivision plat(s) for the property description contained in **Exhibit A**.

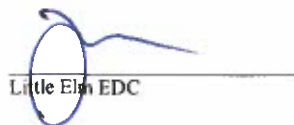
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- 1.17 **"Lease Year"** means a period of twelve (12) months, with the first Lease Year beginning on the Commencement Date and for each subsequent Lease Year, each period of twelve (12) full calendar months thereafter.
- 1.18 **"Monthly Rent"** is as outlined in **Section 1.3 (i) and (ii)** of this Agreement.
- 1.19 **"Person"** means an individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.
- 1.20 **"Pre-Existing Conditions"** is defined in **Section 9.2** of this Agreement.
- 1.21 **"Premises"** means the Land and any and all buildings, utility facilities, drainage facilities, infrastructure, roads, driveways, curbs, paving, landscaping, signage, entrances, exits, surface parking and other improvements that may currently exist or hereafter be installed on the Land.
- 1.22 **"Prime Rate"** means the rate of interest being charged on the date in question by the Wall Street Journal (or its legal successor) as the "prime rate".
- 1.23 **"Rent"** herein includes all Annual Base Rent and Additional Rent.
- 1.24 **"Taking"** is defined in **Section 18.1(c)** of this Agreement.
- 1.25 **"Term"** is defined in **Section 2.2** of this Agreement.
- 1.26 **"Transfer"** means any conveyance, transfer, sale, assignment, sublease, Mortgage, pledge, encumbrance or the like, to any Person.
- 1.27 **"Transferee"** means any Person to whom a Transfer is made.
- 1.28 **"Unqualified Transferee"** means and refers to any Person:
- (i) Who is listed on a list of terrorists or terrorist organizations published by the United States government (e.g., the United States Secretary of State's list of Foreign Terrorist Organizations), as the same are amended and supplemented from time to time;
 - (ii) Who has been determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001), or any similar prohibitions contained in the rules and regulations of the Office of Foreign Assets Control, as the same are promulgated and amended from time to time; or

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- (iii) Who has been indicted for any offense involving terrorism under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (as it may be amended from time to time, the "USA Patriot Act"), including any Person who commits any crime of conspiracy to commit, or aiding and abetting another Person to commit, a USA Patriot Act offense.

Notwithstanding the foregoing, "Unqualified Transferee" shall not include any Person who:

- (a) Is determined by Ground Lessee, in good faith and upon reasonable inquiry, not to be a Person described in the preceding clauses (i), (ii) or (iii) of this **Section 1.28**; and
- (b) Certifies to Landlord and Ground Lessee in writing that such Person is not a Person described in the preceding clauses (i), (ii) or (iii) of this **Section 1.28**.

In addition, in no event shall any Institutional Investor (as immediately hereinafter defined) be deemed to be an "Unqualified Transferee." As used herein, the term "Institutional Investor" means and refers to any of the following entities and/or their Affiliates: state and/or Federally chartered lending institutions, life insurance companies who are regularly engaged in the making of permanent real estate loans and/or in the acquisition, holding and/or disposition of commercial real estate development projects, real estate investment trusts (i.e. "REIT's"), pension, annuity and/or investment funds (or trustees or managers of such funds), any publicly traded company, and any branch or instrumentality of any one or more of (1) the United States of America, (2) any state comprising the United States of America, or (3) any city or municipality within any such states described in (2) preceding.

ARTICLE II

COMMENCEMENT AND TERM

- 2.1 **Option Payment.** On or before the Effective Date, Ground Lessee shall pay to Landlord a non-refundable payment in the sum of One Hundred Dollars (\$100.00) (such payment referred to herein as the "Option Payment").
- 2.2 **Term of Agreement.** The term of the Agreement (the "Term") shall commence on the Effective Date and shall terminate fifty (50) Lease Years after the Commencement Date for the Multifamily Development. This Agreement will terminate without further notice when the Term specified in this **Section 2.2** expires and any holding over by Ground Lessee after the Term expires will not constitute a renewal of this Agreement or give Ground Lessee any rights under the Agreement in or to the Premises. In connection therewith, Ground Lessee shall have the right at Ground Lessee's expense, to examine and copy all books, records, files, documents, reports, and other information of the Landlord relating to the Premises, including all leases, service agreements, insurance policies, and construction

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and maintenance related documents; provided that such examination and copying shall not interfere with the Landlord's business operations.

ARTICLE III

RENT

- 3.1 **Annual Base Rent.** For each Lease Year of the Term of this Agreement from and after the Commencement Date, Ground Lessee agrees to pay the applicable Annual Base Rent as herein provided, in lawful money of the United States of America, without deduction, offset prior notice or demand, except as herein provided and except as provided by applicable law, and at such place or places as Landlord may from time to time designate. For each twelve (12) month Lease Year (except for the first Lease Year), Ground Lessee shall pay such rent in monthly installments (hereinafter referred to as "**Monthly Rent**") in advance on or before the first (1st) day of each month in an amount equal to one-twelfth (1/12) of the applicable Annual Rent.
- 3.2 **Late Charge.** In the event that Ground Lessee shall fail to pay any portion of any installment of Monthly Rent on the date which is ten (10) days after the day on which such installment is due, there shall be added to such unpaid amount a late charge of ten percent (10%) of the amount owed, in order to compensate Landlord for the extra administrative expenses incurred. In addition, from and after the date which is thirty (30) days after the due date the total amount then due shall bear interest at the annual rate (the "**Default Rate**") which is the Prime Rate, until paid.
- 3.3 **Additional Rent.** All ad valorem taxes, insurance premiums, utility costs and all other sums, liabilities, obligations and other amounts which Ground Lessee is required to pay or discharge pursuant to this Agreement, in addition to Annual Base Rent, together with any interest, penalty, or other sum which may be added for late payment thereof, shall constitute rent hereunder ("**Additional Rent**"). So long as no Event of Default then exists hereunder, Ground Lessee may pay Additional Rent directly to the person entitled thereto, provided that, Ground Lessee shall provide Landlord with written proof of such direct payment within ten (10) days of such payment.
- 3.4 **Place and Manner of Payment.** Subject to the further provisions hereof, the rent hereunder shall be payable to Landlord at the original or changed address of Landlord set forth in **Section 20.1** hereof or to such other person at such address as Landlord may designate from time to time in writing. In addition to other proper methods of payment, all payments of rent and other sums payable to Landlord by Ground Lessee under this Agreement may be made, and shall be deemed to have been properly made so long as actually received by Landlord, by the delivery to Landlord of Ground Lessee's check, draft or wire transfer in the amount of such payment.
- 3.5 **Payments to Assignees and Third Parties.** If Landlord's interest in this Agreement shall be assigned to a third party or if any sum accrued or to accrue hereunder shall ever be

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assigned or if any third party other than Landlord shall ever be entitled to collect such sum, then in any such event written notice shall be given by Landlord to Ground Lessee within thirty (30) days after such assignment.

- (a) If and when Landlord's interest in this Agreement shall be owned by more than one person, firm, corporation or entity, such parties shall arrange among themselves for the joint execution of a notice specifying one party or agents and an address therefor for the receipt of notices to Landlord under this Agreement and to which all payments to Landlord under this Agreement shall be made, and notices delivered and payments made by Ground Lessee in accordance with such jointly executed notice shall constitute notice and payment to all parties included within the term "**Landlord**". Landlord understands that rent payments shall be made to one party as agent for any multiple parties and such will fulfill Ground Lessee's responsibilities for payments hereunder.
- (b) In the event that there is any dispute as to who shall be entitled to receive any sum payment hereunder, Ground Lessee shall, at its option, have the right to pay such sum into the registry of any court of competent jurisdiction located in Denton County, Texas, in connection with a bill of interpleader or similar proceeding filed by Ground Lessee, naming Landlord and such other claimants as parties. The making of such payment in connection with the filing of such proceeding shall discharge Ground Lessee from any further obligation for payment of the installment or rent so paid or deposited and Landlord and such other claimants shall be responsible for all costs of Ground Lessee in such regard, including attorney's fees.
- (c) In the event Landlord shall have given Ground Lessee notice that a third party is entitled to receive payment of any sum and if Ground Lessee thereafter timely pays such sum to the third party named in such notice, such payment to the third party named in the notice shall fully discharge Ground Lessee of any further obligation for such sum.

ARTICLE IV

DELIVERY OF THE PREMISES

- 4.1 **Delivery of the Premises.** Except as otherwise provided in this Agreement, Ground Lessee hereby accepts the Premises from Landlord in its "AS IS", "WHERE IS" condition without any representation or warranty by Landlord and with all faults. The execution of this Agreement by Ground Lessee shall be prima facie evidence that Ground Lessee has inspected the Premises and is or will be thoroughly familiar with its condition, and Ground Lessee hereby accepts the Premises as being in good and satisfactory condition, and suitable for Ground Lessee's intended purpose. THE PROVISIONS OF THIS ARTICLE IV HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION BY LANDLORD OF, AND GROUND LESSEE DOES HEREBY DISCLAIM, ANY AND ALL WARRANTIES BY LANDLORD, EXPRESS

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OR IMPLIED, WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OR ANOTHER LAW NOW OR HEREAFTER IN EFFECT OR OTHERWISE SPECIFICALLY PROVIDED HEREIN.

4.2 **Deliveries to Ground Lessee.**

- (a) Within ten (10) days after the Effective Date, Landlord will deliver to Ground Lessee true and correct copies of any contracts that affect or bind the Premises and any and all topographical maps, engineering studies, environmental reports and studies, soils reports, traffic studies and other similar materials, reports and studies that are in Landlord's possession or control. Furthermore, if requested by Ground Lessee, Landlord shall make a good faith effort to obtain an estoppel letter from each of the Ground Lessees under the Existing Leases, if any, which shall be in a form provided by Ground Lessee. Except as otherwise required by law, all information delivered by Landlord to Ground Lessee pursuant to this **Section 4.2(a)** shall be kept confidential, except that Ground Lessee may disclose such information to Ground Lessee's partners, lenders, officers, lawyers, accountants and employees to the extent necessary to evaluate the Premises.
- (b) Within thirty (30) days after the Effective Date, Landlord will deliver to Ground Lessee, at Ground Lessee's cost, for Ground Lessee's review and approval (i) a current on-the-ground metes and bounds survey of the Property (the "Survey"), and (ii) a commitment (the "**Title Commitment**") for a leasehold policy of title insurance from Chicago Title Company, 14755 Preston Road, Attn: Becky Brusilow, Dallas, Texas 75254 (the "**Title Company**"). At the expense of the Ground Lessee, Landlord will cause the Title Company to issue to Ground Lessee a leasehold policy in an amount of at least One Million Three Hundred Seventy-Two Thousand Eight Hundred Seventy-Five Dollars (\$1,372,875.00) effective as of the Commencement Date. Upon approval of the Survey by Ground Lessee and Landlord, the description of the Land contained in the Survey shall replace the property description currently listed on **Exhibit A**. Notwithstanding anything to the contrary contained herein, Landlord shall have an affirmative obligation to cure any of the following title matters within ninety (90) days of the Effective Date: (i) monetary obligations such as mortgages, liens, etc., and (ii) any encumbrances placed upon the Land by (or at the direction of) Landlord subsequent to the Effective Date of this Agreement.
- (c) Within ten (10) days after the Effective Date, Landlord will deliver to Ground Lessee for Ground Lessee's review and approval copies of any notices from any entity relating to relocation of the utilities serving the Premises.

- 4.3 **Zoning, Easements and Dedications.** From time to time throughout the Term of this Agreement, Landlord shall, upon the reasonable request of Ground Lessee, execute such consents, authorizations, applications, site plans, plats, requests, dedications, easements and other documents and instruments as may be necessary or desirable in connection

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with Ground Lessee's development of the Premises, including, without limitation, zoning applications, utility easements, street dedications and closure instruments, site plans and platting instruments; provided, however, the Land shall not be rezoned to any classification other than such zoning classification(s) that permits the development and use of the 6.4 acres of the Premises for multifamily development of at least 239 units without the prior written consent of Landlord. Ground Lessee shall bear all expenses with respect to the matters described in this **Section 4.3** (including application fees, design and consultant costs and fiscal postings), except for the expenses of professionals engaged by Landlord, if any.

- 4.4 **Restrictions.** At the written request of Ground Lessee, Landlord shall, from time to time, execute and deliver or join in the execution and delivery of such documents as Ground Lessee reasonably considers appropriate, necessary or required to impose on the Premises or release the Premises from, as the case may be, such covenants, conditions and restrictions providing for, inter alia, exclusive uses of the Premises, or any part thereof, the establishment of common and parking areas, the establishment of mutual and reciprocal parking rights and the rights of ingress and egress, and other like matters, for the purpose of the orderly development of the Premises, but only so long as such covenants, conditions or restrictions terminate upon the expiration or termination of this Agreement.
- 4.5 **Refusal to Join.** Landlord shall not unreasonably fail or refuse to take any action required or contemplated pursuant to **Section 4.3** or **Section 4.4**. If Landlord unreasonably fails to execute and return to Ground Lessee any documents or to take action required by **Section 4.3** or **Section 4.4** within thirty (30) days of delivery to Landlord of such document or written request for such action, Landlord shall be in breach of this Agreement, whereupon Ground Lessee shall be entitled to exercise any and all remedies allowed to Ground Lessee by law or equity by reason of such failure, including, without limitation, Ground Lessee may recover from Landlord any actual damages suffered by Ground Lessee as a result of such breach. Notwithstanding the provisions of **Section 20.1**, a written request to Landlord to approve or execute a document imposing covenants, conditions or restrictions against the Premises shall not be deemed delivered until (a) the written request is actually received by an officer of Landlord, and (b) such officer or authorized signatory confirms such receipt in writing (or confirmation of receipt is provided by a third party). The Landlord will act in good faith with respect to the receipt of requests.
- 4.6 **Transfer at Termination.** At the termination of this Lease, except for a termination related to the exercise of Ground Lessee's Option to Purchase according to the provisions of **Section 4.8**, Improvements on the Premises shall automatically become the property of Landlord and Ground Lessee shall have no further interest in such Improvements.
- 4.7 **Sale of Land or Assignment of Landlord's Interest in Lease.** Before Landlord has entered into an agreement regarding the sale of all or any portion of the Land or assignment of all or any portion of the Landlord's interest in the Lease, and in any event

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prior to any such proposed sale or assignment to a third party that is not an Affiliate of Landlord, Landlord shall give notice to the Ground Lessee of the terms of the proposed sale or assignment ("Notice of Sale") and Ground Lessee shall have an option to purchase the Property on the terms set out in the Purchase Option in **Section 4.8** below, regardless of the price offered by a prospective purchaser or assignee, and regardless of the time restriction in **Section 4.8**. If Ground Lessee does not exercise its option to purchase within fifteen (15) days after delivery of the Notice of Sale, Landlord shall be free to sell the Land or assign landlord's interest in the Lease on the terms set out in the Notice of Sale, without any requirement of consent on the part of Ground Lessee, but subject to the terms and conditions of this Lease, including Ground Lessee's option to purchase the Land in accordance with **Section 4.8** below.

- 4.8 **Ground Lessee's Option to Purchase.** At any time during the Term of this Agreement if triggered by a Notice of Sale received from Landlord, or, after the first eight (8) Lease Years (the "Lockout Period") at Ground Lessee's sole option, Ground Lessee or its successor may, at its option, give written notice to Landlord that Ground Lessee will purchase the Land from Landlord for the price of One Million One Hundred Fifteen Thousand and 00/100 Dollars (\$1,115,000.00), by submitting a real estate sale contract(s) to Landlord containing the usual provisions set forth in the standard State Bar of Texas Real Estate Sale Contract form, including the obligation of Landlord to furnish an Owner's Title Policy at Closing at Landlord's expense but expressly excluding any warranty or representation regarding the Premises or Land except the warranty of title. Ground Lessee shall agree to close such purchase within thirty (30) days of the full execution of said contract. Any Base Rent payments made from the time the notice of exercise of the option to purchase is delivered, until the Closing of the acquisition, shall be credited to the purchase price.
- 4.9 **Release of Landlord.** If Landlord sells or transfers all or part of the Premises and as part of the transaction assigns its interest as Landlord in this Lease, then as of the effective date of the sale, assignment, or transfer, Landlord will have no further liability under this Lease to Ground Lessee, except with respect to liability matters that have accrued and are unsatisfied as of that date. Underlying this release is the parties' intent that Landlord's covenants and obligations under this Lease will bind Landlord and its successors and assigns only during and in respect of their respective successive periods of ownership of the fee, provided that Landlord, in such event, complies with the provisions of **Section 4.7** and **Section 4.8** above.

ARTICLE V

INDEPENDENT COVENANTS

It is the intention of the parties hereto that the obligations of Ground Lessee hereunder shall be separate and independent covenants and agreements, that the Annual Base Rent and all other sums payable by Ground Lessee hereunder shall continue to be payable in all events and

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that the obligations of Ground Lessee hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been abated, terminated, or modified pursuant to a provision of the Lease.

ARTICLE VI

USE

- 6.1 **Permitted Uses.** The Premises may be used and occupied by Ground Lessee (and its permitted assignees and sub-ground Lessees) for any lawful use or purpose within the zoning requirements for such Land, excluding the following uses: body art or tattoo establishment; retail tobacco store; gaming establishment; sexually oriented business; and full service sit-down restaurant use for the retail/commercial building to be located on the Land.
- 6.2 **Compliance with Laws, etc.** Ground Lessee shall, at Ground Lessee's sole cost and expense, comply with all federal, state, county and municipal laws, ordinances, orders, rule and regulations applicable to the use, condition, structure or occupancy of the Premises. Ground Lessee may not use all or any part of the Premises or any building situated on them for any use or purpose that violates any valid and applicable law, regulation, or ordinance of the United States, the State of Texas, the County of Denton, the Town of Little Elm, or other lawful authority with jurisdiction over the Premises. Ground Lessee is not considered to have violated this provision unless:
- a. Landlord has notified Ground Lessee in a writing specifying the alleged violation;
 - b. There has been a final adjudication by a court of competent jurisdiction that the Ground Lessee has violated the law, regulation, or ordinance specified in the notice;
 - c. The specified law, regulation, or ordinance is valid and applies to the premises; and
 - d. Ground Lessee failed to cure the specified violation within a reasonable period of time.

ARTICLE VII

INDEMNITY

Ground Lessee shall indemnify, protect and save Landlord, its successors and assigns, shareholders, trustees, directors, employees, and officers ("**Indemnified Parties**"), harmless from and against, and shall reimburse such parties for all liabilities, obligations, losses, claims, damages, penalties, costs, charges, judgments and expenses including without limitation, reasonable attorneys' fees and expenses which may be imposed upon or incurred or

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paid by or asserted against such Indemnified Parties by reason of or in connection with any of the following occurring during the Term of this Agreement (except to the extent caused by the negligence or misconduct of such Indemnified Parties):

- (a) any accident, injury, death or damage to any person or property occurring in, on or about the Premises;
- (b) all construction and any changes, alterations, repairs and anything done in, on or about the Premises or any part thereof in connection with such changes, alterations and repairs;
- (c) any negligent act on the part of Ground Lessee or any of its agents, contractors, servants, employees, sub-Ground Lessees, licenses or invitees;
- (d) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof; or
- (e) the condition of the Premises, or of any buildings or other structures now or hereafter situated thereon, or the fixtures or personal property thereon or therein.

ARTICLE VIII

IMPOSITIONS, UTILITIES, MAINTENANCE, CONSTRUCTION

8.1 Impositions.

- (a) Subject to Ground Lessee's right to contest such charges pursuant to **Section 8.1 (c)** below, from and after the Commencement Date (hereinafter referred to as the "**Imposition Commencement Date**"), Ground Lessee shall pay all real estate taxes, assessments for local improvements, water, and storm and sanitary sewer rates and charges (other than ordinary charges for utility services as provided in **Section 8.2**), licenses and permit fees, and other governmental levies and charges, which are assessed, levied, confirmed, imposed, or become a lien upon the Premises (or any portion thereof), or become payable during the Term of this Agreement (the "**Impositions**"), payment thereof to be made before any fine, penalty, interest, or cost may be added thereto for the nonpayment thereof; provided, however, that any Imposition relating to a fiscal period of the taxing authority a portion of which is included within the Term hereof and a portion of which is included in a period of time before the Imposition Commencement Date or after the expiration of the Term (for reasons other than Ground Lessee's default hereunder) shall be adjusted between Landlord and Ground Lessee as of the date for payment of Impositions occurring during the first Lease Year or such expiration date, as applicable. If Ground Lessee does not timely pay such Impositions (or contest such payment pursuant to **Section 8.1 (c)** below) Landlord may pay the same and such amount so paid shall be due and payable to Landlord as Additional

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Rent upon written demand therefor by Landlord. Ground Lessee shall provide Landlord with written evidence of its payment of any Impositions within fifteen (15) days after request from Landlord.

- (b) Nothing hereinabove contained shall require Ground Lessee to pay any franchise, estate, inheritance, succession, capital levy, stamp levy, stamp tax, margin tax, or transfer tax of Landlord or any income, excess profits, or revenue tax, or any other tax, assessment, charge, or levy based on or measured by the gross income or capital stock of Landlord or upon any rental payable by Ground Lessee under this Agreement. To the extent received by Landlord, Landlord covenants to forward promptly to Ground Lessee any and all notices or statements relating to taxes, assessments, fees, water, sewer, or other rent rate or charge, excise, levy license fee, permit fee, inspection fee, or other authorization fee. Ground Lessee shall furnish to Landlord copies of receipts of the appropriate taxing authority or other evidence reasonably satisfactory to Landlord evidencing payment of the Impositions before any fine, penalty, interest or cost may be added thereto for nonpayment thereof. The certificate, advice or bill of nonpayment of any Imposition from the appropriate official designated by law to make or issue the same or to receive payment of any Imposition shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice, or bill of nonpayment.
- (c) So long as there is then no uncured default hereunder, Ground Lessee may contest the collection or assessment of any Imposition, tax, assessment, fee, water or sewer charge or rate, excise, or levy by legal proceedings or other appropriate action. If Ground Lessee so elects to contest such amounts, Ground Lessee shall, prior to the prosecution or defense of any such claim, notify Landlord in writing of its decision to pursue such contest and, to the extent procedurally required, Ground Lessee shall pay the amount in question prior to initiating the contest or otherwise shall provide adequate security to Landlord prior to initiating the contest.

8.2 **Utilities.** From and after the Commencement Date, Ground Lessee shall be responsible for and promptly pay all charges incurred for all utility services to the Premises, including, but not limited to, telephone service, sanitary and storm sewer, water, natural gas, light, power, heat, steam, communications services, garbage collection, and electricity arising out of Ground Lessee's use, occupancy, and possession of the Premises during the Term of this Agreement. Ground Lessee shall also pay for all maintenance upon such utilities. In no event shall Landlord be liable for any interruption or failure of utility service to the Premises, except to the extent caused by Landlord's negligent acts or omissions.

8.3 **Maintenance Repairs.** From and after the Commencement Date, subject to the provisions of Article XVII (Destruction and Severability) and Article XVIII (Condemnation) below relating to destruction of or damage to the Premises, Ground Lessee agrees that at its own expense it will keep and maintain the Premises, including, without limiting the generality of the foregoing, all improvements and landscaping (including mowing of grass and care of shrubs), in good, clean, condition and repair. Prior to the expiration or termination of

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this Agreement, Ground Lessee may remove from the Premises all of the personal property and equipment located thereon.

8.4 **Rules Governing Construction, Additions, and Alterations.** The following rules govern construction, additions, and alterations of buildings or other improvements on the Premises:

- a. Ground Lessee and any Sublessee must, at its own expense, engage a licensed architect or engineer to prepare plans and specifications for constructing any building or improvements or additions or alterations to any buildings or improvements and submit the same to the Landlord for approval in advance of any such construction, which such approval shall not be unreasonably withheld or delayed.
- b. The following items do not require submission to, and approval by Landlord:
 - (i) Minor repairs and alterations necessary to maintain existing structures and improvements in a useful state of repair and operation.
 - (ii) Changes and alterations required by an authorized public official with authority or jurisdiction over the buildings or improvements, to comply with legal requirements.

ARTICLE IX

HAZARDOUS SUBSTANCES

- 9.1 **Environmental Laws.** For purposes of this Article IX, "Environmental Laws" means the State and Federal laws which regulate Hazardous Substances (as hereinafter defined), and material, waste, or pollutants, in quantities or concentrations the generation, storage, disposal, handling, release (or threatened release), treatment, discharge, or emission of which is regulated, prohibited, or limited under: (i) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended ("RCRA") (42 U.S.C. Sections 6901 et seq.), (ii) the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, as now or hereafter amended ("CERCLA"), (42 U.S.C. Sections 9601 et seq.), (iii) the Clean Water Act, as now or hereafter amended ("CWA") (33 U.S.C. Sections 1251 et seq.), (iv) Toxic Substances and Control Act, as now or hereafter amended ("TSCA") (15 U.S.C. Section 2601 et seq.), (v) the Clean Air Act, as now or hereafter amended ("CAA") (42 U.S.C. Section 7401 et seq.), (RCRA, CERCLA, CWA, TSCA and CAA are collectively referred to herein as the "Federal Toxic Waste Laws"), (vi) any local, state or foreign law, statute, regulation, or ordinance analogous to any of the Federal Toxic Waste Laws, and (vii) any other federal, state, local, or foreign law (including any common law), statute, regulation, or ordinance regulating, prohibiting, or otherwise restricting the placement, discharge, release,

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threatened release, generation, treatment, or disposal upon or into any environmental media of any substance, pollutant, or waste which is now or hereafter classified or considered to be hazardous or toxic. All of the laws, statutes, regulations and ordinances referred to in subsections (vi) and (vii) above, together with the Federal Toxic Waste Laws are collectively referred to herein as "**Toxic Waste Laws**". The term "**Hazardous Substances**" shall also include, without limitation the following in quantities or concentrations which are regulated by State of Federal Environmental Laws, (a) gasoline, diesel fuel, fuel oil, motor oil, waste oil, and any other petroleum hydrocarbons, including any additives or other by-products associated therewith, (b) asbestos and asbestos-containing materials in any form, (c) polychlorinated biphenyls, and (d) any substance the presence of which on the Premises: (x) requires reporting or remediation under any Toxic Waste law; (y) causes or threatens to cause a nuisance on the Premises or poses or threatens to pose a hazard to the health or safety of persons on the Premises; or (z) which, if it emanated or migrated from the Premises, could constitute a trespass, nuisance or health or safety hazard to persons on adjacent property.

9.2 **Hazardous Substances on Premises Prohibited.** Ground Lessee shall not conduct, permit, or authorize Hazardous Substances on the Premises without prior written authorization by Landlord, except for such quantities which are routinely utilized in connection with the lawful use of the Premises, all of which are to be stored, used, handled, and disposed of in full compliance with all Toxic Waste Laws. Nothing contained herein shall be construed as imposing upon Ground Lessee any responsibility for any Hazardous Substances located in, on, or under the Land on or prior to the Effective Date (the "**Pre-Existing Conditions**"). If Ground Lessee discovers any Pre-Existing Conditions after the Effective Date, Ground Lessee shall have the option of either remediating such Pre-Existing Condition to the extent required by the Toxic Waste Laws and offsetting the cost thereof (including costs of investigations, reports, studies and consultants) against the Annual Base Rent, or terminating this Agreement by giving Landlord at least thirty (30) days prior written notice of such termination. However, in no event will Landlord have any direct responsibility to Ground Lessee for any unknown Pre-Existing Condition.

9.3 **Compliance with Toxic Waste Laws.**

- (a) Ground Lessee shall, at its sole cost and expense, comply with all applicable Toxic Waste Laws, provided that nothing contained herein shall be construed as imposing upon Ground Lessee any responsibility for compliance with applicable Toxic Waste Laws in respect of Pre-Existing Conditions.
- (b) Notwithstanding anything contained herein to the contrary, Ground Lessee shall indemnify and hold harmless Landlord from any and all liabilities, claims, causes of action, penalties, fines, costs, expenses, reasonable attorneys' fees, remedial or response costs, investigatory costs and other similar expenses arising out of or otherwise attributable to any violation by Ground Lessee or the Premises of any Toxic Waste Law, unless such violation is the result of Pre-Existing Conditions, or has migrated to the Land from somewhere other than the Land or its

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improvements. Such indemnity obligation shall survive any termination or expiration of this Agreement.

- 9.4 **Landlord's Warranties.** Except for pre-existing conditions generated at 111 Main Street, Little Elm, Texas and referenced in a Reed Engineering Report, dated May 22, 2013, Landlord further represents and warrants that to the best of Landlord's actual knowledge: (i) no leak, spill, discharge, emission or disposal of hazardous or toxic substances has occurred on or about the Land; (ii) the soil, groundwater, soil vapor on or under the Premises is free of toxic or hazardous substances as of the date hereof; and (iii) that there has been no violation of any Toxic Waste Law.

ARTICLE X

INSURANCE

10.1 **Ground Lessee's Insurance.**

- (a) Ground Lessee shall, at its sole cost and expense, obtain and maintain insurance upon and relating to the Premises by "broad peril" form of insurance policy(ies) in amounts equal to 80% of the full insurable replacement value of the improvements located on the Land. The requirement for broad peril coverage shall be met through "builder's risk" insurance coverage during the period of construction of improvements on the Land. All such policies of insurance shall insure Ground Lessee, Landlord, and Ground Lessee's mortgagee, as their interests may appear. Ground Lessee may meet its obligations hereunder if a Sublessee supplies such insurance meeting the requirements of this subsection at its sole cost and expense.
- (b) Ground Lessee shall, at its sole cost and expense, obtain and maintain a commercial General Liability Insurance policy and in the event that construction is commenced on the Premises, Construction Liability Insurance, insuring Landlord, Ground Lessee's mortgagee and Ground Lessee against all claims, demand, or actions arising out of or in connection with injury to or death of a person or persons and for damage to or destruction of property occasioned by or arising out of or in connection with the use or occupancy of the Premises, the limits of such policy or policies to be in such amounts as may be reasonable and customary in Denton County, Texas for similar properties with the same type of improvements as may from time to time be situated upon the Land but not less than \$500,000.00 for property damage, \$1,000,000.00 for one person and \$2,000,000 for one accident for personal injury. Ground Lessee may meet its obligations hereunder if a Sublessee supplies such insurance meeting the requirements of this subsection at its sole cost and expense.
- (c) All policies of insurance shall be issued by an insurance company or companies having a General policyholder's rating of not less than A as stated in the most

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current available Best's insurance reports (or comparable rating service if Best's reports are not currently being published), licensed to do business in the State of Texas. All policies of insurance shall be in form and substance reasonably satisfactory to Landlord. Ground Lessee shall deliver to Landlord certificates or copies of all policies of required insurance fifteen (15) days prior to the expiration of each of policies required hereunder. Ground Lessee shall furnish Landlord with a certificate of insurance in force or replacement coverage and meeting the standards hereinabove provided, all as required by this Agreement. All such policies shall contain a provision that such policies will not be canceled or materially amended, including any reduction in the scope or limits of coverage, without ten (10) days' prior written notice to Landlord. In the event Ground Lessee fails to maintain, or cause to be maintained, or deliver and furnish to Landlord certified copies of policies of insurance required by this Agreement, Landlord may procure such insurance for the benefit only of Landlord for such risks covering Landlord's interests, and Ground Lessee will pay all premiums thereon within thirty (30) days after demand by Landlord. In the event Ground Lessee fails to pay such premiums (or reimburse Landlord) upon demand the amount of all such premiums shall bear interest at the Default Rate.

- 10.2 **Waiver of Subrogation.** Notwithstanding anything contained in this Agreement to the contrary, each party hereto hereby waives any and every claim which arises or may arise in its favor and against the other party hereto, or anyone claiming through or under them, by way of subrogation or otherwise, during the Term for any and all loss of, or damage to, any of its property (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom such other party may be responsible), which loss or damage is covered, or is required by this Agreement to be covered, by valid and collectible fire and extended coverage insurance policies (but not as to loss or damage covered by self-insurance as permitted hereby). Such waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Agreement with respect to any loss or damage to property of the parties hereto.

ARTICLE XI

ASSIGNMENT AND SUBLETTING

- 11.1 **Right to Sublet.** Ground Lessee may from time to time sublet (or sub-ground lease) the Premises in whole or in part at any time and from time to time, without Landlord's consent. The making of any such sublease or ground lease shall not release Ground Lessee from, or otherwise affect in any manner, any of Ground Lessee's obligations hereunder.

Notwithstanding anything contained herein to the contrary, Ground Lessee may at any time assign this Agreement to an Affiliate without the prior written consent of Landlord.

- 11.2 **Right to Transfer.** Ground Lessee may, without the prior written consent of Landlord, Transfer its interest in and under this Agreement, in whole or in part, for any use permitted

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under Section 6.1 above, provided however Ground Lessee may not transfer to an Unqualified Transferee. Ground Lessee shall not be relieved of liability for the performance of its obligations under this Agreement by reason of any such Transfer, with respect to the interest Transferred unless Ground Lessee delivers to Landlord a written instrument, in recordable form, pursuant to which the Transferee assumes, from and after the effective date of the Transfer, all of the obligations of Ground Lessee in respect of the interest Transferred; provided, however, that in the event the Transfer occurs by way of the foreclosure of a Deed of Trust, Ground Lessee shall thereupon be relieved of any further liabilities of obligations accruing from and after the date of foreclosure, regardless of whether the Deed of Trust (or other Person acquiring Ground Lessee's interest in and under this Agreement) assumes Ground Lessee's obligations hereunder. In the event of any transfer by Ground Lessee hereunder, the Transferee shall be entitled to the notices and rights conferred on the Ground Lessee under Section 4.7 and 4.8 and shall be burdened by the obligations provided to the Landlord under Section 4.9.

- 11.3 **Transfer Restrictions.** Ground Lessee shall not, without first obtaining the prior written consent of Landlord, transfer its interest in or under this Agreement, in whole or in part, to any Unqualified Transferee as defined in Section 1.28.

ARTICLE XII

QUIET ENJOYMENT

- 12.1 **Quiet Enjoyment.** Provided Ground Lessee pays the rent payable hereunder as and when due and payable and keeps and fulfills all of the terms, covenants, agreements and conditions to be performed or observed by Ground Lessee hereunder, Ground Lessee shall at all times during the Term have quiet and peaceable enjoyment of the Premises.
- 12.2 **Warranty of Title.** Landlord represents and warrants that Landlord is the sole owner of fee simple title in and to the Land, subject only to the matters set forth in the Title Commitment, and that Landlord, subject to Town Council of the Town of Little Elm, alone has the full and sole right to lease the Premises to Ground Lessee without the consent or joinder of any other party (which consent or joinder will have been obtained at the time of execution of this Ground Lease Purchase Agreement).

ARTICLE XIII

HOLDOVER

Upon the termination of this Agreement (whether by the expiration of the Term of this Agreement or otherwise) Ground Lessee must immediately vacate the Premises, but if Ground Lessee fails to do so then, without the execution of a new lease by Landlord and Ground Lessee, Ground Lessee, at the option of Landlord, shall immediately become a holdover month-to-month Ground Lessee of the Premises at one hundred fifty percent (150%) of the Monthly Rent effective in the month immediately preceding the termination of this Agreement,

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plus all Additional Rent and other sums payable by Ground Lessee hereunder, and under all other terms, conditions, provisions, and obligations of this Agreement.

ARTICLE XIV

DEFAULT AND REMEDIES

14.1 **Events of Default.** The occurrence of one or more of the following events shall constitute an event of default (each being referred to as an “**Event of Default**”) pursuant to the terms of this Agreement:

- (a) The failure of Ground Lessee to comply with or to observe any terms, provisions, or conditions of this Agreement performable by and obligatory upon Ground Lessee, excluding the rent and other payment provisions hereof, within thirty (30) days after written notice by Landlord plus such additional time as is needed to cure the same so long as Ground Lessee (or its mortgagee) has commenced such cure within such 30-day period and such cure thereafter is continuously and diligently undertaken by Ground Lessee (or its mortgagee);
- (b) From the Commencement Date, the failure of Ground Lessee to pay when due any portion of any installment of Monthly Rent or any other monetary charge due from Ground Lessee hereunder and such failure continues for thirty (30) days after written notice thereof from Landlord; provided, however, Landlord shall not be required to give such 30 day notice, and Ground Lessee shall not be entitled to same, more than two (2) times during any twelve (12) month period, and any subsequent failure of Ground Lessee to pay a monetary charge hereunder during such 12-month period shall be an Event of Default upon the occurrence thereof without any further notice whatsoever to Ground Lessee;
- (c) The taking of all of Ground Lessee’s leasehold estate by execution or other process of law other than as provided in **Article XVIII**.

14.2 **Landlord Remedies.** Upon the occurrence of any Events of Default enumerated in **Section 14.1** hereof, but subject to the rights of mortgagees and their designees as provided in **Article XV** hereof, Landlord shall have the right to pursue and enforce any and all rights and remedies available to Landlord hereunder or at law or equity, including, without limitation, (i) the right to terminate this Agreement by written notice to Ground Lessee and the expiration of any applicable cure periods as provided in this Ground Lease, and (ii) the right to terminate Ground Lessee’s right of possession of the Premises (without terminating this Agreement).

14.3 **No Waiver by Landlord.** Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law or equity, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions, and covenants herein contained.

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Landlord's acceptance of rent following an Event of Default hereunder shall not be construed as Landlord's waiver of any future Event of Default. No waiver by Landlord of any violation or breach of any of the terms, provisions, and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such default.

- 14.4 **Attorney's Fees.** In any case where Landlord or Ground Lessee employs attorneys to protect or enforce its rights hereunder and prevails, then the non-prevailing party agrees to pay the other party reasonable attorney's fees and costs of suit incurred by the prevailing party.
- 14.5 **Bankruptcy of Ground Lessee.** The bankruptcy or insolvency of Ground Lessee, an assignment by Ground Lessee for the benefit of Ground Lessee's creditors, the appointment of a trustee, liquidator or receiver for Ground Lessee, reorganization by Ground Lessee, an admission by Ground Lessee of its inability to pay its debts as the same become due and/or the inability to pay its debts as the same become due and/or the seeking or granting of any order of relief in any proceeding commenced by or against Ground Lessee under any present or future federal or state bankruptcy, insolvency or creditors' relief statute shall not affect this Agreement so long as all covenants of Ground Lessee are continued in performance by Ground Lessee or its successors or legal representatives. Furthermore, with respect to the rights of a mortgagee, all notice of default and the periods for curing the same shall be extended for such period of time as Ground Lessee and/or its interest under this Agreement are involved in any bankruptcy, receivership, custodial or other legal proceeding which prevents such mortgagee from curing any such default and/or obtaining title to the interest of Ground Lessee under this Agreement and/or actual possession of the Premises, provided that during such interim period the mortgagee under a mortgage of the leasehold estate, or its designee, shall pay/or cause to be paid all rents, taxes, assessments, and insurance premiums provided for hereunder as and when they become due under the terms of this Agreement.
- 14.6 **Default of Landlord.** To the extent Landlord has obligations under this Ground Lease, if Landlord defaults in its obligations, Ground Lessee shall provide Landlord with thirty (30) days' notice within which to cure such default. In the event Landlord has not cured such default within the applicable time, then Ground Lessee shall have the right to pursue and enforce any and all rights and remedies available to Ground Lessee hereunder, or at law or equity, including specific performance.

ARTICLE XV

FINANCING

- 15.1 **Right to Finance.** Ground Lessee shall from time to time and at any time have the right to encumber by one or more mortgages, deeds of trust, security agreements, or other instruments in the nature thereof, as security for one or more loans, indebtednesses or obligations. Ground Lessee's right to use and occupy the Premises, the leasehold estate created hereby, all right, title and interest in and to any improvements at any

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time located on or partially on the Premises, and any other property so affixed to said land, buildings or improvements as to be a part thereof. Any such indebtedness or obligation and any such mortgage, deed of trust or security agreement securing same shall be for such amount and on such other terms and conditions as Ground Lessee may agree to in its sole discretion; provided that any such mortgage, deed of trust, or security agreement shall at all times be subject to the terms and provisions of this Agreement and the rights, titles and interest of Landlord arising by virtue of this Agreement. **IN NO EVENT WILL LANDLORD BE REQUIRED TO "SUBORDINATE" LANDLORD'S FEE SIMPLE ESTATE IN THE LAND FOR FINANCING OBTAINED BY GROUND LESSEE UNDER THIS SECTION 15.1, (I.E., LANDLORD WILL NOT EXECUTE ANY DEED OF TRUST SECURING ANY INDEBTEDNESS OF GROUND LESSEE).**

- 15.2 **Notice to Mortgagee.** If at any time after execution and recordation in Denton County, Texas, of any such mortgage, deed of trust, or other instrument in the nature thereof, Ground Lessee or the mortgagee therein shall notify Landlord in writing that any such mortgage or deed of trust has been given and executed by Ground Lessee, and shall furnish Landlord with the address to which such mortgagee desires copies of notices to be mailed (or designate some person or corporation as the agent and/or representative of such mortgagee for the purpose of receiving copies of notices), Landlord hereby agrees that Landlord will thereafter, in addition to any other notice Landlord shall be required by this Agreement to deliver to such mortgagee, mail to each such mortgagee or agent thereof, at the address so given, by registered mail, postage prepaid, return receipt requested, and at the same time that such notice is placed in the mail or otherwise delivered to Ground Lessee, duplicate copies of any and all notices in writing which Landlord may from time to time give or serve upon Ground Lessee under and pursuant to the terms and provisions of this Agreement, including, but not by way of limitation, any notices of default required to be sent by virtue of **Article XIV** hereof. Landlord shall also notify each such mortgagee of any proposed action requiring the prior approval of such mortgagee hereunder and any casualty or condemnation loss.
- 15.3 **Right to Cure.** Any such mortgagee, at the option of such mortgagee, acting either directly or indirectly through a designee, may pay any of the rents due hereunder or may affect any insurance, or may pay any taxes and assessments, or may make any repairs and improvements, or may make any deposits, or may do any other act or thing or make any other payment required of Ground Lessee by the terms of this Agreement, or may do any act or thing which may be necessary and proper to be done in the observance of the covenants and conditions of this Agreement, or to prevent the forfeiture of this Agreement; and all payments so made and all things so done and performed by such mortgagee or designee shall be effective to prevent a forfeiture of the rights of Ground Lessee hereunder as the same would have been if timely done and performed by Ground Lessee instead of by any such mortgagee or designee. The mortgagee shall be given a separate fifteen (15) day written notice of Ground Lessee's failure to cure an Event of Default after any notice and period to cure, during which fifteen (15) day period the mortgagee shall have the right to cure and monetary default, and if any non-monetary

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default cannot reasonably be cured in this fifteen (15) day period, the right to commence and thereafter diligently and continuously pursue the required cure to completion.

15.4 **Option for New Lease.** Upon termination of this Agreement, for any reason, other than expiration of its Term, Landlord shall deliver written notice of such termination to any mortgagee about which Landlord has been notified pursuant to Section 15.2 hereof and such mortgagee or its designee shall have the option, within forty-five (45) days after receipt of written notice of such termination, to elect to receive from Landlord a new lease of the Premises for the unexpired balance of the Lease Term, or any renewal and extension hereof, on the same terms and conditions as in this Agreement set forth, and Landlord agrees to execute such new lease provided such mortgage holder or designee:

- (a) shall forthwith cure any monetary default of Ground Lessee;
- (b) shall undertake forthwith to remedy any non-monetary default of Ground Lessee, excluding those which by their nature are incapable of cure by any other person or corporation; and
- (c) shall thereafter observe and perform all covenants and conditions in such Lease contained on the part of Ground Lessee to be observed and performed (including the payment of rents hereunder).

In the event that more than one (1) mortgagee or designee shall exercise the foregoing option for a new lease, Landlord shall enter into a new lease with the mortgagee, or the designee of such mortgagee, having the highest priority among those mortgagees which exercised the option.

15.5 **No Liability.** No such mortgagee of the rights or interests of the Ground Lessee or its designee hereunder shall be or become liable to Landlord as an assignee of this Agreement or otherwise, unless such mortgagee or designee expressly assumes by written instrument such liability, and no assumption shall be inferred from or result from foreclosure or other appropriate proceedings in the nature thereof or as the result of any other action or remedy provided for by such mortgage or deed of trust or other instrument or from a conveyance from Ground Lessee pursuant to which the purchaser at foreclosure or grantee shall acquire the rights and interest of Ground Lessee under the terms of this Agreement.

15.6 **Modifications.**

- (a) Landlord shall not accept any surrender of or agree to any termination of or enter into any modification or amendment of this Agreement without the prior written consent thereto by any such mortgagee, and any attempt to do so without such written consent shall be void and of no force and effect.
- (b) Landlord agrees to modify this Agreement from time to time for the purpose of incorporating therein such additional mortgagee protective provisions as may be

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reasonably requested by any such mortgagee, provided such modifications are reasonably acceptable to Landlord and not inconsistent with the basic transaction agreed to by the parties, including, without limitation, any of the monetary terms of this Agreement, provided that **IN NO EVENT WILL LANDLORD BE REQUIRED TO "SUBORDINATE" LANDLORD'S FEE SIMPLE ESTATE IN THE LAND FOR FINANCING OBTAINED BY GROUND LESSEE UNDER THIS SECTION 15.6, (I.E., LANDLORD WILL NOT EXECUTE ANY DEED OF TRUST SECURING ANY INDEBTEDNESS OF GROUND LESSEE).**

- 15.7 **Rights Cumulative.** All rights of a leasehold mortgagee under this Agreement shall be cumulative.
- 15.8 **Landlord's Right to Finance.** Landlord may at any time, without the prior written consent of Ground Lessee, encumber by mortgage, deed of trust, security agreement or other instrument in the nature thereof, any of Landlord's right, title or interest in the Land and this Agreement; provided that any such mortgage, deed of trust or other instrument in the nature thereof shall at all times be, and shall expressly state that it is, subject and subordinate to this Agreement and the rights, titles and interests of Ground Lessee and any mortgagee of Ground Lessee arising by virtue of this Agreement.

ARTICLE XVI

ESTOPPEL CERTIFICATES

Landlord and Ground Lessee will, at any time and from time to time, upon not less than thirty (30) days' prior written request by the other party, execute, acknowledge and deliver to each other or to any person whom the requesting party may designate, a certificate, certifying as follows: (i) that this Agreement is unmodified and in full effect (or setting forth any modifications and that this Agreement is in full effect as modified); (ii) the Annual Base Rent payable and the dates to which the Annual Base Rent has been paid and whether other sums, including Additional Rent payable hereunder, have been paid; (iii) any default of which such party may have knowledge; (iv) the commencement and expiration dates of this Agreement; and (v) such other matters as may reasonably be requested by either of the parties hereto. Any such certificate may be relied upon by any mortgagee or prospective purchaser or prospective mortgagee of the Premises.

ARTICLE XVII

DESTRUCTION AND SEVERABILITY

- 17.1 **Casualty.** In the event the Premises shall be wholly or partially damaged or destroyed by fire or other casualty, Ground Lessee may, at its option and expense (utilizing proceeds of the insurance policies carried by Ground Lessee pursuant to Article X hereof), cause such damage to be repaired or restored to the condition of the Premises which existed immediately prior to such casualty or construct other new improvements on the Land. In

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Little Elm EDC


Village at Lakefront

the event that Ground Lessee elects not to restore the damaged improvements or build new improvements, Ground Lessee shall demolish the remaining portions of the damaged structure as necessary or appropriate and remove all debris destruction from the Premises within nine (9) months after the appropriate governmental authorities have consented to the removal of the debris. During the period of repair or restoration, Annual Base Rent shall not be reduced, but Ground Lessee may use proceeds of rent insurance to pay Annual Base Rent. In the event Ground Lessee elects not to restore the damaged improvements or build new improvements, Ground Lessee shall have the option to continue to pay the Annual Base Rent during the remaining Term of the Ground Lease, or may provide written notice to Landlord that Ground Lessee elects to terminate the Ground Lease, at which point the Ground Lease shall terminate.

ARTICLE XVIII

CONDEMNATION

18.1 **Definitions.** For purposes of this **Article XVIII**, the following terms shall have the respective meanings set forth below:

- (a) **"Award"** means the amount of any award made, consideration paid, or damages ordered as a result of a Taking less any reasonable costs in obtaining such award, such as reasonable legal fees and costs, consultant fees, appraisal costs.
- (b) **"Date of Taking"** means the date upon which title to the Premises, or a portion thereof, passes to or vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor.
- (c) **"Taking"** means a taking of the Premises or any damage related to the exercise of the power of eminent domain and including a voluntary conveyance to any agency, authority, public utility, person, or corporate entity empowered to condemn property in lieu of court proceedings.

18.2 **Total Condemnation.** If the entire Premises shall be taken as the result of a Taking, this Agreement shall terminate and expire as of the Date of Taking.

18.3 **Partial Condemnation.** If a portion of the Premises should be taken as a result of a Taking, and the remaining part of the Premises is unsuitable, in Ground Lessee's reasonable opinion, for the continued economic conduct of Ground Lessee's business, Ground Lessee shall have the right to terminate this Agreement by giving Landlord written notice thereof no later than thirty (30) days after the Date of Taking, whereupon Annual Base Rent, Additional Rent and all other charges shall be terminated as to the unexpired portion of this Agreement, effective as of the Date of Taking.

If Ground Lessee does not exercise its right to terminate as set forth above or if such partial Taking does not, in Ground Lessee's discretion, render the remaining part of the Premises unsuitable for the continued economic conduct of Ground Lessee's business, this

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Agreement shall not terminate; however, the Annual Base Rent payable hereunder during the unexpired portion of this Agreement shall be reduced in proportion to the area of the Land taken, effective as of the Date of Taking; further provided, however, that if Landlord and Ground Lessee do not agree on the proportionate amount of reduction of Annual Base Rent, such amount shall be determined in accordance with the appraisal procedures described in **Section 18.5**. Following such partial Taking, Ground Lessee shall make all necessary repairs or alterations necessary to make the Premises an architectural whole, if Ground Lessee has not elected to terminate this Agreement.

18.4 Condemnation Proceeds. All Awards shall be paid to Landlord and Ground Lessee in the following shares:

- (i) Ground Lessee shall receive those portions of the Award that are specifically attributable to (a) the value of, and paid as compensation for, Ground Lessee's interest in the Premises, including all Improvements hereafter constructed by Ground Lessee thereon and any of Ground Lessee's personal property taken, (b) removal and relocation of Ground Lessee's personal and trade fixtures, (c) anticipated or lost profits or damages caused to Ground Lessee's business or any special damages to Ground Lessee, (d) the bonus value of Ground Lessee's leasehold estate, and (e) any severance damages awarded by reason of the partial Taking of any Improvements.
- (ii) Landlord shall receive from the Award those portions of the Award that are attributable to (a) the value of, and paid as compensation for, its fee interest in the Land (as encumbered by the Lease), and (b) the reversionary interest in any Improvements located on the Land; and
- (iii) Ground Lessee shall use whatever portion of the Award it receives by reason of a partial taking of Improvements to pay the cost of enclosing any Improvements that are not taken if the partial taking caused such Improvements to be no longer fully enclosed.

In the event of a dispute between Landlord and Ground Lessee as to the fair market value of the Land and any Improvements before or after the Taking, or as to the proper allocation of any Award as required herein, then either Landlord or Ground Lessee may submit the issue to determination by appraisers pursuant to **Section 18.5**, and such determination shall be binding upon the parties.

18.5 Appraisal. Not more than thirty (30) days after any Taking, Landlord and Ground Lessee shall each appoint one independent MAI appraiser to determine the value of the interest of Landlord or Ground Lessee, or both, as the case may be, and notice of such appointment shall be given to the other party. Such appraisers shall be appointed and such appraisals shall be made in the following manner: Landlord and Ground Lessee shall each select an independent, experienced and duly licensed MAI real estate appraiser and the two (2) appraisers shall thereupon be instructed to select and designate a third (3rd) appraiser, who shall be engaged by both Landlord and Ground Lessee. If either party shall fail to so designate an appraiser, the other party shall have the right to petition

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the District Court for the County of Denton, Texas to appoint such an appraiser on behalf of the defaulting party, which appraiser shall act on behalf of such party and at such party's sole cost and expense. In the event that such appraisers shall fail to agree on an appraised value of the interest, Landlord and Ground Lessee agree that the value of the interest shall be established as the average price represented by the two (2) appraisal reports most closely in agreement as to the value of the interests.

- 18.6 **Voluntary Conveyance.** Nothing in this article prohibits Landlord from voluntarily conveying all or part of the premises to a public utility agency, or authority under threat of a taking under the power of eminent domain. Any such voluntary conveyance will be treated as a taking within the meaning of this article.

ARTICLE XIX

EXISTING LEASES

- 19.1 **Assignment of Existing Leases.** As of the Effective Date, Landlord shall assign the Existing Leases, if any, to Ground Lessee; provided, however, prior to the Commencement Date, Landlord shall continue to operate, collect rents and pay expenses with respect to the Existing Leases (but only to the extent that such Existing Leases have not theretofore terminated). Furthermore, from and after the Effective Date, Landlord shall not, without the prior written consent of Ground Lessee (which consent may be granted or withheld in Ground Lessee's sole and absolute discretion), enter into any new leases or amend, terminate or extend any of the Existing Leases. Any termination/buyout fees to be paid to terminate any Existing Lease shall be paid by Ground Lessee. Any rental amounts under the Existing Leases shall be pro-rated as of the Commencement Date. Landlord shall transfer to Ground Lessee all security deposits held by the Landlord as respects any Existing Lease on the Commencement Date.

ARTICLE XX

GENERAL PROVISIONS

- 20.1 **Notice.** Any notice, request, or other communication (hereinafter severally and collectively called "Notice") in this Agreement provided for or permitted to be given, made or accepted by either party to the other must be in writing, and may, unless otherwise in this Agreement expressly provided, be given or be served by depositing the same in the United States mail, postpaid and certified and addressed to the party to be notified, with return receipt requested. Notice given in any manner as provided in this **Section 20.1** shall (a) as to notice given to or served by depositing the same in the United States mail, as aforesaid, shall be effective three (3) days after depositing the same in a regularly maintained receptacle for pickup and delivery of United States mail and (b) as to Notice given or served by any other method, shall be effective only if and when received by the party to be notified. The following shall be prima facie evidence of the date of actual receipt of Notice by the addressee: (a) if hand delivered, by a delivery receipt signed by the addressee or the addressee's agent or representative, (b) written evidence by the

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Village of Lakefront

carrier of such Notice of the date of attempted delivery at the address of the addressee if such delivery is refused, or (c) a return telecopy sent from a fax machine or office of the addressee or other confirmation from the office of the addressee indicating that any telecopied notice has been received.

For purposes of Notice, the addresses of the parties shall, until changed as herein provided, be as follows:

Landlord: Little Elm Economic Development Corporation
100 W. Eldorado Parkway
Little Elm, Denton County, Texas 75068-5060

With a copy to: Brown and Hofmeister, LLP
740 East Campbell Road, Suite 800
Richardson, Texas 75081
Attn: Jeff Moore, Esq.

Ground Lessee: Village at Lakefront, LLC
14109 Inwood Road
Farmers Branch, Texas 75244-8232
Attn: John L. Bailey

With a copy to: _____

Attn: _____

However, the parties hereto and their representative heirs, successors, legal representatives, and assigns shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least ten (10) days' written notice to the other party.

20.2 **Captions.** The title captions appearing in this Agreement are inserted and included solely for convenience and shall never be considered or given any effect in construing this Agreement, or any provisions hereof, or in connection with the duties, obligations, or liabilities of the respective parties hereto, or in ascertaining intent, if any question of intent exists.

20.3 **Entire Contract; Amendment.** It is expressly agreed by both parties that this Agreement, and the Exhibits attached hereto is the entire agreement of the parties with respect to the subject matter hereof, and that there are, and have been, no verbal representations, understandings, stipulations, agreements, or promises pertaining to this Agreement. It is likewise agreed that this Agreement may not be altered, amended, or extended except by an instrument in writing signed by both Landlord and Ground Lessee.

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Village at Lakefront

- 20.4 **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- 20.5 **Successor and Assigns.** All covenants and obligations as contained within this Agreement shall bind and extend and inure to the benefit of the successors and permitted assigns of each of Landlord and Ground Lessee.
- 20.6 **Personal Pronouns.** All personal pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine, or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.
- 20.7 **No Merger.** There shall be no merger of this Agreement or of the leasehold estate created by this Agreement with the fee or any other estate or interest in the Premises by reason of the fact that the same person owns or hold, directly or indirectly, all such estates and interests or any combination thereof.
- 20.8 **Short Form Lease.** Upon the complete execution hereof, the parties hereto shall execute and record a memorandum of this Agreement in the Real Property Records of Denton County, Texas which also identifies Ground Lessee's option to purchase (in general terms and not listing any specific price therein).
- 20.9 **Legal Interpretation.** This Agreement and the rights and obligations of the parties hereto shall be interpreted, construed, and enforced in accordance with the laws of the State of Texas.
- 20.10 **No Mortgage or Joint Venture.** Ground Lessee and Landlord acknowledge and agree that this Agreement is, in fact, a lease arrangement, and does not constitute a loan or a joint venture, and that Ground Lessee has been represented by experienced legal counsel, who has advised Ground Lessee of the rights and duties of Ground Lessee. Ground Lessee will not assert that the transaction evidenced hereby is a loan or a joint venture if Landlord or Landlord's mortgagee subsequently seeks to enforce its legal rights as a landlord.
- 20.11 **Brokers.** Ground Lessee warrants that it has had no dealings with any broker or agent in connection with the negotiation or execution of this Agreement and Ground Lessee agrees to indemnify Landlord and hold Landlord harmless from and against any and all costs, expenses, or liability for commissions or other compensation or charges claimed by any parties claiming by, through, or under Ground Lessee with respect to this Agreement. Landlord warrants that it has had no dealings with any broker or agent in connection with the negotiation or execution of this Agreement and Landlord agrees to the extent allowed by law to indemnify Ground Lessee and hold Ground Lessee harmless from and against any and all costs, expenses, or liability for commissions or other compensation or charges

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claimed by any parties claiming by, through, or under landlord with respect to this Agreement.

20.12 **Waiver of Landlord's Lien; Fixtures.** Landlord hereby waives any contractual, statutory or other Landlord's lien on the furniture, fixtures, supplies, equipment, inventory or other personalty of Ground Lessee or any sublessee of Ground Lessee. Ground Lessee may, at any time while it occupies the Premises, or within a reasonable time thereafter, remove any furniture, machinery, equipment, or other trade fixtures owned or placed by Ground Lessee, its subtenant or licensees, in, under, or on the Premises, or acquired by Ground Lessee, whether before or during the Term of this Agreement. Before this Agreement terminates, Ground Lessee must repair any damage to any buildings or improvements on the Premises resulting from such removal described in this section. Notwithstanding any other term or provision of this Agreement, any such items not removed by the lease termination date will become Landlord's property on that date.

20.13 **Authority to Execute.**

- (a) Ground Lessee represents and warrants that Ground Lessee is duly formed and validly existing under the laws of the State of its organization, has full right, power, and authority to enter into this Agreement and that the party(ies) executing this Agreement on behalf of Ground Lessee has (have) full right, power, and authority to execute this Agreement on behalf of Ground Lessee, as reflected on the Secretary's certificate, furnished to Landlord on or prior to the Effective Date.
- (b) Landlord represents and warrants that Landlord is duly formed and validly existing under the laws of the State of its organization, has full right, power, and authority to enter into this Agreement and that the party(ies) executing this Agreement on behalf of Landlord has (have) full right, power, and authority to execute this Agreement on behalf of Landlord, as reflected on the Secretary's certificate, furnished to Ground Lessee on or prior to the Effective Date.

20.14 **Force Majeure.** Whenever a period of time is herein prescribed for action to be taken by Landlord or Ground Lessee (except as to payment of rent or other sums due by either party hereunder), neither Landlord nor Ground Lessee, as applicable, shall be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays (collectively, "Force Majeure") due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations, or restrictions.

20.15 **Mechanic's Liens.** Ground Lessee will not cause or permit any mechanic's liens or other liens to be filed against the fee of the Premises or against Ground Lessee's leasehold interests (excluding any leasehold mortgage) in the Land or any building or improvements on the premises by reason of any work, labor, services, or materials supplied or claimed to have been supplied to Ground Lessee or anyone holding the Premises or any part of them through or under Ground Lessee. If such a mechanic's lien or materialman's lien is recorded against the Premises or any buildings or improvement on them, Ground Lessee must either cause it to be removed or, if Ground Lessee in good faith wishes to contest

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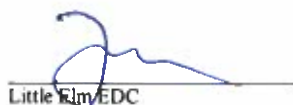

Village at Lakefront

the lien, Ground Lessee will indemnify Landlord and hold it harmless from all liability for damages occasioned by the lien or the lien contest and will, in the event of a judgment of foreclosure on the lien, cause the lien to be discharged and removed before the judgment is executed.

- 20.16 **Right of Entry.** Ground Lessee must permit Landlord or its agents, representatives, or employee to enter the Premises for the purposes of inspection; determining whether or not Ground Lessee is complying with this Agreement; maintaining, repairing or altering the Premises; or showing the Premises to prospective Ground Lessees, purchasers, mortgagees, or beneficiaries under trust deeds.
- 20.17 **No Partnership or Joint Venture.** The relationship between Landlord and Ground Lessee is at all times solely that of landlord and Ground Lessee and may not be deemed a partnership or a joint venture.
- 20.18 **Prior Agreements Superseded/Rule of Construction.** This Agreement constitutes the parties' sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter. The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party, regardless of the party supplying this Agreement.
- 20.19 **Delivery Does Not Constitute Offer.** The submission of this Agreement for examination by one party does not constitute an offer capable of acceptance and Ground Lessee shall have no rights with respect to this Agreement or the Premises until Landlord shall execute the Agreement and deliver the same to Ground Lessee. A binding agreement may only be formed by the execution of a written agreement duly signed by both parties.
- 20.20 **Rights and Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative and either party's using any right or remedy will not preclude or waive its right to use any other remedy. The rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.
- 20.21 **Chamber of Commerce Membership.** Ground Lessee covenants and agrees to maintain during the Term of this Agreement the equivalent of a platinum membership or higher, with the Little Elm Chamber of Commerce.

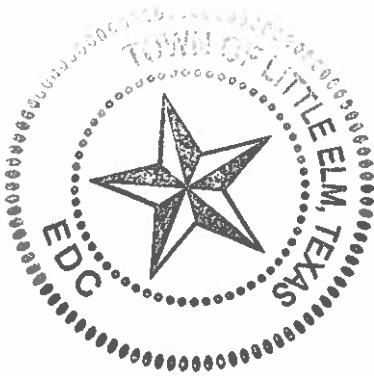
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Village at Lakefront

EXECUTED IN MULTIPLE ORIGINAL COUNTERPARTS, which constitute but one and the same instrument, as of the day and year first above written. Upon the final execution hereof by Landlord and Ground Lessee, the last to sign of such parties shall complete the date on the first page thereof.



LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**
a Texas non-profit corporation

By: Ken Eaken, President

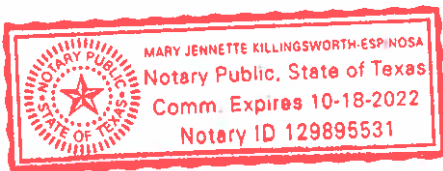
Date: January 19, 2021

STATE OF TEXAS

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COUNTY OF DENTON

This instrument was acknowledged before me on the 19 day of January, 2021, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.



Mary Jennette Killingsworth-Espinosa
Notary Public, State of Texas

Initial for Identification:

Little Elm EDC

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Village at Lakefront

GROUND LESSEE:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: John L. Bailey
John L. Bailey, President of Manager

STATE OF TEXAS

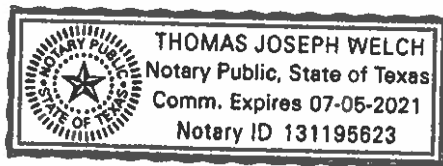
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COUNTY OF DALLAS

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This instrument was acknowledged before me on the 14 day of January, 2021,
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.



Thomas Welch
Notary Public, State of Texas

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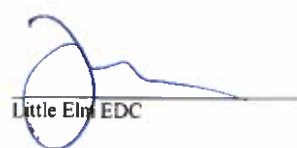
Little Elm EDC

4B
Village at Lakefront

Exhibit A

LAND

Initial for Identification


Little Elm EDC


Village at Lakefront

**FIRST AMENDMENT
TO
GROUND LEASE PURCHASE AGREEMENT
FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY,
TEXAS**

THIS FIRST AMENDMENT TO GROUND LEASE PURCHASE AGREEMENT (this “**First Amendment**”) is made and entered into on the 16 day of Feb, 2021 (the “**Effective Date**”) by and between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation, having its principal address as 100 W. Eldorado Parkway, Little Elm, Texas 75068-5060 (“**Landlord**” or “**Little Elm EDC**”), and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company, or its permitted assigns (“**Ground Lessee**” or “**Village at Lakefront**”).

RECITALS:

WHEREAS, on or about **January 19, 2021**, the Landlord and Ground Lessee entered into the Ground Lease Purchase Agreement concerning an approximate 6.4 acres of land (the “**Original Agreement**”); and

WHEREAS, the Landlord and Ground Lessee now desire to amend Section 2.2 of the Original Agreement to provide for a fifty-five (55) year lease term.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord and Ground Lessee agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this First Amendment and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. AMENDMENT TO ORIGINAL AGREEMENT.

(a) **Amendment to Original Agreement.** That Section 2.2 of the Original Agreement is hereby amended to read as follows:

“2.2 **Term of Agreement.** The term of the Agreement (the “**Term**”) shall commence on the Effective Date and shall terminate fifty-five (55) Lease Years after the Commencement Date for the Multifamily Development. This Agreement will terminate without further notice when the Term specified in this **Section 2.2** expires and any holding over by Ground Lessee after the Term expires will not constitute a renewal of this Agreement or give Ground Lessee any rights under the Agreement in or to the Premises. In connection therewith, Ground Lessee shall have the right at Ground Lessee’s expense, to examine and copy all books, records, files, documents, reports, and other information of the Landlord relating to the Premises,

including all leases, service agreements, insurance policies, and construction and maintenance related documents; provided that such examination and copying shall not interfere with the Landlord's business operations."

SECTION 3. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this First Amendment:

- (a) **Amendments.** This First Amendment constitutes the entire understanding and agreement of the parties as to the matters set forth in this First Amendment. No alteration of or amendment to this First Amendment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This First Amendment shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this First Amendment shall lie in the state district courts of Denton County, Texas.
- (c) **Binding Obligation.** This First Amendment shall become a binding obligation on the signatories upon execution by all signatories hereto. Landlord warrants and represents that the individual executing this First Amendment on behalf of Landlord has full authority to execute this First Amendment and bind Landlord to the same. Ground Lessee warrants and represents that the individual executing this First Amendment on Ground Lessee's behalf has full authority to execute this First Amendment and bind it to the same.
- (d) **Caption Headings.** Caption headings in this First Amendment are for convenience purposes only and are not to be used to interpret or define the provisions of the First Amendment.
- (e) **Counterparts.** This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (f) **Effective Date.** The effective date (the "Effective Date") of this First Amendment shall be the date of the latter to execute this First Amendment by the Landlord and Ground Lessee.
- (g) **Original Amendment and Any Other Amendments.** All of the terms, conditions, and obligations of the Original Amendment and any other amendments remain in full force and effect except where specifically modified by this First Amendment.
- (h) **Severability.** The provisions of this First Amendment are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this First Amendment is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the First Amendment shall be enforced as if the invalid provision had never been included.

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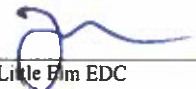

Little Elm EDC


Village at Lakefront

- (i) **Time is of the Essence.** Time is of the essence in the performance of this First Amendment.

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Initial for Identification:



Little Elm EDC



Village of Lakefront

EXECUTED IN MULTIPLE ORIGINAL COUNTERPARTS, which constitute but one and the same instrument, as of the day and year first above written. Upon the final execution hereof by Landlord and Ground Lessee, the last to sign of such parties shall complete the date on the first page thereof.



LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**

a Texas non-profit corporation

By: _____

Ken Eaken, President

Date: _____

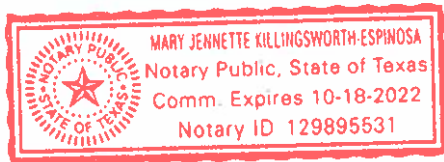
February 16, 2021

STATE OF TEXAS

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COUNTY OF DENTON

This instrument was acknowledged before me on the 16 day of February, 2021, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.



Mary Jennette Killingsworth-Espinosa
Notary Public, State of Texas

Initial for Identification: _____

Little Elm EDC

Village at Lakefront

GROUND LESSEE:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: John L. Bailey
John L. Bailey, President of Manager

STATE OF TEXAS

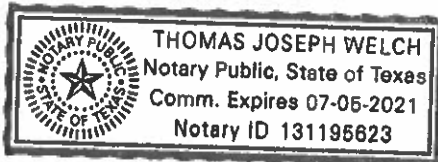
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COUNTY OF DALLAS

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This instrument was acknowledged before me on the 12 day of FEBRUARY, 2021,
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.



Thomas Joseph Welch
Notary Public, State of Texas

Initial for Identification:

John L. Bailey
Little Elm EDC

John L. Bailey
Village at Lakefront

Lease Addendum - Multifamily

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 9/30/2021)

Public Reporting Burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

Project Name: _____
HUD Project No: _____

THIS **LEASE ADDENDUM** is attached to and made part of that certain lease agreement entered into on the 15 day of February, 2021, between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation ("**Landlord**") and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company ("**Tenant**") (collectively, the "**Parties**") (the "**Ground Lease**").

The Lease Addendum is required in connection with a mortgage loan insured by the U.S. Department of Housing and Urban Development ("**HUD**") for multifamily projects pursuant to the National Housing Act, as amended, found at 12 U.S.C. § 1701, *et seq.* ("**Act**"), and made by the following HUD-approved lender, Dwight Capital, LLC, ("**Lender**"). The insured loan is secured by a Security Instrument on the leasehold estate set forth in the Ground Lease.

The definition of any capitalized term or word used in this Lease Addendum and not otherwise defined can be found in the Security Instrument and/or Note between Lender and Tenant; or the Regulatory Agreement between Tenant and HUD. The terms "**HUD**" and "**Lender**" as used in the Lease Addendum shall also include their successors and assigns, and the Tenant is the same legal entity as the Borrower under the Security Instrument. All references to "days" in this Lease Addendum shall mean calendar days.

Notwithstanding anything else in the **Ground Lease** to which this Lease Addendum is attached, and for valuable consideration, the receipt and sufficiency of which the Parties hereto hereby acknowledge and agree, and to induce the Lender to make the Loan to the Tenant described in the Security Instrument, and to induce HUD to insure said Loan, so long as this leasehold estate is subject to a security instrument insured, reinsured, or held by HUD or given to HUD in connection with a resale, or the Property is acquired and held by HUD because of a default under the Security Instrument, Landlord and Tenant acknowledge and agree to the following provisions.

Ground Lease

The leasehold estate consists of the ground (land) only; all buildings, improvements, alterations and fixtures now or in the future located thereon are owned in fee simple by the Tenant. As such, the term “**Property**” means the legally described land subject to the Ground Lease **except** the buildings, improvements, alterations and fixtures now or in the future located on the land.

1. **Compliance with HUD Requirements.** Pursuant to the Act, the following provisions may not be waived under any circumstances, whether for a new ground lease or an existing ground lease:
 - (a) the term of the Ground Lease and all other Ground Lease provisions comply with the section of the Act and related federal regulations under which the Note is endorsed for mortgage insurance;
 - (b) the Landlord owns the Property in fee simple, and the leasehold estate is granted directly by the Landlord to the Tenant;
 - (c) the leasehold estate underlying the Ground Lease constitutes a mortgageable real property interest under state law;
 - (d) the Ground Lease and related Ground Lease documents do not conflict with any Program Obligations⁽¹⁾ promulgated by HUD with respect to such mortgage insurance; and
 - (e) all ground rent amounts have prior written approval by HUD.
2. **Modifications.** The Ground Lease and this Lease Addendum shall not be modified without the written consent of HUD and Lender. Modifications of the Ground Lease and this Lease Addendum that are not authorized in writing by HUD and Lender are void and unenforceable.
3. **Conflict Provision.** The provisions of this Lease Addendum benefit Lender and HUD and are specifically declared to be enforceable against the parties to the Ground Lease and all other persons by Lender and HUD. In the event of any conflict, inconsistency or ambiguity between the provisions of this Lease Addendum and the provisions of any other part of the Ground Lease, the provisions of this Lease Addendum shall prevail and control.

⁽¹⁾ “**Program Obligations**” means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Lease Addendum rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on “HUDCLIPS,” at www.hud.gov.

- 4. Recording.** The full Ground Lease agreement and incorporated HUD Lease Addendum, or a memorandum of ground lease (if permitted under state law), must be recorded in the applicable land records office. If a memorandum of ground lease or a short form ground lease is to be recorded, it must set forth the following information, in addition to compliance with state law requirements:

- (a) names of the Parties;
- (b) legal description;
- (c) term and renewals;
- (d) reference to the HUD Lease Addendum; and
- (e) specific reference to HUD's option to purchase in Section 7 (unless Section 7 is expressly waived in writing by HUD in accordance with Program Obligations).

- 5. Estoppel Certificate.** As a condition of HUD's acceptance of a ground lease transaction, an estoppel certificate identifying the Ground Lease documents and signed by the Landlord, dated within thirty (30) days of the Note endorsement, must be provided to Lender and HUD at closing. The Landlord must confirm in writing to Lender and HUD that the Security Instrument is authorized, the Ground Lease is in full force and effect, there are no defaults or pending defaults under the Ground Lease or conditions that would give rise to defaults given the passage of time, and that the legal description of the Property is correct. The document must provide the language required by 24 CFR Section 200.62, and also include the "Warning" language found at the beginning of this Lease Addendum.

Upon a reasonable request from Tenant, Lender, or HUD, Landlord further agrees to promptly provide from time to time an estoppel certificate to confirm the terms of, and no default under, the Ground Lease.

- 6. Consent for Mortgage.** Landlord agrees that the Tenant is authorized to obtain a loan, the repayment of which is to be insured by HUD and secured by the Security Instrument on this leasehold estate and the Improvements. The Tenant is further authorized to execute all documents necessary as determined by Lender or HUD and otherwise to comply with Program Obligations for obtaining such an insured loan.

- 7. HUD Option to Purchase.** *Intentionally Omitted.*

- 8. Conveyance by Tenant.** If approved in writing by HUD in advance, the Tenant may convey, assign, transfer, lease, sublease or sell all or any part of its leasehold interest in the Property without the need for approval or consent by any other person or entity.

- 9. Insurance.**

- (a) Insurance policies shall be in an amount, and with such company or companies and in such form, and against such risks and hazards, as shall be approved

by Lender and HUD in accordance with Program Obligations.

- (b) The Landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender. The Landlord may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender.

10. Condemnation.

- (a) If all or any part of the Property or the Improvements or the leasehold estate shall be taken or damaged by condemnation, that portion of any award attributable to the Improvements or the Tenant's interest in the leasehold estate or damage to the Improvements or the Tenant's interest in the leasehold estate shall be paid to Lender or otherwise disposed of as may be provided in the Security Instrument. Any portion of the award attributable solely to the underlying fee estate (exclusive of any Improvements) shall be paid to the Landlord. After the date of taking, the annual ground rent shall be reduced ratably by the proportion which the award paid to the Landlord bears to the total value of the Property as established by the amount HUD is to pay, as set forth in Section 7 of this Lease Addendum.
- (b) In the event of a negotiated sale of all or a portion of the Property and/or the Improvements, in lieu of condemnation, the proceeds shall be distributed and annual ground rent reduced as provided in cases of condemnation above, but the approval of HUD and Lender shall be required as to the amount and division of the payments to be received.

11. Tenant Default on Ground Lease; Cure Rights; Termination. The Landlord may terminate the Ground Lease prior to the expiration day of the full term of this Ground Lease ("**Expiration Date**") after a Tenant default under this Ground Lease ("**Ground Lease Event of Default**"), but only under the following circumstances and procedures.

- (a) If any Ground Lease Event of Default shall occur, then and in any such event, the Landlord shall at any time thereafter during the continuance of such Ground Lease Event of Default and prior to any cure, give written notice of such default(s) ("**Notice of Default**") to the Tenant, Lender, and HUD, specifying the Ground Lease Event of Default and the methods of cure, or declaring that a Ground Lease Event of Default is incurable. If the Ground Lease Event of Default is a failure to pay money, the Landlord shall specify and itemize the amounts of such default. Failure to pay money shall be specified as a separate default and not combined with a non-monetary Ground Lease Event of Default.

- (b) Within sixty (60) days from the date of giving the Notice of Default to the Tenant, the Tenant must cure a monetary default by paying the Landlord all amounts specified in the Notice of Default and must cure any specified Ground Lease Event of Default that is capable of being cured within such period.
- (c) During the period of one hundred-eighty (180) days commencing upon the date Notice of Default received by Lender and HUD, Lender or HUD may:
 - (1) cure any Ground Lease Event of Default; and
 - (2) commence foreclosure proceedings or institute other state or federal procedures to enforce Lender's or HUD's rights with respect to the Property or the Tenant Improvements.
- (d) If HUD or Lender commences foreclosure or other enforcement action within such one hundred-eighty (180) days, then its cure period shall be extended during the period of the foreclosure or other action and for ninety (90) days after the ownership of the Tenant's rights under the Ground Lease is established in or assigned to HUD or such Lender or a purchaser at any foreclosure sale pursuant to such foreclosure or other action. The transfer of the Tenant's rights under the Ground Lease to Lender, HUD or purchaser, pursuant to such foreclosure or other action shall be deemed a termination of any incurable Ground Lease Event of Default and such terminated Ground Lease Event of Default shall not give the Landlord any right to terminate the Ground Lease. Such purchaser may cure a curable Ground Lease Event of Default within said ninety (90) days.
- (e) If the Tenant, Lender or HUD reasonably undertake to cure any Ground Lease Event of Default during the applicable cure period and diligently pursues such cure, the Landlord shall grant such further reasonable time as is necessary to complete such cure. If, after the expiration of all of the foregoing cure periods, no cure, or termination of an existing Ground Lease Event of Default has been achieved as aforesaid, then and in that event, the Ground Lease shall terminate, and, on such date, the term of this Ground Lease shall expire and terminate and all rights of the Tenant under the Ground Lease shall cease and the Improvements, subject to the Security Instrument and the rights of Lender thereunder, shall be and become the property of the Landlord. All costs and expenses incurred by or on behalf of the Landlord (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any default by the Tenant under this Ground Lease shall constitute additional rent hereunder. The Landlord shall have no right to terminate this Ground Lease except as provided in this Section 11.

12. Lender/HUD Option for New Ground Lease.

- (a) Upon termination of this Ground Lease pursuant to Section 11 above, the Landlord shall immediately seek to obtain possession of the Property and

Improvements. Upon acquiring such possession, the Landlord shall notify HUD and Lender in writing. Lender and HUD shall each have six (6) months from the date of receipt of such notice of acquisition to elect to take, as Tenant, a new ground lease on the Property and on the Improvements.

- (b) Such new ground lease shall have a term equal to the unexpired portion of the term of this Ground Lease immediately prior to such termination and shall, except as otherwise provided herein, be on the same terms and conditions as contained in this Ground Lease, including without limitation, the option to purchase set forth under Section 7 above, except that Lender's or HUD's liability for ground rent shall not extend beyond their occupancy under such ground lease. The Landlord shall tender such new ground lease to Lender or HUD within thirty (30) days after a request for such ground lease and shall deliver possession of the Property and Improvements immediately upon execution of the new ground lease.
- (c) Upon executing a new ground lease, Lender or HUD shall pay to the Landlord any unpaid ground rent due or that would have become due under this Ground Lease to the date of the execution of the new ground lease, including any taxes which were liens on the Property or the Improvements and which were paid by the Landlord, less any net rentals or other income which the Landlord may have received on account of the Property and Improvements since the date of default under this Ground Lease.

13. Landlord Cooperation for Needed Authorizations. The Landlord agrees that within ten (10) days after receipt of written request from the Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any Governmental Authority in connection with any work which the Tenant may do hereunder and will also join in any grants for easements for electric, telephone, telecommunications, cable, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the Property or of any Improvements and if, at the expiration of such ten (10) day period, the Landlord shall not have joined in any such application, or grants for easements, the Tenant shall have the right to execute such application and grants in the name of the Landlord, and for that purpose, the Landlord hereby irrevocably appoints the Tenant as its attorney-in-fact to execute such papers on behalf of the Landlord, only to the extent that a public body as Landlord may do so within the exercise of its municipal powers and responsibilities.

14. Taxes. Nothing in this Ground Lease shall require the Tenant to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the Landlord or any income excess profits or revenue tax, or any other tax, assessment charge or levy upon the rent payable by the Tenant under this Ground Lease.

15. Notices. All notices, demands and requests which are required to be given by the Landlord, Tenant, Lender or HUD in connection with the Ground Lease and this Lease

Addendum shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given.

All notices shall be addressed as follows:

If to Lender: Dwight Capital, LLC
504 Autumn Springs Court, Suite 26
Franklin, TN
Attn: Felicia Frasch
931-273-3032

If to HUD: Dept of Housing + Urban Development
Attn: Legal Dept
307 W. 7th, Suite 1000
Ft. Worth, TX 76102

If to Tenant: Village at Lakefront, LLC
14109 Inwood Road
Farmers Branch, Texas 75244-8232
Attn: John L. Bailey
Telephone: 214-865-6777

If to Landlord: Little Elm Economic Development Corporation
100 W. Eldorado Parkway
Little Elm, Denton County, Texas 75068-5060
Attn: Jennette Espinosa, Executive Director
Telephone: 214-975-0455

16. No Merger. There shall be no merger of this Ground Lease or the leasehold estate created by this Ground Lease with the fee estate of the Property or of the Improvements or any interest therein by reason of the fact that the same person or entity may acquire or hold, directly or indirectly, this Ground Lease or the leasehold estate hereby created or any interest therein and the fee estate of the Property or of the Improvements. No such merger shall occur unless and until HUD specifically consents and agrees in writing to such merger.

Each signatory below hereby certifies that each of their statements and representations contained in Ground Lease and this Lease Addendum and all their supporting documentation thereto are true, accurate, and complete. This Lease Addendum has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Addendum as of the day and year first written above.



LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**
a Texas non-profit corporation

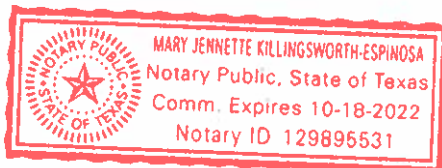
By: Ken Eaken, President
Date: February 16, 2021

STATE OF TEXAS

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§
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COUNTY OF DENTON

This instrument was acknowledged before me on the 16 day of February, 2021, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.



Mary Jennette Killingsworth-Espinosa
Notary Public, State of Texas

TENANT:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: John L. Bailey
John L. Bailey, President of Manager

STATE OF TEXAS

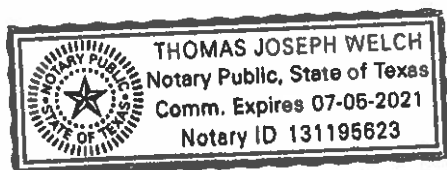
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COUNTY OF DALLAS

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This instrument was acknowledged before me on the 12 day of February, 2021,
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.



Thomas Joseph Welch
Notary Public, State of Texas

Tab #06a
Title Exception Documents to be Recorded

PEASELEY
—&—
DERRYBERRY
P L C
Ⓢ

504 Autumn Springs Ct, Suite 26, Franklin, TN 37067
Phone 615-807-2351 / Fax 888-351-6013

After recording return to:
LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION
100 W. Eldorado Parkway
Little Elm, Texas 75068-5060

**SECOND AMENDMENT
TO
GROUND LEASE PURCHASE AGREEMENT
FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY,
TEXAS**

THIS SECOND AMENDMENT TO GROUND LEASE PURCHASE AGREEMENT FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY, TEXAS (this “**Second Amendment**”) is made and entered into on the ____ day of _____, 2023 (the “**Effective Date**”) by and between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation, having its principal address as 100 W. Eldorado Parkway, Little Elm, Texas 75068-5060 (“**Landlord**” or “**Little Elm EDC**”), and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company, having its principal address as 13619 Inwood Rd. Suite 325, Farmers Branch, TX 75244, or its permitted assigns (“**Ground Lessee**” or “**Village at Lakefront**”).

RECITALS:

WHEREAS, on or about January 19, 2021, the Landlord and Ground Lessee entered into the Ground Lease Purchase Agreement, recorded on January 20, 2021, as Document No. 10235, Court Clerk for Denton County, Texas (the “**Original Agreement**”) concerning Land, defined in Section 1.16 of the Original Agreement consisting of approximately 6.4 acres located in Denton County, Texas, depicted on Exhibit A to the Original Agreement, and known as The Village at Lakefront FHA Project No. 113-11515 (the “**Ground Lease Property**”), being more fully described below; and

WHEREAS, on or about February 16, 2021, the Landlord and Ground Lessee entered into a First Amendment to the Ground Lease Purchase Agreement (the “**First Amendment**”), which First Amendment was not recorded and a copy of which First Amendment is attached hereto as Exhibit A;

WHEREAS, the Landlord and Ground Lessee now desire to further amend the Original Agreement and First Amendment, by this Second Amendment as set forth below.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord and Ground Lessee agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Second Amendment and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. LEGAL DESCRIPTION.

Section 1.16 of the Original Agreement provides that Ground Lessee has the right to substitute the property description contained in the survey to the property description contained in Exhibit A to the Original Agreement. Accordingly, the parties to Second Amendment hereby agree that the depiction of the Ground Lease Property shown on Exhibit A to the Original Agreement should be deleted and replaced with the following legal description:

Tract 1: Being Lot 1R-1, Block A, of the Palladium Addition, an Addition to the Town of Little Elm, County of Denton, State of Texas, according to the replat of the same, and recorded under Clerk's File No. 2021-60, Plat Records, Denton County, Texas; and

Tract 2: Together with easement rights contained in that certain Minor Plat Palladium Addition Lots 1R-1 & 1R-2 recorded under Clerk's File No. 2021-60, of the Plat Records in Denton County, Texas.

SECTION 3. INCORPORATION OF LEASE ADDENDUM-MULTIFAMILY

Ground Lessee is obtaining a loan from Dwight Capital LLC, a Delaware limited liability company in the amount of \$31,388,500.00 (**'Loan'**) to be secured by the Ground Lease Property and to be insured by the Secretary of Housing and Urban Development (**"HUD"**). As a condition of the Loan, HUD requires that the Original Agreement be amended to include Lease Addendum (HUD HUD-92070M (6/18)) (**"Lease Addendum"**). Accordingly, the parties to this Second Amendment do hereby amend the Original Agreement to add and incorporate the Lease Addendum attached hereto as Exhibit B.

SECTION 4. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Second Amendment:

- (a) **Amendments.** This Second Amendment constitutes the entire understanding and agreement of the parties as to the matters set forth in this Second Amendment. No alteration of or amendment to this Second Amendment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Second Amendment shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created

hereunder are performable in Denton County, Texas. Venue for any action arising under this Second Amendment shall lie in the state district courts of Denton County, Texas.

- (c) **Binding Obligation.** This Second Amendment shall become a binding obligation on the signatories upon execution by all signatories hereto. Landlord warrants and represents that the individual executing this Second Amendment on behalf of Landlord has full authority to execute this Second Amendment and bind Landlord to the same. Ground Lessee warrants and represents that the individual executing this Second Amendment on Ground Lessee's behalf has full authority to execute this Second Amendment and bind it to the same.
- (d) **Caption Headings.** Caption headings in this Second Amendment are for convenience purposes only and are not to be used to interpret or define the provisions of the Second Amendment.
- (e) **Counterparts.** This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (f) **Original Amendment and Any Other Amendments.** All of the terms, conditions, and obligations of the Original Amendment and the First Amendment remain in full force and effect except where specifically modified by this Second Amendment.
- (g) **Severability.** The provisions of this Second Amendment are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Second Amendment is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Second Amendment shall be enforced as if the invalid provision had never been included.

[The Remainder of this Page Intentionally Left Blank]

EXECUTED IN MULTIPLE ORIGINAL COUNTERPARTS, which constitute but one and the same instrument, as of the Effective Date.

LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**
a Texas non-profit corporation

By: _____
Ken Eaken, President

STATE OF TEXAS

§

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COUNTY OF DENTON

§

This instrument was acknowledged before me on the ____ day of _____, 2023, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.

Notary Public, State of Texas

CONSENT:

TOWN OF LITTLE ELM, TEXAS

Curtis J. Cornelious, Mayor

Date: _____

GROUND LESSEE:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: _____
John L. Bailey, President of Manager

STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

This instrument was acknowledged before me on the ____ day of _____, 2023
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.

Notary Public, State of Texas

EXHIBIT A
FIRST AMENDMENT

(Follows this Page)

**FIRST AMENDMENT
TO
GROUND LEASE PURCHASE AGREEMENT
FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY,
TEXAS**

THIS FIRST AMENDMENT TO GROUND LEASE PURCHASE AGREEMENT (this “**First Amendment**”) is made and entered into on the 16 day of Feb, 2021 (the “**Effective Date**”) by and between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation, having its principal address as 100 W. Eldorado Parkway, Little Elm, Texas 75068-5060 (“**Landlord**” or “**Little Elm EDC**”), and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company, or its permitted assigns (“**Ground Lessee**” or “**Village at Lakefront**”).

RECITALS:

WHEREAS, on or about **January 19, 2021**, the Landlord and Ground Lessee entered into the Ground Lease Purchase Agreement concerning an approximate 6.4 acres of land (the “**Original Agreement**”); and

WHEREAS, the Landlord and Ground Lessee now desire to amend Section 2.2 of the Original Agreement to provide for a fifty-five (55) year lease term.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord and Ground Lessee agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this First Amendment and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. AMENDMENT TO ORIGINAL AGREEMENT.

(a) **Amendment to Original Agreement.** That Section 2.2 of the Original Agreement is hereby amended to read as follows:

“2.2 **Term of Agreement.** The term of the Agreement (the “**Term**”) shall commence on the Effective Date and shall terminate fifty-five (55) Lease Years after the Commencement Date for the Multifamily Development. This Agreement will terminate without further notice when the Term specified in this **Section 2.2** expires and any holding over by Ground Lessee after the Term expires will not constitute a renewal of this Agreement or give Ground Lessee any rights under the Agreement in or to the Premises. In connection therewith, Ground Lessee shall have the right at Ground Lessee’s expense, to examine and copy all books, records, files, documents, reports, and other information of the Landlord relating to the Premises,

including all leases, service agreements, insurance policies, and construction and maintenance related documents; provided that such examination and copying shall not interfere with the Landlord's business operations."

SECTION 3. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this First Amendment:

- (a) **Amendments.** This First Amendment constitutes the entire understanding and agreement of the parties as to the matters set forth in this First Amendment. No alteration of or amendment to this First Amendment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This First Amendment shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this First Amendment shall lie in the state district courts of Denton County, Texas.
- (c) **Binding Obligation.** This First Amendment shall become a binding obligation on the signatories upon execution by all signatories hereto. Landlord warrants and represents that the individual executing this First Amendment on behalf of Landlord has full authority to execute this First Amendment and bind Landlord to the same. Ground Lessee warrants and represents that the individual executing this First Amendment on Ground Lessee's behalf has full authority to execute this First Amendment and bind it to the same.
- (d) **Caption Headings.** Caption headings in this First Amendment are for convenience purposes only and are not to be used to interpret or define the provisions of the First Amendment.
- (e) **Counterparts.** This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (f) **Effective Date.** The effective date (the "Effective Date") of this First Amendment shall be the date of the latter to execute this First Amendment by the Landlord and Ground Lessee.
- (g) **Original Amendment and Any Other Amendments.** All of the terms, conditions, and obligations of the Original Amendment and any other amendments remain in full force and effect except where specifically modified by this First Amendment.
- (h) **Severability.** The provisions of this First Amendment are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this First Amendment is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the First Amendment shall be enforced as if the invalid provision had never been included.

Initial for Identification:


Little Elm EDC


Village at Lakefront

- (i) **Time is of the Essence.** Time is of the essence in the performance of this First Amendment.

[The Remainder of this Page Intentionally Left Blank]

Initial for Identification:



Little Elm EDC



Village at Lakefront

EXECUTED IN MULTIPLE ORIGINAL COUNTERPARTS, which constitute but one and the same instrument, as of the day and year first above written. Upon the final execution hereof by Landlord and Ground Lessee, the last to sign of such parties shall complete the date on the first page thereof.

LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**
a Texas non-profit corporation



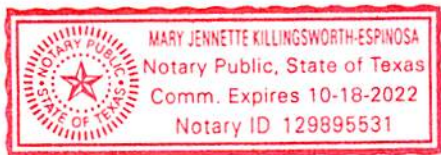
By: _____
Ken Eaken, President
Date: February 16, 2021

STATE OF TEXAS

§
§
§

COUNTY OF DENTON

This instrument was acknowledged before me on the 16 day of February, 2021, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.



Mary Jennette Killingsworth-Espinosa
Notary Public, State of Texas

Initial for Identification:

Little Elm EDC

Village at Lakefront

GROUND LESSEE:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: John L. Bailey
John L. Bailey, President of Manager

STATE OF TEXAS

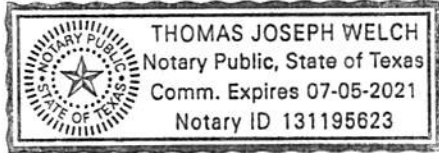
§

§

COUNTY OF DALLAS

§

This instrument was acknowledged before me on the 12 day of FEBRUARY, 2021,
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.



Thomas Joseph Welch
Notary Public, State of Texas

Initial for Identification:

Little Elm EDC

Village at Lakefront

EXHIBIT B
LEASE ADDENDUM MULTIFAMILY

(Follows this Page)

Lease Addendum - Multifamily

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 9/30/2021)

Public Reporting Burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

Project Name: The Village at Lakefront
HUD Project No: 113-11515

THIS LEASE ADDENDUM is attached to and made part of that certain lease agreement entered into on the 19th day of January 19, 2021, as amended on the 16th day of February 16, 2021, between Little Elm Economic Development Corporation, a Texas non-profit corporation ("**Landlord**") and Village at Lakefront, LLC, a Texas limited liability company ("**Tenant**") (collectively, the "**Parties**") (the "**Ground Lease**")

The Lease Addendum is required in connection with a mortgage loan insured by the U.S. Department of Housing and Urban Development ("**HUD**") for multifamily projects pursuant to the National Housing Act, as amended, found at 12 U.S.C. § 1701, *et seq.* ("**Act**"), and made by the following HUD-approved lender, Dwight Capital LLC, a Delaware limited liability company ("**Lender**"). The insured loan is secured by a Security Instrument on the leasehold estate set forth in the Ground Lease.

The definition of any capitalized term or word used in this Lease Addendum and not otherwise defined can be found in the Security Instrument and/or Note between Lender and Tenant; or the Regulatory Agreement between Tenant and HUD. The terms "**HUD**" and "**Lender**" as used in the Lease Addendum shall also include their successors and assigns, and the Tenant is the same legal entity as the Borrower under the Security Instrument. All references to "days" in this Lease Addendum shall mean calendar days.

Notwithstanding anything else in the Ground Lease to which this Lease Addendum is attached, and for valuable consideration, the receipt and sufficiency of which the Parties hereto hereby acknowledge and agree, and to induce the Lender to make the Loan to the Tenant described in the Security Instrument, and to induce HUD to insure said Loan, so long as this leasehold estate is subject to a security instrument insured, reinsured, or held by HUD or given to HUD in connection with a resale, or the Property is acquired and held by HUD because of a default under the Security Instrument, Landlord and Tenant acknowledge and agree to the following provisions.

Lease

The leasehold estate consists of the legally described land and includes all buildings, improvements, alterations, and fixtures now or in the future located on the legally described land. The Tenant does not own any of the buildings, improvements, alterations or fixtures. As such, the term “**Property**” means the legally described land in the Lease including the buildings, improvements, alterations and fixtures now or in the future located on the land.

1. Compliance with HUD Requirements. Pursuant to the Act, the following provisions may not be waived under any circumstances, whether for a new lease or an existing lease:

- (a) the term of the Lease and other Lease provisions comply with the section of the Act and related federal regulations under which the Note is endorsed for mortgage insurance;
- (b) the Landlord owns the Property in fee simple, and the leasehold estate is directly by the Landlord to the Tenant;
- (c) the leasehold estate underlying the Lease constitutes a mortgageable real property interest under state law;
- (d) the Lease and related Lease documents do not conflict with any Program Obligations^[1] promulgated by HUD with respect to such mortgage insurance; and
- (e) all ground rent amounts have prior written approval by HUD.

2. Modifications. The Lease and this Lease Addendum shall not be modified without the written consent of HUD and Lender. Modifications of the Lease and this Lease Addendum that are not authorized in writing by HUD and Lender are void and unenforceable.

3. Conflict Provision. The provisions of this Lease Addendum benefit Lender and HUD and are specifically declared to be enforceable against the parties to the Lease and all other persons by Lender and HUD. In the event of any conflict, inconsistency or ambiguity between the provisions of this Lease Addendum and the provisions of any other part of the Lease, the provisions of this Lease Addendum shall prevail and control.

^[1] “**Program Obligations**” means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Lease Addendum rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on “HUDCLIPS,” at www.hud.gov.

- 4. Recording.** The full Lease agreement and incorporated HUD Lease Addendum, or a memorandum of lease (if permitted under state law), must be recorded in the applicable land records office. If a memorandum of lease or a short form lease is to be recorded, it must set forth the following information, in addition to compliance with state law requirements:

- (a) names of the Parties;
- (b) legal description;
- (c) term and renewals;
- (d) reference to the HUD Lease Addendum; and
- (e) specific reference to HUD's option to purchase in Section 7 (unless Section 7 is expressly waived in writing by HUD in accordance with Program Obligations).

- 5. Estoppel Certificate.** As a condition of HUD's acceptance of a lease transaction, an estoppel certificate identifying the Lease documents and signed by the Landlord, dated within thirty (30) days of the Note endorsement, must be provided to Lender and HUD at closing. The Landlord must confirm in writing to Lender and HUD that the Security Instrument is authorized, the Lease is in full force and effect, there are no defaults or pending defaults under the Lease or conditions that would give rise to defaults given the passage of time, and that the description of the Property is correct. The document must provide the language required by 24 CFR Section 200.62, and also include the "Warning" language found at the beginning of this Lease Addendum.

Upon a reasonable request from Tenant, Lender, or HUD, Landlord further agrees to promptly provide from time to time an estoppel certificate to confirm the terms of, and no default under, the Ground Lease.

- 6. Consent for Mortgage.** Landlord agrees that the Tenant is authorized to obtain a loan, the repayment of which is to be insured by HUD and secured by the Security Instrument on this leasehold estate. The Tenant is further authorized to execute all documents necessary as determined by HUD and otherwise to comply with Program Obligations for obtaining such an insured loan.
- 7. HUD Option to Purchase.** In the event that HUD acquires title to this leasehold estate or otherwise acquires title to the Tenant's interest herein, HUD shall have the option to purchase good and marketable fee simple title to the Property, free of all liens and encumbrances except such as may be waived or accepted by HUD. Such option shall be exercised within twelve (12) months after HUD so acquires such leasehold estate or the Tenant's interest. 2. The purchase price shall be the sum of One Million One Hundred Fifteen Thousand Dollars (\$1,115,000.00), payable in cash, by check drawn on the U.S. Treasury, by electronic funds transfer or by wire transfer, provided all rents are paid to date of transfer of title. HUD shall, within said twelve (12) months, give written notice to the Landlord of its election to exercise said option to purchase. The Landlord shall, within thirty (30) days after HUD gives such notice, execute and deliver to HUD a warranty deed of conveyance to HUD as

grantee conveying the said fee simple title. Nothing in this Section 7 shall require the Landlord to pay any taxes or assessments that were due and payable by the Tenant.

- 8. Conveyance by Tenant.** If approved in writing by HUD in advance, the Tenant may convey, assign, transfer, lease, sublease or sell all or any part of its leasehold interest in the Property without the need for approval or consent by any other person or entity.

9. Insurance.

- (a) Insurance policies shall be in an amount, and with such company or companies and in such form, and against such risks and hazards, as shall be approved by Lender and HUD.
- (b) The Landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender. The Landlord may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender.

10. Condemnation.

- (a) If all or any part of the Property shall be taken or damaged by condemnation, that portion of any award attributable to the Tenant's interest in the Property or leasehold estate or damage to the Tenant's interest in the Property or leasehold estate shall be paid to Lender or otherwise disposed of as may be provided in the Security Instrument. Any portion of the award attributable solely to the Landlord's interest shall be paid to the Landlord. After the date of taking, the annual rent shall be reduced ratably by the proportion which the award paid to the Landlord bears to the total value of the Property as established by the amount HUD is to pay, as set forth in Section 7 of this Lease Addendum.
- (b) In the event of a negotiated sale of all or a portion of the Property, in lieu of condemnation, the proceeds shall be distributed and annual rent reduced as provided in cases of condemnation above, but the approval of HUD and Lender shall be required as to the amount and division of the payments to be received.

- 11. Tenant Default on Lease; Cure Rights; Termination.** The Landlord may terminate the Lease prior to the expiration day of the full term of this Lease ("**Expiration Date**") after a Tenant default under this Lease ("**Lease Event of Default**"), but only under the following circumstances and procedures.

- (a) If any Lease Event of Default shall occur, then and in any such event, the Landlord shall at any time thereafter during the continuance of such Lease Event of Default and prior to any cure, give written notice of such default(s) ("**Notice of Default**") to the Tenant, Lender, and HUD, specifying the Lease Event of Default and the methods of cure, or declaring that a Lease Event of Default is incurable. If the Lease Event of Default is a failure to pay money, the Landlord shall specify and itemize the amounts of such default. Failure to pay money shall be specified as a separate default and not combined with a non-monetary Lease Event of Default.
- (b) Within sixty (60) days from the date of giving the Notice of Default to the Tenant, the Tenant must cure a monetary default by paying the Landlord all amounts specified in the Notice of Default and must cure any specified Lease Event of Default that is capable of being cured within such period.
- (c) During the period of one hundred-eighty (180) days commencing upon the date Notice of Default was given to Lender and HUD, Lender or HUD may:
 - (1) cure any Lease Event of Default; and
 - (2) commence foreclosure proceedings or institute other state or federal procedures to enforce Lender's or HUD's rights with respect to the leasehold estate.
- (d) If HUD or Lender commences foreclosure or other enforcement action within such one hundred-eighty (180) days, then its cure period shall be extended during the period of the foreclosure or other action and for 90 days after the ownership of the Tenant's rights under the Lease is established in or assigned to HUD or such Lender or a purchaser at any foreclosure sale pursuant to such foreclosure or other action. The transfer of the Tenant's rights under the Lease to Lender, HUD or purchaser, pursuant to such foreclosure or other action shall be deemed a termination of any incurable Lease Event of Default and such terminated Lease Event of Default shall not give the Landlord any right to terminate the Lease. Such purchaser may cure a curable Lease Event of Default within said ninety (90) days.
- (e) If the Tenant, Lender or HUD reasonably undertake to cure any Lease Event of Default during the applicable cure period and diligently pursues such cure, the Landlord shall grant such further reasonable time as is necessary to complete such cure. If after the expiration of all of the foregoing cure periods, no cure or termination of an existing Lease Event of Default has been achieved as aforesaid, then and in that event, the Lease shall terminate, and, on such date, the term of this Lease shall expire and terminate and all rights of the Tenant under the Lease shall cease. All costs and expenses incurred by or on behalf of the Landlord (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any default by the Tenant under

this Lease shall constitute additional rent hereunder. The Landlord shall have no right to terminate this Lease except as provided in this Section 11.

12. Lender/HUD Option for New Lease.

- (a) Upon termination of this Lease pursuant to Section 11 above, the Landlord shall immediately seek to obtain possession of the Property. Upon acquiring such possession, the Landlord shall notify HUD and Lender in writing. Lender and HUD shall each have six (6) months from the date of receipt of such notice of acquisition to elect to take, as Tenant, a new lease on the Property.
- (b) Such new lease shall have a term equal to the unexpired portion of the term of this Lease immediately prior to such termination and shall, except as otherwise provided herein, be on the same terms and conditions as contained in this Lease, including without limitation, the option to purchase set forth under Section 7 above, except that Lender's or HUD's liability for rent shall not extend beyond their occupancy under such lease. The Landlord shall tender such new lease to Lender or HUD within thirty (30) days after a request for such lease and shall deliver possession of the Property immediately upon execution of the new lease.
- (c) Upon executing a new lease, Lender or HUD shall pay to the Landlord any unpaid rent due or that would have become due under this Lease to the date of the execution of the new lease, including any taxes which were liens on the Property and which were paid by the Landlord, less any net rentals or other income which the Landlord may have received on account of the Property since the date of default under this Lease.

13. Landlord Cooperation for Needed Authorizations. The Landlord agrees that within ten (10) days after receipt of written request from the Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any Governmental Authority in connection with any work which the Tenant may do hereunder and will also join in any grants for easements for electric, telephone, telecommunications, cable, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the Property and if, at the expiration of such ten (10) day period, the Landlord shall not have joined in any such application, or grants for easements, the Tenant shall have the right to execute such application and grants in the name of the Landlord, and for that purpose, the Landlord hereby irrevocably appoints the Tenant as its attorney-in-fact to execute such papers on behalf of the Landlord, only to the extent that a public body as Landlord may do so within the exercise of its municipal powers and responsibilities.

14. Taxes. Nothing in this Lease shall require the Tenant to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the Landlord or any income excess profits or revenue tax, or any other tax, assessment charge or levy upon the rent payable by the Tenant under this Lease.

15. Notices. All notices, demands and requests which are required to be given by the Landlord, Tenant, Lender or HUD in connection with the Lease and this Lease Addendum shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given.

All notices shall be addressed as follows:

- If to Lender: Dwight Capital LLC
400 Carillon Parkway, Suite 125
St. Petersburg, FL 33716
Attention: Loan Administration

- If to HUD: Department of Housing and Urban Development
Southwest Multifamily Region
307 W. 7th Street, Suite 1000
Fort Worth, Texas 76102
Attention: Account Executive

- If to Tenant: Village at Lakefront, LLC
14109 Inwood Rd.
Farmers Branch, TX 75244
Attn: John L. Bailey

- With a copy to: Paul R. Durr, PC
1777 S. Harrison St. Suite 1500
Denver, CO 80210
Attn: Paul R. Durr

- If to Landlord: Little Elm Economic Development Corporation
100 W. Eldorado Parkway
Little Elm, Texas 75068

- With a copy to: Brown & Hofmeister LLP
740 E. Campbell Rd. Suite 800
Richardson, TX 75081
Attn: Jeff Moore, Esq.

16. No Merger. There shall be no merger of this Lease or the leasehold estate created by this Lease with the fee estate in or ownership of the Property or any interest therein by reason of the fact that the same person or entity may acquire or hold, directly or indirectly, this Lease or the leasehold estate hereby created or any interest therein and fee estate in or ownership of the Property. No such merger shall

occur unless and until HUD specifically consents and agrees in writing to such merger.

(Signatures on following pages)

Each signatory below hereby certifies that each of their statements and representations contained in Ground Lease and this Lease Addendum and all their supporting documentation thereto are true, accurate, and complete. This Lease Addendum has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

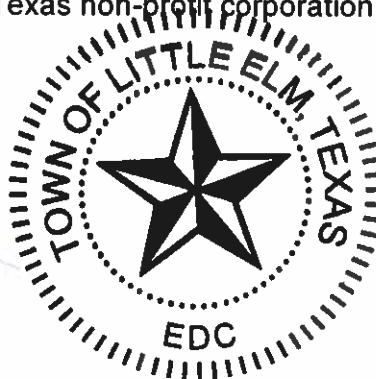
IN WITNESS WHEREOF, the parties hereto have executed this Lease Addendum as of the day and year first written above.

Little Elm Economic Development Corporation, a Texas non-profit corporation

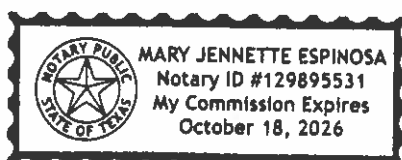
By: Ken Eaken, President

State of Texas

County of Denton



This instrument was acknowledged before me on the 14 day of NOVEMBER, 2022, by Ken Eaken, President of Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said company.



[NOTARY SEAL]

Mary Jennette Espinosa

Notary Public

My Commission Expires: 10-18-2026

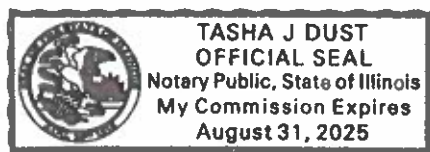
Village at Lakefront, LLC, a Texas limited liability company
By: Village Management, Inc., a Texas corporation, Manager

By: John L. Bailey
John L. Bailey, President of Manager

State of Illinois

County of St. Clair

This instrument was acknowledged before me on the 8th day of November 2022, by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront, LLC, a Texas limited liability company, on behalf of said company.



[NOTARY SEAL]

Tasha J. Dust
Notary Public
My Commission Expires: Aug 31, 2025



Date: 03/07/2023
Agenda Item #: 5. A.
Department: Administrative Services
Strategic Goal: Ensure strong relationship within the community and region
Staff Contact: Caitlan Biggs, Director of Administrative Services/Town Secretary

AGENDA ITEM:

Present, Discuss, and Consider Action to **Appoint Seven (7) Members and Three (3) Alternates to the Little Elm Youth Council.**

DESCRIPTION:

During the strategic planning process in 2022, Town Council identified an objective to expand opportunities for youth to be involved in the Town. To achieve this objective, Town Council established the Little Elm Youth Council.

Applications were open in late 2022 and the Town received 21 applications. All eligible applicants were interviewed in February 2023 by Mayor Cornelious and Mayor Pro Tem Norman. They recommend the following students be appointed to the inaugural Little Elm Youth Council:

- Nicole Dadey
- Tiffany Lin
- Isabell Luckett
- Manasi Mahankali
- Joseph Passarelle
- Vidhyut Veeramani
- Leon Wallace

Because three of these students are graduating seniors and will be going off to college after the summer, the interview committee recommends appointing the following students as alternates to begin their terms in August 2023:

- Hasini Gaddai
- Gael Reboloso
- Bailey Weaver

The other students will begin their full terms in August 2023 and serve until July 2024.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Staff recommends direction from Town Council.



Date: 03/07/2023
Agenda Item #: 5. B.
Department: Development Services
Strategic Goal: Promote and expand Little Elm's identity
Staff Contact: Fred Gibbs, Director of Development Services

AGENDA ITEM:

Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1703 Regarding a Request for a New Specific Use Permit, at 25691 Smotherman Road, Suite 120, Currently Zoned as Planned Development - Light Commercial (PD-LC) Through Ordinance No. 1539, in Order to Allow for a New Smoking Establishment, Not to Exceed 1,250 Square Feet, for the Purposes of On-Premise Retail Sales Only.**

Open Public Hearing:
Receive Public Comments:
Close Public Hearing:
Take Action on Ordinance No. 1703:

DESCRIPTION:

Location.

Generally located on the northeast corner of the intersection of FM423 and Smotherman Road, within Little Elm's Town limits.

Background.

Subject property is zoned Planned Development through Ordinance #1539, with a Light Commercial base and currently houses a total of two newly constructed, single-story commercial buildings. The two buildings are currently vacant but are primarily intended for retail purposes.

The proposed retail-only smoking establishment would occupy a currently vacant 1,250 square-foot Suite 120, one of the middle suites in Building 1, the southernmost building.

A smoking establishment is defined as "*an establishment that sells products and devices primarily for the purpose of smoking or vaping in various forms. These establishments sometimes provide a contained area with a separate ventilation system for the purpose of smoking within the associated structure.*"

Chapter 106 of the Little Elm Code of Ordinances requires a Specific Use Permit (SUP) be issued for smoking establishment use within the Light Commercial District. Because a smoking establishment requires a Specific Use Permit, the applicant is requesting a Specific Use Permit in order to be able to occupy and operate within this space.

Proposal.

The applicant is requesting approval of a smoking establishment as an allowed use on the subject property, within Suite 120, for the purposes of establishing a retail-only vape shop operated as Puff Love.

The proposal includes a total SUP area of 1,250 square feet. The submitted floor plan depicts a typical retail floor plan, with a large open retail area with counter height display cases and slat wall merchandise displays along the walls. The rest of the site is shown as a restroom, office, and janitor closet. The proposed hours of operation are 8am to 12am, which is a later hour of operation than the Town's typical retail establishments.

The applicant already has two stores under the same name "Puff Love" in Flower Mound and Plano, interior photos of one of the existing stores have been included in the exhibits.

Parking.

The proposed use is required to be parked at a ratio of 1 space per 200 sq feet of floor area, requiring 7 parking spaces for the 1,250 square feet. The existing site was developed with 18,062 square feet between the two buildings, requiring 91 parking spaces, the site has 103 parking spaces.

Development Standards.

This site was developed following Ordinance #1539, based on Light Commercial building standards and since the applicant is not making any exterior changes or site improvements in order to accommodate the proposed use, no additional site requirements were reviewed at this time.

Comprehensive Plan.

The Future Land Use Plan (FLUP) designates the subject property with a retail/commercial land use category, which is appropriate for the proposed retail establishment. Therefore, the requested SUP, if approved, would not be in conflict with the Town's vision for this area.

Recommendation to Planning and Zoning Commission.

The purpose of an SUP is to add or modify specific land use rights to those already granted within a zoning district. Section 106.02.17 provides that each request considers the intensity of the proposed use within the context of the proposed location based on compatibility and suitability, and in evaluating the compatibility of the proposed use within the existing area context, "the town council may impose such additional development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property from noise, vibration, dust, dirt, smoke, fumes, odor, gas, explosion, glare, offensive view, or other undesirable or hazardous conditions."

It should be noted that the Town has additional requirements for smoking establishments which allow for the actual smoking of product on site. At this time, the SUP request is specifically for the retail component and if the applicant chooses to in the future allow for on premise smoking, they would be required to go back through the zoning process in order to amend the SUP.

Staff had some concerns with the proposed late hours of operation. Considering this is a retail establishment, with most of the Town's similar types of retail establishments closing around 9 or 10 pm. Staff believes that in order to ensure the retail operation stays within the parameters of the Town's expectations, the hours of operation should not exceed 11pm. It should be noted that even most of the restaurants in the area close by 11pm.

Staff recommended the Planning and Zoning Commission evaluate the proposed SUP request based on the presented information, in accordance with Section 106.02.17, as well as the vision for this area and the requests that have come before the Commission most recently, and make a recommendation accordingly. Given the purpose of a Specific Use Permit, Staff recommended that if the Planning and Zoning Commission consider supporting this request, the following conditions be included. These conditions help to make the request more appropriate within the context of the existing shopping center, as well as its proximity to other uses.

1. Hours of Operation shall not exceed 11 pm on any given day.
2. SUP shall be for retail only, on-site smoking is prohibited.
3. All windows shall remain clear, especially from shelving and product display, and maintain and active storefront.

Commission Findings.

At their regular meeting on February 2, 2023, the Planning and Zoning Commission discussed their concerns with the proposed business hours and proximity to other similar uses in the area. The applicant was agreeable to all the conditions listed by Staff, so the Planning and Zoning Commission unanimously, with four in favor and zero against, recommended **approval** of the request with the conditions as listed.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDED ACTION:

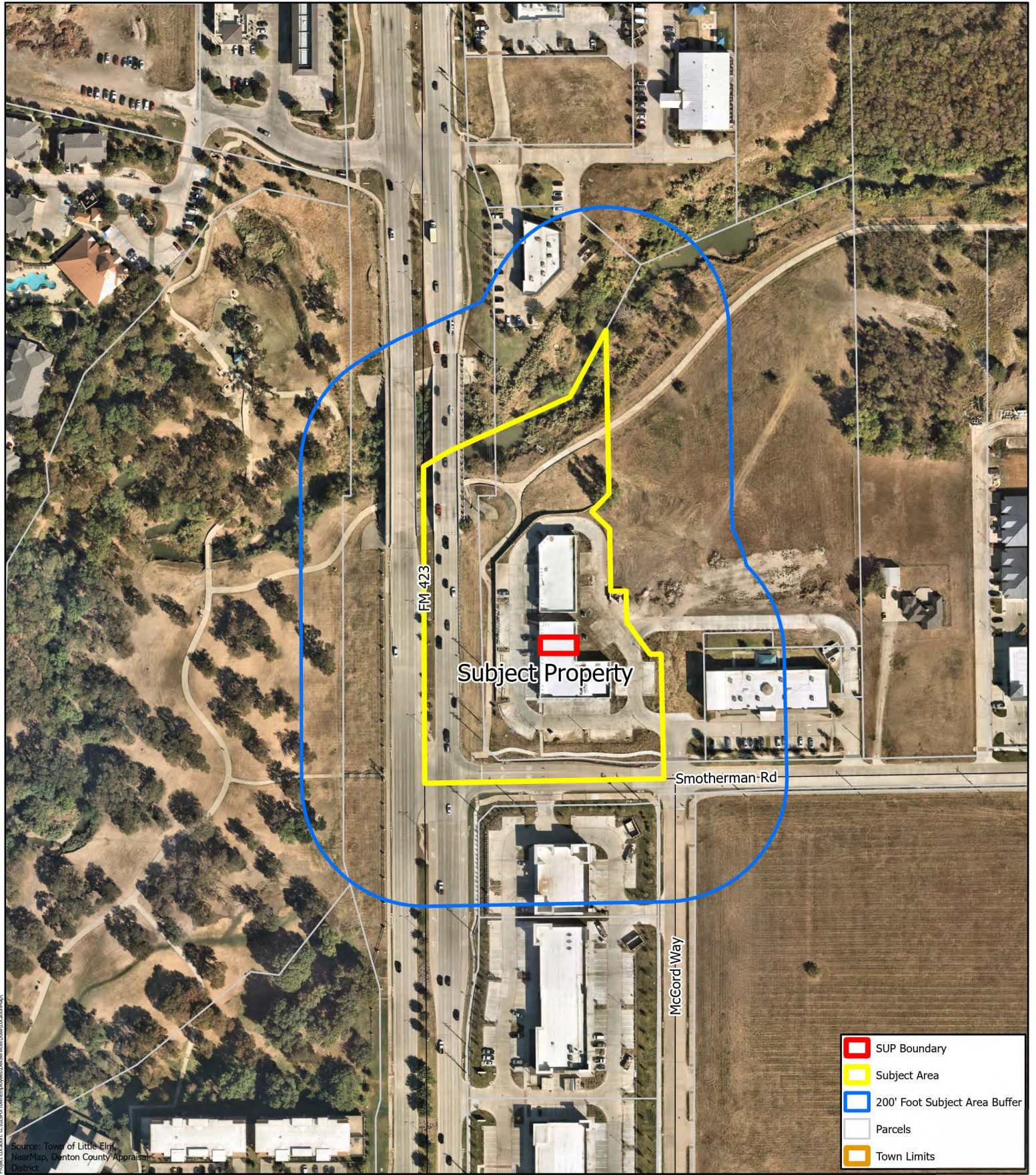
Planning and Zoning Commission recommends **approval** of the request with the following conditions:

1. Hours of Operation shall not exceed 11 pm on any given day.
2. SUP shall be for retail only, on-site smoking is prohibited.
3. All windows shall remain clear, especially from shelving and product display, and maintain and active storefront.

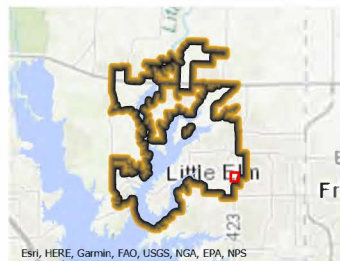
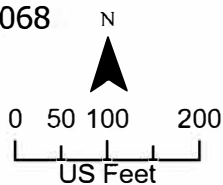
Attachments

Location Map

Ordinance No. 1703 - Puff Love Smoke Shop SUP



Specific Use Permit: 22-04014
25691 Smotherman Rd,
Suite 120, Frisco, TX, 75068



Town of Little Elm
Denton County, Tx
Date: 1/6/2023

This product is to be used for graphical representation only. The accuracy is not to be taken/used as data produced for engineering purposes or by a Registered Professional Land Surveyor for the State of Texas. For this level of detail, supervision and certification of the produced data by a Registered Professional Land Surveyor for the State of Texas would have to be performed. Town of Little Elm and its members assume no responsibility for the accuracy of said data.

TOWN OF LITTLE ELM

ORDINANCE NO. 1703

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO GRANT A NEW SPECIFIC USE PERMIT FOR A SMOKING ESTABLISHMENT WITH RETAIL ONLY, LOCATED AT 25691 SMOTHERMAN ROAD, SUITE 120; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

WHEREAS, the Town possesses all the rights, powers, and authorities possessed by all home rule municipalities, including the authority to regulate land uses under Chapter 211 of the Texas Local Government Code; and

WHEREAS, Chapter 106 (Zoning) of the Little Elm Code of Ordinances, requires a Specific Use Permit be granted by Town Council in order to legally operate and occupy the subject property as a smoking establishment use while it is zoned Planned Development - Light Commercial (PD-LC) through Ordinance No. 1539; and

WHEREAS, a request for a Specific Use Permit for a smoking establishment has been submitted by Puff Love Smoke Shop, located at 25691 Smotherman Road, Suite 120, generally on the northeast corner of the intersection of FM 423 and Smotherman Road; and

WHEREAS, Section 106.02.17 of the Little Elm Code of Ordinances provides that Town Council may impose such additional development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property from noise, vibration, dust, dirt, smoke, fumes, odor, gas, explosion, glare, offensive view, or other undesirable or hazardous conditions; and

WHEREAS, Town Council and the Planning & Zoning Commission of the Town of Little Elm, in compliance with the laws of the State of Texas and the ordinances of the Town of Little Elm, have given the required notices and held the required public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the affected area and in the vicinity thereof regarding the requested planned development amendment described herein; and

WHEREAS, at its regular meeting held on February 2, 2023 the Planning & Zoning Commission considered and made a recommendation to approve the request granting a Specific Use Permit for a smoking establishment with retail only located at 25691 Smotherman

Road, Suite 120, totaling 1,250 square-feet (Case No. SUP-22-04014); and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning & Zoning Commission and any other information and materials received at the public hearing, the Town Council of the Town of Little Elm, Texas, has determined that the request would be in the interest of public health, safety and welfare of the citizens of the Town of Little Elm.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. AMENDMENT. That Ordinance No. 226 of the Town of Little Elm, Texas, the same being the Comprehensive Zoning Ordinance of the Town, as amended, is hereby amended by the following:

- A. Granting a Specific Use Permit authorizing a smoking establishment at 25691 Smotherman Road, Suite 120, subject to the following conditions:
 - 1. Prior to the issuance of a Certificate of Occupancy, said Property shall be improved in accordance with the site plan and floor plan, which are attached hereto as Exhibit A and made a part hereof for all purposes.
 - 2. The Specific Use Permit granted herein specifically for a smoking establishment, with retail only, on-premise smoking prohibited, shall be limited to that particular area designated on the approved site plan, as Suite 120, within Building 1, encompassing a total area not to exceed 1,250 square feet.
 - 3. All windows shall remain clear, especially from shelving and product display, and maintain and active storefront.
 - 4. Hours of Operation shall not exceed 11pm on any given day.

SECTION 3. SAVINGS. This Ordinance (which includes the New Zoning Ordinance) shall be cumulative of all other ordinances of the Town, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance; provided, however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances, and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

SECTION 4. PENALTY. Any person, firm, or corporation violating any of the provision of

this Ordinance shall be punished by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 5. SEVERABILITY. The sections, paragraphs, sentences, phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid or unconstitutional, the adjudication shall not affect any other section or provision of this Ordinance or the application of any other section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the New Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of this Ordinance (which includes the New Zoning Ordinance) without the invalid parts and to this end the provisions of this Ordinance shall remain in full force and effect.

SECTION 6. REPEALER. That all ordinances of the Town of Little Elm in conflict with the provisions of this Ordinance are hereby repealed to the extent of that conflict.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption in accordance with and as provided by law and the Town Charter.

PASSED AND APPROVED by the Town Council of the Town of Little Elm, Texas on the 7th day of March, 2023.

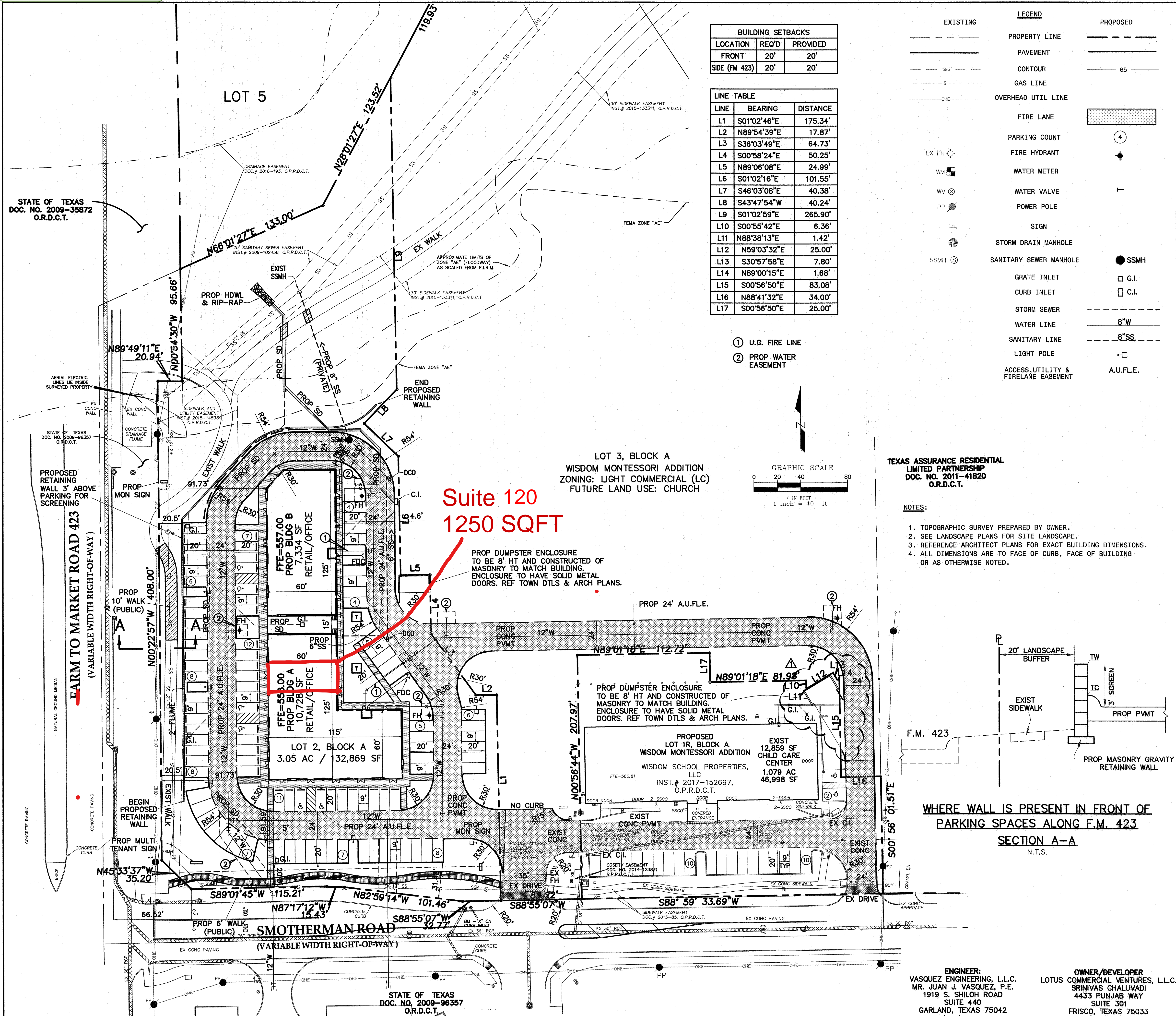
The Town of Little Elm, Texas

Curtis J. Cornelious, Mayor

ATTEST:

Caitlan Biggs, Town Secretary

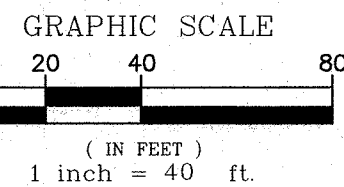
ATTACHMENT – EXHIBIT A



BUILDING SETBACKS		
LOCATION	REQ'D	PROVIDED
FRONT	20'	20'
SIDE (FM 423)	20'	20'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S01°02'46"E	175.34'
L2	N89°54'39"E	17.87'
L3	S36°03'49"E	64.73'
L4	S00°58'24"E	50.25'
L5	N89°06'08"E	24.99'
L6	S01°02'16"E	101.55'
L7	S46°03'08"E	40.38'
L8	S43°47'54"W	40.24'
L9	S01°02'59"E	265.90'
L10	S00°55'42"E	6.36'
L11	N88°38'13"E	1.42'
L12	N59°03'32"E	25.00'
L13	S30°57'58"E	7.80'
L14	N89°00'15"E	1.68'
L15	S00°56'50"E	83.08'
L16	N88°41'32"E	34.00'
L17	S00°56'50"E	25.00'

1. U.G. FIRE LINE
2. PROP WATER EASEMENT



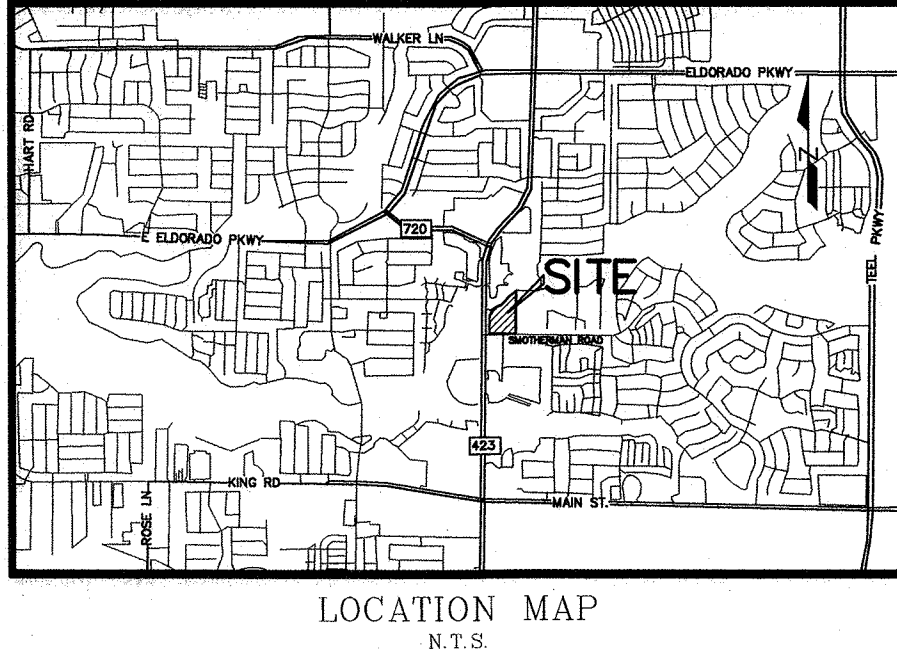
TEXAS ASSURANCE RESIDENTIAL
LIMITED PARTNERSHIP
DOC. NO. 2011-41820
O.R.D.C.T.

- NOTES:
1. TOPOGRAPHIC SURVEY PREPARED BY OWNER.
 2. SEE LANDSCAPE PLANS FOR SITE LANDSCAPE.
 3. REFERENCE ARCHITECT PLANS FOR EXACT BUILDING DIMENSIONS.
 4. ALL DIMENSIONS ARE TO FACE OF CURB, FACE OF BUILDING OR AS OTHERWISE NOTED.

WHERE WALL IS PRESENT IN FRONT OF
PARKING SPACES ALONG F.M. 423
SECTION A-A
N.T.S.

ENGINEER:
VASQUEZ ENGINEERING, L.L.C.
MR. JUAN J. VASQUEZ, P.E.
1919 S. SHILOH ROAD
SUITE 301
GARLAND, TEXAS 75042
TEL: (972) 278-2948
FAX: (972) 271-1383
jvasquez@vasquezengineering.com

OWNER/DEVELOPER
LOTUS COMMERCIAL VENTURES, L.L.C.
SRINIVAS CHALUVADI
4433 PUNJAB WAY
SUITE 301
FRISCO, TEXAS 75033
469-536-8695
sri@shaluvadi.net



SITE SUMMARY TABLE	
County	DENTON COUNTY
Project Name	WISDOM MONTESSORI ADDITION
Zoning	"PD-LC"
Proposed use	SHOPPING CENTER
Site Area:	3.05 Acres / 132,869 S.F.
Building "A" Area	10,728 S.F. (TOTAL)
Building "A" Height:	22' - 1 STORY
Building "B" Area	7,334 S.F. (TOTAL)
Building "B" Height:	22' - 1 STORY
Lot Coverage:	18,062/132,869 = 13.6%
Floor Area Ratio:	18,062/132,869 S.F. = 1:13.6
Parking Required:	RETAIL STORE; 1 SPC/200 S.F.
	Total Required = 91 SPACES
Parking Provided:	Regular = 92 SPACES
	Handicap = 6 SPACES
	Total = 98 SPACES
Impervious Area:	77,697 / 132,869 SF = 58.48%
Pervious Area:	55,172 / 132,869 SF = 41.52%
Loading Spaces Required	(<25,000 SF) = 0
Loading Spaces Provided	= 0
Start Of Construction	07/04/2020
End Of Construction	07/03/2021

SITE SUMMARY TABLE LOT 1R, BLOCK A	
County	DENTON COUNTY
Project Name	WISDOM MONTESSORI ADDITION
Zoning	"PD-LC" (WITH SPECIAL USE PERMIT)
Proposed use	CHILD CARE CENTER
Site Area:	1.079 Acres / 46,998 S.F.
Building Area	12,859 S.F. (TOTAL)
Building Height:	33' - 1 STORY
Lot Coverage:	12,859/46,998 = 27.4%
Floor Area Ratio:	12,859/46,998 S.F. = 1:27.4
Parking Required:	CHILD CARE CENTER; 1 SPC/10 STUDENTS
	165 STUDENTS/10 = 17 SPACES
	Total Required = 17 SPACES
Parking Provided:	Regular = 20 SPACES
	Handicap = 2 SPACES
	Total = 22 SPACES
Impervious Area:	31,546 / 46,998 SF = 61.12%
Pervious Area:	15,452 / 46,998 SF = 32.88%
Loading Spaces Required	(<25,000 SF) = 0
Loading Spaces Provided	= 0
Start Of Construction	N/A EXISTING BUILDING
End Of Construction	N/A EXISTING BUILDING

SITE PLAN
LOT 2, BLOCK A
3.05 ACRES
REVISED SITE PLAN
LOT 1R, BLOCK A
1.079 ACRES
WISDOM MONTESSORI ADDITION
C. BORHMANN SURVEY,
ABSTRACT NO. 86
TOWN OF LITTLE ELM, DENTON COUNTY,
TEXAS
JUNE 23, 2020

Scale: 1" = 40'

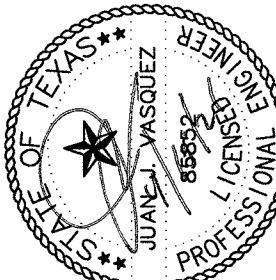
Designed by: J.J.V.
Drawn by: J.N.M.
Checked by: J.J.V.
603-091046 SITE PLAN/SP1 SITE PLAN.dwg
06/23/2020

SHEET
SP1

SITE PLAN

LOT 2, BLOCK A
WISDOM MONTESSORI ADDITION
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

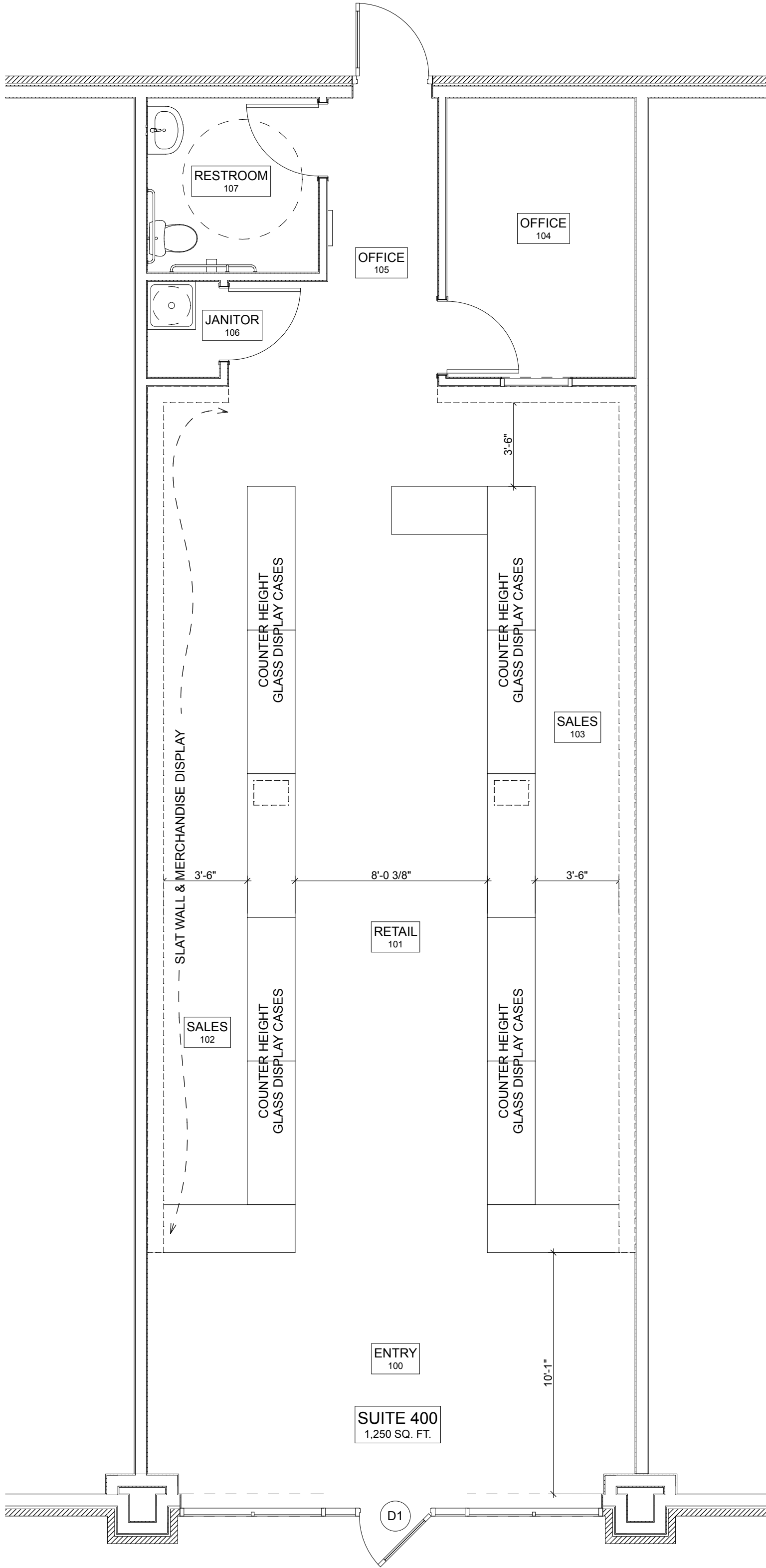
DEVELOPER
LOTUS COMMERCIAL VENTURES, L.L.C.
4433 PUNJAB WAY
SUITE 301
FRISCO, TEXAS 75033



VASQUEZ ENGINEERING L.L.C.
1919 S. Shiloh Road
Suite 440, LB 44
Garland, Texas 75042
Ph: 972-278-2948
TX Registration # F-12266

THE SEAL APPEARING ON THIS
DOCUMENT WAS AUTHORIZED BY
JUN 3 10 45 AM 2021
04/15/21

NO.	DATE	REVISION	APP.
1	04/15/21	DUMPSTER	JUV



1 FLOOR PLAN
SCALE: 1/4" = 1'-0"

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW UNDER THE AUTHORITY OF WILLIAM PECK & ASSOCIATES, ON THIS PLOT DATE AND IS NOT TO BE USED BY AUTHORITIES HAVING JURISDICTION FOR THE PURPOSE OF ISSUING CONSTRUCTION PERMITS

FLOOR PLAN

ISSUE DATE:

Scale: REF. PLAN

Drawn: JB

Job: 22-188-001

Sheet Number: A-101

REVISIONS

WILLIAM PECK & ASSOCIATES, INC. DBA

1025 W. MILL ST.

IRVING, TEXAS 75037

WWW.PECKARCHITECTS.COM

972.921.1424

PUFF LOVE

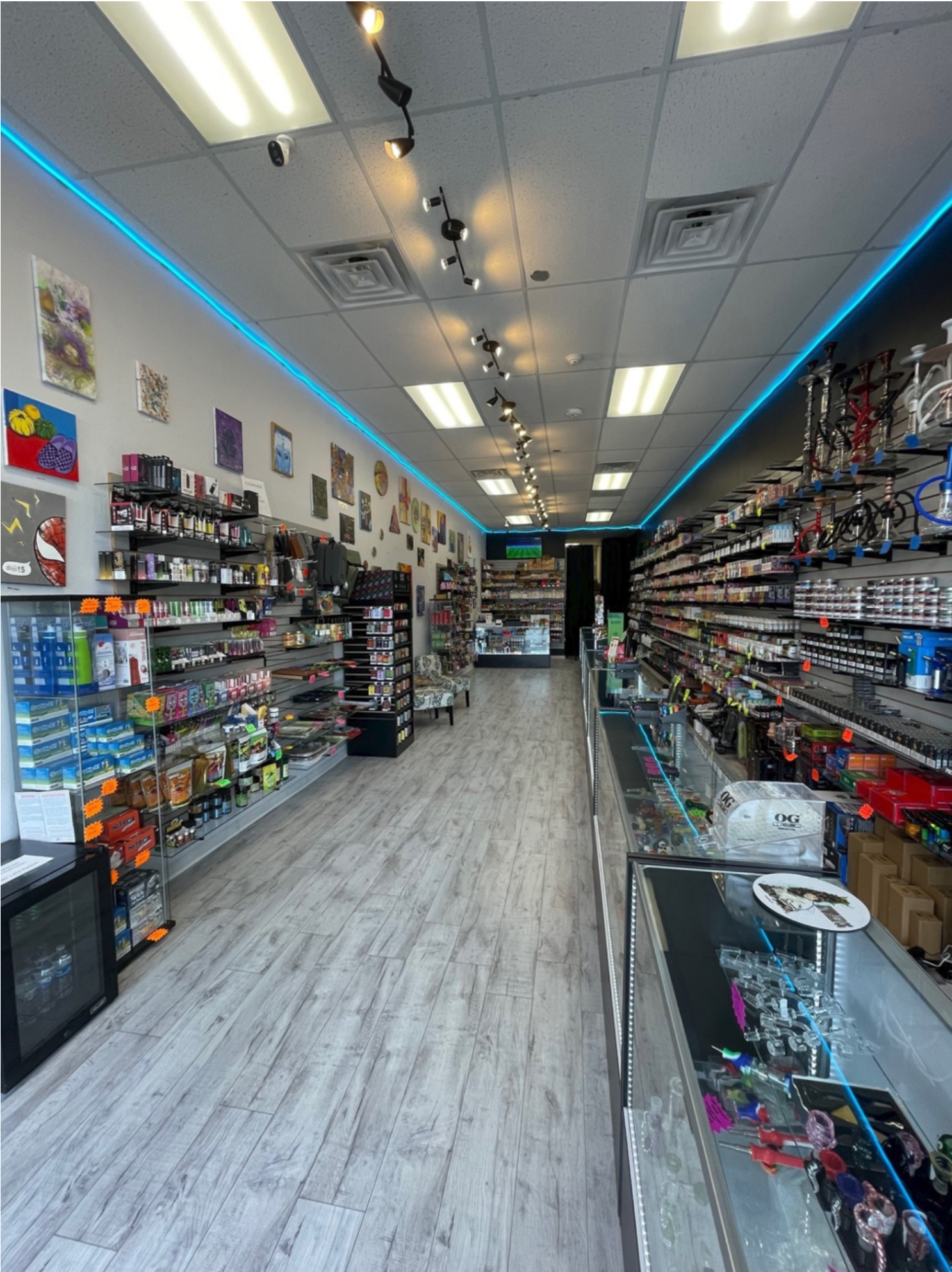
25691 Snotherman Road

Frisco, Texas

These plans are intended to provide the basic construction information necessary to substantially complete this structure. These construction documents must be verified and checked by the builder or person in authority of this project. Any discrepancy, error, and/or omission shall be the responsibility of the owner. The owner shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The owner shall be responsible for obtaining all necessary engineering services for: foundation, HVAC, and structural, prior to construction of any kind. NOT A PART OF THESE CONSTRUCTION DOCUMENTS. ANY DISCREPANCY, ERROR, OR OMISSION OF ANY KIND, SHALL BE THE RESPONSIBILITY OF THE OWNER. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AUTHORITIES. THESE CONSTRUCTION DOCUMENTS ARE THE PROPERTY OF WILLIAM PECK & ASSOCIATES, INC. AND SHALL REMAIN THE PROPERTY OF WILLIAM PECK & ASSOCIATES, INC. IF REPRODUCED IN ANY WAY, BY ANY MEANS, WITHOUT THE EXPRESSED WRITTEN PERMISSION OF WILLIAM PECK & ASSOCIATES, INC. ALL RIGHTS RESERVED









Date: 03/07/2023
Agenda Item #: 5. C.
Department: Development Services
Strategic Goal: Promote and expand Little Elm's identity
Staff Contact: Fred Gibbs, Director of Development Services

AGENDA ITEM:

Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1704 Regarding a Request to Rezone Approximately 4.219 Acres of Land, Currently Zoned as Office (O), Generally Located Along Crestwood Place, within Little Elm's Town Limits, in Order to Establish a New Planned Development (PD) District Based on Light Commercial (LC) with Modified Development Standards, to Capture Existing Campus Conditions and Allow for School Campus Expansion.**

Open Public Hearing:

Receive Public Comments:

Close Public Hearing:

Take Action on Ordinance No. 1704:

DESCRIPTION:

Location. Generally located along Crestwood Place, north of Oak Grove Parkway, within Little Elm's Town limits.

Background. Project area consists of 4.21 acres of developed and vacant land owned by the North Texas Collegiate Academy, a public charter school. Part of the project area was originally voluntarily annexed into the Town in 2002 through Ordinance No. 561, annexing five lots containing the original school campus. Over the years, the school had obtained additional lots and in 2013 again requested to voluntarily annex into the Town the seven new school-owned lots through Ordinance No. 1276. At that time, all the associated properties were rezoned to an Office (O) zoning district and the Future Land Use Plan of the 2008 Comprehensive Plan was amended, recategorizing this area to retail and office use. In 2013 the school also underwent a site plan approval for the demo of two of the original school buildings, construction of one large main building in their location, connections to Town utilities, construction of Crestwood Place, and installation of perimeter fencing. The Town also allowed the school to construct a gate and close off a portion of Crestwood Place to allow students safe access across campus, with the understanding that the right-of-way would eventually be abandoned. All the school-owned lots were subsequently replatted into two lots, separated by Crestwood Place.

Due to their continued growth, the school recently purchased two additional lots, completing the project area identified in the attached exhibits, and is ready to expand their campus again in order to provide new and improved classroom and athletic facilities. The school has already demoed two more original school buildings and is now on an incredibly tight schedule to construct two brand new buildings in order to be ready for the upcoming 2023-2024 school year. The applicant is currently working with Denton County and the Town to replat all 12 lots into one singular lot, which includes abandonment of the Crestwood Place right-of-way that bisects the project area; however, for plat approval, the property must meet all relevant sections of the Code of Ordinances, inclusive of the Zoning Ordinance.

Typically, a charter school use requires a Specific Use Permit (SUP), however, since the school was in existence at the time of the annexation, it was not required to obtain an SUP. These types of uses are called legal nonconforming as they predated Town requirements, so a lot of the elements of the campus do not fully meet the Zoning Ordinance. The Town's Zoning Ordinance prohibits the expansion of any non-conforming uses, therefore, while such designation allows the school to continue operations within the confines of their existing campus, it does not allow the expansion of the operation or its footprint beyond what was in operation at the time of annexation.

Additionally, since at the time of annexation, the property was rezoned to an Office (O) zoning district, which may have aligned with the 2008 Comprehensive Plan vision for the area, this is no longer the case. The Town adopted a new Comprehensive Plan in 2017 in which the Future Land Use Plan (FLUP) identified this area more generally as retail and commercial. Then, in 2022, the Town amended the FLUP to reflect the vision of the West Side Study, identifying this area as neighborhood retail along the frontage of Oak Grove Parkway with mixed density residential beyond.

Given the school's lack of SUP, non-conforming status, and incorporation of newly acquired lots, Staff is unable to administratively approve the desired school expansion. Staff has worked with the school over the past couple months in order to recategorize the zoning to better align with the Town's vision as well as find a path forward to allow for the campus expansion and redevelopment. As a result, Staff's recommendation is to establish a Planned Development district which would memorialize any existing non-conforming site development and permit proposed redevelopment with modified development standards, through the PD Ordinance and associated exhibits.

Proposal. The applicant, North Texas Collegiate Academy, is proposing a new Planned Development district based on the Light Commercial (LC) zoning district with modified development standards.

The school campus currently consists of a large building for classroom and administration purposes (Building A) which was constructed with Town approval in 2013, two temporary classroom buildings (Buildings B and C), a facilities and maintenance accessory structure (Building D), a small wood storage shed, and a playground. The applicant is proposing a redevelopment plan consisting of four phases, aiming to capture the progression of redevelopment from existing conditions through the ultimate build-out condition.

Phase 1 captures existing site conditions, Phase 2 shows the relocation and demolition of certain buildings and playground equipment, and Phase 3 shows the proposed immediate redevelopment, inclusive of the new 12,321 square-foot classroom building (Building F) and 11,482 square-foot building meant to house additional classrooms and a large gymnasium (Building G). Building G is also intended to house the campus' storm shelter per the most current building code

requirements. Phase 4 shows the ultimate build-out of the school campus with the removal of the remaining temporary classrooms (Buildings B and C), expansion of the parking lot, installation of new cohesive perimeter fencing, and additional landscape improvements throughout the site.

The sections below breakdown the request and highlight how the proposed development standards for this PD will vary from the requirements of the Zoning Ordinance.

Uses. A charter school typically requires an SUP. The new PD would capture the Charter School use as permitted by right. The land and premises of the Property, including any current buildings, future construction, or renovation will be exclusively for the Charter School use.

Design Standards. The Light Commercial district requires structures facing the right-of-way to be constructed with at least 80% Group A masonry materials, such as brick and stone, and not to exceed 20% of Group B materials, such as Split-face CMU, stucco, cementitious fiber board, engineered wood, and tilt-wall construction. However, those buildings that are not clearly visible from the right-of-way reverse the requirement, with at least 20% Group A materials and not to exceed 80% Group B materials. Given the ultimate abandonment of the Crestwood Place right-of-way, newly proposed Buildings F and G, would follow the lesser requirement.

As a trade-off for some of the existing elements of the site, the school has designed Building F with at least 60% brick and 40% split face block. Tri-partite design will be met through provision of split-face wainscot base, brick middle section and split-face top band. Each exterior wall will have multiple windows, but for classroom safety reasons, the glazing will total approximately 8% of the total facade, as opposed to the typical 30% minimum requirement. The primary facades of the building are shown to provide horizontal articulation. Building F will also include window awnings as well as accented windows and doors toward the additional auxiliary architectural requirements. Per the PD narrative, any roof or ground-mounted mechanical equipment will be screened from offsite. These proposed design elements mirror the previously approved Building A, which does face the right-of-way at Oak Grove Parkway.

In order to accommodate a new storm shelter, and to fulfill the exterior masonry requirements, Building G will also be clad with a combination of brick and split-face block, in a similar ratio to that of Building F, and will provide similar design and screening elements. However, the facade plans for Building G are currently still being finalized as the storm shelter requirements have proven to be more restrictive than initially anticipated. The PD narrative indicates this building will closely resemble the design and construction of Building F.

Architectural design and standards for existing buildings to remain on campus, Building A and Building D, are shown within the PD exhibits. Design and construction of Building A was previously approved by the Town. Building D, however, upon relocation, will be painted to match the rest of the primary buildings on campus, installed with underpinning foundation, with an aesthetically compatible skirt to hide the ground supports. Building D is intended to be the only accessory building to remain on the site.

Landscaping. The school is proposing to meet commercial property landscaping standards with perimeter and foundation planting requirements where possible. Perimeter landscaping along Oak Grove Parkway (FM 720) is being improved from four existing trees, to a total of eight trees, meeting the required tree planting along a right-of-way. Additionally, the applicant will provide enhanced landscaping around the existing monument sign, as well

as enhance the vehicular screening shrubs around the existing parking lot facing Oak Grove Parkway. Additional vehicular area screening will be provided at either end of the parking lot onto Crestwood Place and Greenwood Drive.

The applicant is proposing to enhance perimeter landscaping around existing residential adjacency in an effort to bring the site closer toward compliance with Town standards. Along these property boundaries the typical double row of trees is being provided utilizing both new plantings and existing mature trees.

Foundation planting requirements are being met within the required 20-foot proximity of the two new buildings, with both new trees and existing mature trees.

Currently, the site has mix of different fencing materials around the perimeters. In an effort to improve the overall site aesthetic, the school is proposing to install a consistent fencing material with additional hedge and tree plantings for living screen enhancements along the perimeters as shown on the Landscape Exhibit.

Additional landscape enhancements to the project area will include:

1. Enhanced landscaping along F.M. Road 720 frontage, specifically planting bed around the monument sign, enhanced shrub plantings for vehicular screening, and uplift trees at the school's entrance gate.
2. Enhanced site canopy is provided by way of perimeter trees and landscaped parking islands, with all trees provided at 4 inch caliper, and double row of trees along residential adjacency as shown in Exhibit C.
3. Enhanced vehicular screening at Crestwood Place and Greenwood Drive by providing 36" height evergreen shrubs
4. Foundation planting provided along 75% of Building F and Building G facades
5. The existing playground on the property will be removed, and a new commercial-grade playground will be installed adjacent to Building F. It will be fully shaded with custom built awnings.
6. Either wrought iron, or wood board on board fence, with cap, and masonry columns, matching the existing fence conditions on site, shall be installed as the perimeter screen with shrubs planted as shown in Exhibit C.

Parking. Zoning Ordinance requires schools, other than high schools to provide one parking space per classroom, plus one space for every four seats in an assembly space such as cafeteria, auditorium, or gymnasium. The school is currently operating with 46 parking spaces and is proposing to add 16 additional spaces as part of the ultimate build-out. This will bring the total parking provided to 62 spaces. Based on data provided, the proposed and existing classroom and assembly counts, at ultimate build-out, would require a total of 61 parking spaces.

Zoning Ordinance also requires parking spaces to be dimensioned at least 10 feet by 20 feet; currently all parking spaces on site are 9 feet by 18 feet. The school is requesting to maintain these dimensions for the proposed 16 new parking spaces.

Existing and expanded parking lot areas will comply with landscape parking islands and shade tree requirements per commercial property standards. One of the parking lot landscape islands is being proposed as a tree "bump out" and not a full island, which staff believes still meets the intent of the ordinance, which is meant to provide shade trees every 10 parking spaces to break up the sea of parking and provide some protection for pedestrians.

Fire and Engineering. Fire and Engineering have reviewed the proposed plans and determined them to be acceptable for the purposes of this rezoning request. This is not an approval of the plans for construction.

Comprehensive Plan. The 2017 Comprehensive Plan envisioned this area as retail and commercial. The more recent "West Side Study" and subsequent Future Land Use Plan Amendment adopted a mixture of Neighborhood Commercial and Mixed Residential uses as the envisioned future land uses. Charter schools, similar to public schools, have flexibility of locating within commercial or residential areas alike. Given this is an existing use in this area, and the versatility of location for school uses, Staff does not believe this request conflicts with the Town's vision for the area.

Recommendation to Planning and Zoning Commission. Staff recommended the Planning and Zoning Commission consider this request based on the items provided, as well as how the overall use and site development fit into the context of the vision for this area, as captured by the Comprehensive Plan, Future Land Use Plan, and the West Side Study.

This request is for a use that was in existence prior to its incorporation into the Town's jurisdiction; the school was already built and in operation prior to being subject to any zoning requirements. Therefore, there are elements of this site that are not able to be brought into full compliance without completely demolishing the entire site and building anew, which is not a financial reality for a public charter school. Additionally, some of the more recent site improvements were actually approved through site plan approval process by the Town in 2013.

The school's continued growth and desire to expand and provide kids with new facilities is a testament to its successful operation and partnership within the community. From previous communication between the school and the Town, at the time of annexation, it was the intent to allow the school's operation to continue. Unfortunately, due to the confines of the Town's zoning requirements, Staff is unable to permit the proposed site redevelopment without the requested zoning change. This enables the Town's Administration to review the provided facts and make a determination of whether allowing the school operation in this location aligns with the vision for this area. Approval of the request would allow the school operation to legally continue by right on the subject property in perpetuity as well as allow the proposed expansion and redevelopment of the site, with some of the modified development standards as captured by the PD exhibits. However, because it would be a PD Ordinance, any future site development that is not reflected on the approved concept plan would have to come back through the zoning process for a PD amendment request.

Staff believes that given budgetary constraints and the current condition of the site, the school has shown great effort in moving the site closer toward compliance with the Town's Zoning Ordinance by providing site and landscaping enhancements as outlined above and shown on the plans.

It should also be noted that since the Crestwood Place right-of-way was never properly abandoned, this is something that would still need to take place during the platting process, and will require Council approval. This will be the next step if the rezoning request is approved.

Commission Findings. At their regular meeting on February 16, 2023, the Planning and Zoning Commission discussed the standards from which the applicant has requested to vary and determined them to be appropriate given the existing conditions of the campus, the applicant's efforts to improve the site, and the fact that this is a school and not an actual commercial site.

The Commission made a recommendation to **approve** the request with five in favor and two against. The two commissioners voting against had concerns regarding building design and minimum glazing requirements.

The Commission recommended approval with the condition to remove the requirement for a cohesive fence around the perimeter of the school, instead allowing the applicant to decide whether the perimeter fence will eventually be fully or partially wrought iron or wood, board on board, with trim cap, and masonry columns, matching the existing wood fence. This has already been reflected within the sections above and within the PD Ordinance narrative.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDED ACTION:

Planning and Zoning Commission recommend approval of the requested Planned Development as presented.

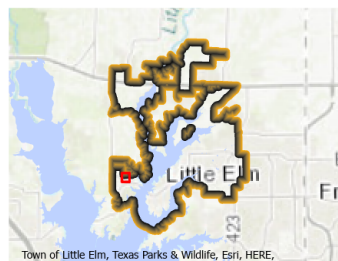
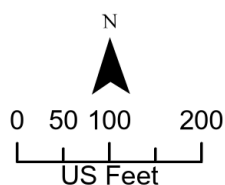
Attachments

Location Map

Ordinance No. 1704 - North Texas Collegiate Academy PD



Zoning Case: North Central
Collegiate Academy
1851 Oak Grove Pkwy
Little Elm, TX 75068



Town of Little Elm
Denton County, Tx
Date: 2/2/2023

This product is to be used for graphical representation only. The accuracy is not to be taken/used as data produced for engineering purposes or by a Registered Professional Land Surveyor for the State of Texas. For this level of detail, supervision and certification of the produced data by a Registered Professional Land Surveyor for the State of Texas would have to be performed. Town of Little Elm and its members assume no responsibility for the accuracy of said data.

**TOWN OF LITTLE ELM
ORDINANCE NO. 1704**

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, BY AMENDING THE ZONING FROM OFFICE DISTRICT, TO A NEW PLANNED DEVELOPMENT – LIGHT COMMERCIAL (PD-LC) DISTRICT IN ORDER TO ALLOW EXPANSION OF AN EXISTING PUBLIC CHARTER SCHOOL CAMPUS, WITH MODIFIED DEVELOPMENT STANDARDS ON 4.219 ACRES OF LAND GENERALLY LOCATED AT 1851 OAK GROVE PARKWAY; PROVIDING A SAVINGS CLAUSE; CORRECTING THE OFFICIAL ZONING MAP; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

WHEREAS, the Town possesses all the rights, powers, and authorities possessed by all home rule municipalities, including the authority to regulate land uses under Chapter 211 of the Texas Local Government Code; and

WHEREAS, a request is made for rezoning to a Planned Development - Light Commercial (PD-LC) with modified development standards approximately 4.219 acres of land, more specifically described in the exhibits, attached hereto; and

WHEREAS, this zoning change is in accordance with the most current adopted Comprehensive Plan of the Town of Little Elm; and

WHEREAS, the Town Council and the Planning & Zoning Commission of the Town of Little Elm, in compliance with the laws of the State of Texas and the ordinances of the Town of Little Elm, have given the required notices and held the required public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the affected area and in the vicinity thereof regarding the requested zoning change described herein; and

WHEREAS, at its regular meeting held on February 16, 2023 the Planning & Zoning Commission considered and made a recommendation to approve this request for

Planned Development - Light Commercial (PD-LC), Case No. PD-22-12898; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning & Zoning Commission and any other information and materials received at the public hearing, the Town Council of the Town of Little Elm, Texas, has determined that the request is in the interest of public health, safety and welfare of the citizens of the Town of Little Elm.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. ZONING AMENDMENT That Ordinance No. 226 of the Town of Little Elm, Texas, the same being the Comprehensive Zoning Ordinance of the Town, is hereby amended by issuing Planned Development-Light Commercial (PD-LC) with modified development standards in order to allow expansion of an existing public charter school campus generally located at 1851 Oak Grove Parkway, within Little Elm Town limits, approximately 4.219 acres of land more particularly described as **Exhibit A**, and attached hereto, subject to all of the terms and conditions set forth herein, the terms and conditions of the Comprehensive Zoning Ordinance, and all other applicable ordinances, laws, rules, regulations, and standards.

SECTION 3. CONDITIONS AND REGULATIONS. The permitted uses and standards shall be in accordance with the Light Commercial (LC) District, unless otherwise specified herein:

- a) The Zoning and Land Use Regulations, and all conditions set forth in **Exhibit B** attached hereto and made a part hereof for all purposes shall be adhered to in their entirety for the purposes of this Planned Development. In the event of conflict between the provisions of **Exhibit B** and provisions of any other exhibit, the provisions of **Exhibit B** control.

SECTION 4. PLANNED DEVELOPMENT MASTER PLAN The Concept Plan Exhibit and related plans, images, and documents approved and described as **Exhibit C** attached hereto and made a part hereof are approved. The subject property shall be improved in accordance with the plans set forth in **Exhibit C**.

- a) If, after two years from the date of approval of the Planned Development Master Plan, no substantial development progress has been made within the PD, then the Planned Development Master Plan shall expire. If the Planned Development

Master Plan expires, a new Planned Development Master Plan must be submitted and approved according to the procedures within the Zoning Ordinance, Planned Development Districts. An extension of the two year expiration shall be granted if a development application for the PD has been submitted and is undergoing the development review process or if the Director of Development Services determines development progress is occurring.

- b) The Planned Development Master Plan shall control the use and development of the property, and all building permits and development requests shall be in accordance with the plan until it is amended by the City Council.
- c) If a change to the Concept Plan, if any, is requested, the request shall be processed in accordance with the development standards in effect at the time the change is requested for the proposed development.

SECTION 5. SAVINGS. This Ordinance shall be cumulative of all other ordinances of the Town, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are indirect conflict with the provisions of this Ordinance; provided, however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances, and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

SECTION 5. ZONING MAP. The official zoning map of the Town shall be amended to reflect the changes in zoning made by this ordinance.

SECTION 6. PENALTY. Any person, firm, or corporation violating any of the provision of this ordinance shall be punished by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 7. SEVERABILITY. The sections, paragraphs, sentences , phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid or unconstitutional, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of the ordinance without the valid parts and to this end the provisions of this ordinance shall remain in full force and effect.

SECTION 8. REPEALER. That all ordinances of the Town of Little Elm in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of that conflict.

SECTION 9. EFFECTIVE DATE. That this Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the Town Charter.

PASSED AND APPROVED by the Town Council of the Town of Little Elm, Texas on the 7th day of March, 2023.

Town of Little Elm, Texas

Curtis Cornelious, Mayor

ATTEST:

Caitlan Biggs, Town Secretary

Exhibit A
Property Description

BEING all of Lot 11, Block F, Lot 6, Block 8, and part of Crestwood Place Right Of Way, Hill Town, Subdivision Unit No. One, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat there of recorded in Volume 3, Page 57, Plat Records, Denton County, Texas, and all of Lot 1, Block A and Lot 1 of Block 8, Texas Education Centers Little Elm Campus Addition, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat thereof recorded in Volume 2014, Page 227 of the plat records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped "4613" found for corner at the southwest corner of said Block 8, said iron rod being in the north Right Of Way line of F.M. No. 720

THENCE N 00°23'02" W following the west line of Block B a distance of 551.62' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner at the northwest corner of said Lot 6, said iron rod being in the south Right Of Way line of Oakland Street;

THENCE N 89°36'58" E following the south Right Of Way line of Oakland Street a distance of 140.00' to to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner at the intersection of the south ROW line of Oakland Street and the west ROW line of Crestwood Place;

THENCE S 00°23'02" E following the west ROW line of Crestwood Place a distance of 200.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner;

THENCE N 89°36'58" E crossing Crestwood Place a distance of 340.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" found for corner in the west ROW line of Greenwood Drive;

THENCE S 00°23'02" E following the west ROW line of Greenwood Drive a distance of 300.00' to 1/2" iron rod found for corner;

THENCE S 89°36'58" W a distance of 340.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner in the west ROW line of Crestwood Place;

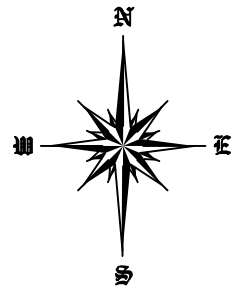
THENCE S 00°23'02" E following the west ROW line of Crestwood Place a distance of 105.80' to a TxDOT monument found for corner;

THENCE S 82°39'48" W following the west ROW line of Crestwood Place a distance of 20.99' to a TxDOT monument found for corner at the intersection of the west ROW line of Crestwood Place and the north ROW line of F.M. No. 720;

THENCE N 64°55'33" W following the north ROW line of F.M. No. 720 a distance of 131.98' to the POINT OF BEGINNING and containing 183,762 Square Feet or 4.219 Acres of land.

Oakland Street

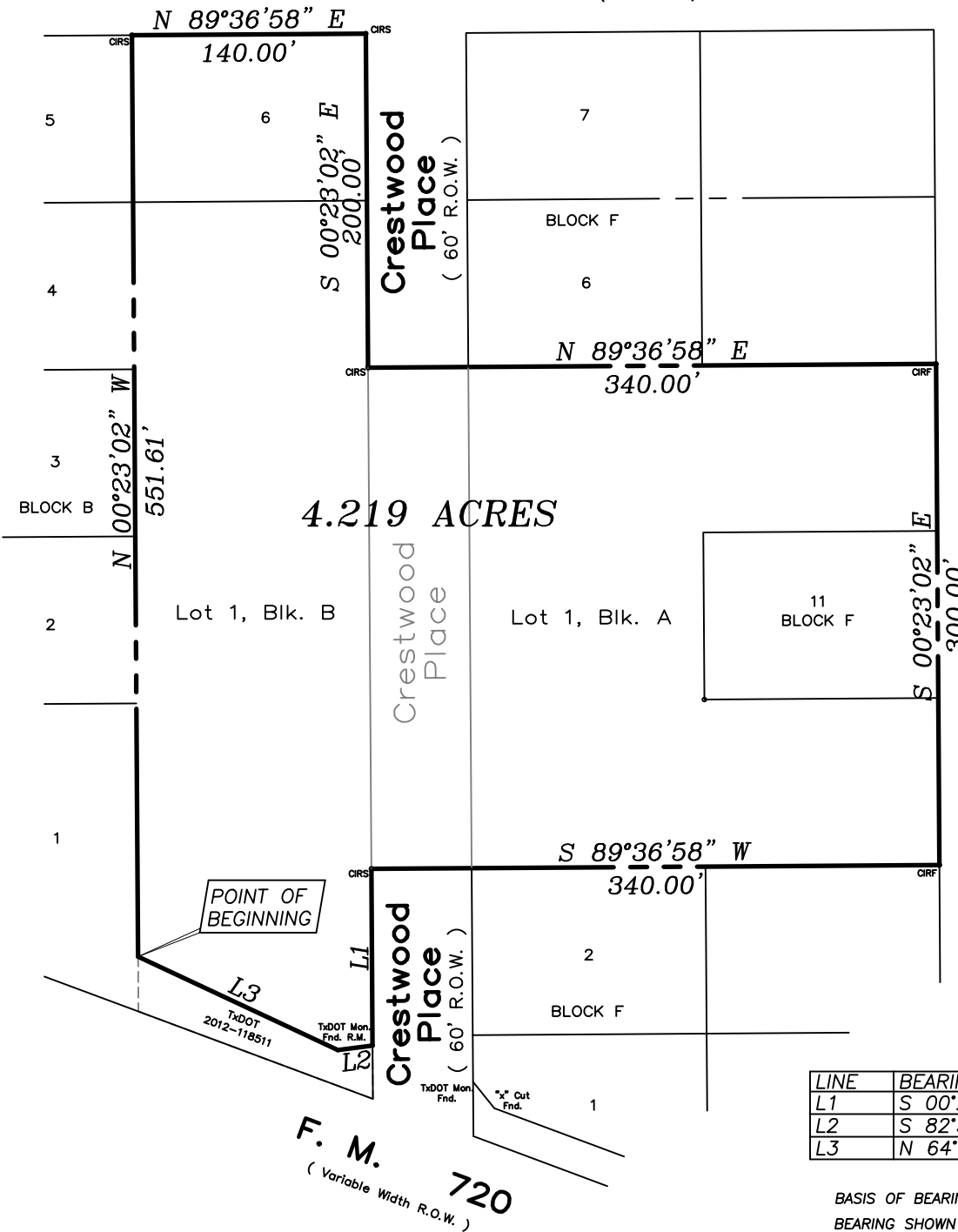
(60' R.O.W.)



NORTH
SCALE 1" = 100'

LEGEND

R.M. = REFERENCE MONUMENT
CIRF = CAPPED 1/2" IRON ROD
FOUND STAMPED "4613"
CIRS = CAPPED 1/2" IRON ROD
SET STAMPED "4613"



LINE	BEARING	DISTANCE
L1	S 00°23'02" E	105.70'
L2	S 82°39'48" W	20.99'
L3	N 64°55'33" W	131.98'

BASIS OF BEARINGS

BEARING SHOWN ARE BASED ON NAD 83
STATE PLANE COORDINATES AS ESTABLISHED
BY GPS USING WESTERN DATA NETWORK.



SURDUKAN SURVEYING, INC.

P.O. BOX 126
ANNA, TEXAS 75409
(972) 924-8200
TEXAS FIRM NO. 10069500



EXHIBIT "A"
PLAN DEVELOPMENT
4.219 ACRES
D. CURE SURVEY
ABSTRACT NO. 226
TOWN OF LITTLE ELM
DENTON COUNTY, TEXAS

SCALE 1" = 100'

DATE: NOVEMBER 30, 2022

SHEET 1 OF 2

JOB NO. 2022-243

LEGAL DESCRIPTION

BEING all of Lot 11, Block F, Lot 6, Block B, and part of Crestwood Place Right Of Way, Hill Town, Subdivision Unit No. One, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat there of recorded in Volume 3, Page 57, Plat Records, Denton County, Texas, and all of Lot 1, Block A and Lot 1 of Block B, Texas Education Centers Little Elm Campus Addition, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat thereof recorded in Volume 2014, Page 227 of the plat records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

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David J. Surdukan

DATE: NOVEMBER 30, 2022

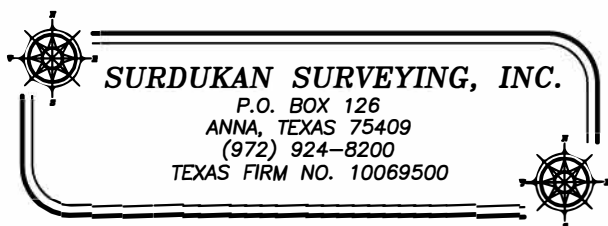


EXHIBIT "A"
PLAN DEVELOPMENT
4.219 ACRES
D. CURE SURVEY
ABSTRACT NO. 226
TOWN OF LITTLE ELM
DENTON COUNTY, TEXAS

Exhibit B
PD Standards



NORTH TEXAS COLLEGIATE ACADEMY

PLANNED DEVELOPMENT SUBMITTAL

February 9, 2023

Prepared By



Ramtech Building Systems, Inc.
Mansfield, TX 76063
817-473-9376

**NORTH TEXAS COLLEGIATE ACADEMY
PLANNED DEVELOPMENT DISTRICT**

INTENT & PURPOSE

This zoning submittal encompasses approximately 4.219 acres of land within the Town of Little Elm, more fully described on the legal description attached as **Exhibit A** (the "Property"). The proposed use for the Property is Educational, as the entirety of the property is and will be used for North Texas Collegiate Academy's East Campus, a public charter school which serves the needs of Pre-K through 8th grade students in Little Elm and the surrounding areas. This Planned Development ("PD") will provide the zoning regulations, as depicted in **Exhibit B**, necessary to redevelop the site; final layout and site improvements must generally conform to **Exhibit C**.

It is the intent of this PD to alter the zoning for the Property from current zoning of Office to Light Commercial (LC) base zoning with modified development standards in order to capture the existing conditions of the site as well as allow expansion and redevelopment of the school campus. Any conflict between this PD and the Zoning Ordinance shall be resolved in favor of those regulations set forth in this PD, or as may be ascertained through the intent of this PD. As used herein, "Zoning Ordinance" means the Little Elm Development Standards, Article VI of the Code of Ordinances in effect on the effective date of this agreement, except as otherwise defined in the agreement. Uses and development regulations specifically modified, designed, or included in the PD shall not be subject to amendment after the date of adoption of this PD (The "Effective Date") (whether through the amendment of the Zoning Ordinance or otherwise), except through an amendment of this PD. Uses and development regulations which otherwise are not specifically modified, designated or included in the PD shall be controlled by the "Zoning Ordinance" unless the context provides to the contrary.

Review and approval of a site plan by the Planning and Zoning Commission and the Town Council (In accordance with Section 107.03 of the Code of Ordinances) shall be required for any tract/lot within the PD district. No certificate of occupancy shall be obtained unless all construction and development conform to the Site Plan as approved by Town Council.

Exhibit B
Development Standards

1. Purpose: The purpose of this Planned Development is to capture all current and future development of North Texas Collegiate Academy's East Campus in one cohesively zoned district. Furthermore, it will establish the standards of design for the currently proposed classroom building (Building F) and gymnasium (Building G).
2. Project Location: The proposed PD site is generally addressed as 1851 Oak Grove Parkway, as Legally defined in Exhibit A and as designed in Exhibit C. It is the intent of this PD that the entire project site be platted as one commercial lot per the Town's Subdivision Ordinance.
3. Use Regulations: The land and premises of the Property, including any current or future building construction or renovation will be exclusively for the Charter School use. Existing and proposed structures include:
 - a. Building A – Administrative/Classroom Building: Existing, to remain as outlined within Exhibit C.
 - b. Building B – Temporary Classroom Building: Existing 1,832 sf one-story structure to be removed within one year of construction completion of Building F. No additional temporary classroom buildings allowed unless approved through a Specific Use Permit (SUP).
 - c. Building C - Temporary Classroom Building: Existing 1,832 sf one-story structure to be removed within one year of construction completion of Building F. No additional temporary classroom buildings allowed unless approved through a Specific Use Permit (SUP).
 - d. Building D – Facilities and Maintenance Building: Existing 1,454 sf one-story structure to be relocated as outlined within Exhibit C.
 - e. Building F - Modular Classroom Building: Proposed approximately 9,700 sf education building with 14 individual classrooms, male and female restrooms, and storage rooms as outlined within Exhibit C. The building will be constructed modularly, but will be installed on an engineered concrete slab foundation, clad with brick and stone, and finished out in a manner that will be indistinguishable from a site-constructed building.
 - f. Building G - School Gymnasium Building: Proposed approximately 11,500sf gymnasium building, with full-size basketball/volleyball court, four additional classrooms, male and female restrooms, and minimal storage and office space as outlined within Exhibit C. [As it is currently contemplated, more than 2,500sf of classroom, corridor and bathroom space will be constructed and designated as a storm shelter.]
 - g. Storage Shed - The existing 320 sf red storage shed will be demolished and removed. No additional accessory structures allowed.
4. Base Zoning District: The permitted uses and standards of the development shall be in accordance with the Light Commercial (LC) zoning as defined in the Zoning Ordinance, unless otherwise specified in the PD regulations. The charter school use, as described herein shall be allowed by right.
5. Height and Area Regulations: This Planned Development shall follow and conform to the Height and Area requirements defined by the Light Commercial district development standards.

6. Conceptual Site Plan: The proposed site plan for the abovementioned classroom building and gymnasium is detailed on Exhibit C. The development will include cohesive design elements that are largely consistent with the requirements of Light Commercial zoning.

The Concept Plan attached hereto as part of Exhibit C, and incorporated herein by reference, demonstrates potential locations the uses and structures permitted under this PD. An amendment to a concept plan approved as a part of the ordinance establishing the planned development district is a change in zoning district classification and must follow the same procedures set forth in Section 106.04.03, except the Director of Development Services may approve minor revisions which do not alter the basic relationship of the proposed development.

7. Architectural Design Standards: All applicable provisions of Sec. 106.06.05 – Architectural Standards for Commercial Structures (Includes Office, Retail, Commercial, Mixed Use, etc.), shall be met unless otherwise stated herein.
- a. Architectural design and standards for existing buildings to remain on campus, Building A and Building D, are captured through Exhibit C. Building D, however, upon relocation, will be painted to match the rest of the primary buildings on campus, installed with underpinning foundation, with an aesthetically compatible skirt to hide the ground supports.
 - b. Proposed Building F and Building G shall be designed and constructed in a manner that will endure and remain attractive long-term. Building F shall be constructed as shown on the Façade Plans within Exhibit C. Building G Façade Plans are not provided at the time of PD due to ongoing redesign efforts in conjunction with the current building code requirements for school storm shelters. However, the exterior design and construction of Building G shall be compatible with Building F as described herein.
 - i. Building F. Shall be clad with 100% masonry materials on the exterior, entirely comprised of brick and split-face block to match the existing Building A, with at least 60% brick and 40% split face block, and is detailed on the Façade Plan in Exhibit C. Tri-partite design will be met through provision of split-face wainscot base, brick middle section and split-face top band. Each exterior wall will have multiple windows, but for classroom safety reasons, the glazing will total approximately 8% of the total façade. Primary facades shall only be required to provide horizontal articulation. Building F shall be design inclusive of a 1' parapet wall around the entire perimeter of the building to shield any view of the flat membrane roof. Window awnings as well as accented windows and doors shall count toward any additional auxiliary architectural requirements. Any roof or ground-mounted mechanical equipment shall be screened from offsite.
 - ii. Building G. In order to accommodate a new storm shelter, and to fulfill the exterior masonry requirements, the gymnasium building will also be clad with a combination of brick and split-face block, in a similar ratio to that of Building F. The classroom portion of the gym building was initially expected to include windows with awnings, but per 106.06.05(c), they may be converted to faux windows, as that portion of the building will likely house the storm shelter. There are no windows contemplated where the court and bleachers reside, as they wouldn't be safe or appropriate for that space. The building's exterior is not currently designed to have horizontal articulations, but it will

have a standing seam pitched roof that will count as a vertical articulation per 106.06.05(f). Awnings above the windows to enhance the front façade shall fulfill the auxiliary architectural requirements As with Building F, Building G's roof or ground-mounted mechanical equipment will be screened in a way that shields it from offsite view.

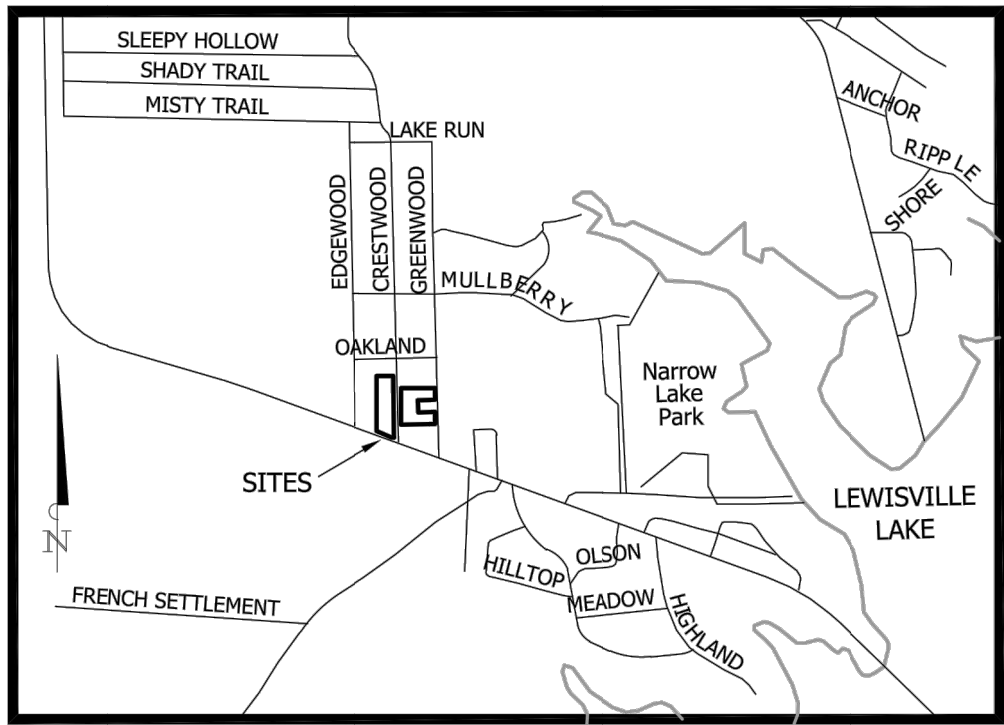
8. Commercial Landscape and Screening Requirements. All applicable provisions of Sec. 106.06.18 – Commercial Landscape Requirements and Sec. 106.06.31 - Screening, shall be met unless otherwise stated herein or shown within Exhibit C.

Project area landscaping shall be improved as shown within Exhibit C as well as outline below:

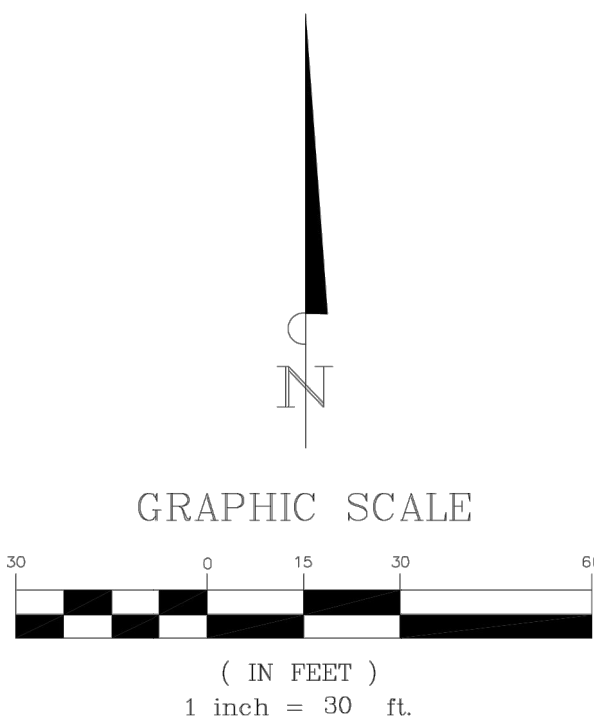
- a. Enhanced landscaping along F.M. Road 720 frontage, specifically planting bed around the monument sign, enhanced shrub plantings for vehicular screening, and uplit trees at the school's entrance gate.
 - b. Enhanced site canopy is provided by way of perimeter trees and landscaped parking islands, with all trees provided at 4 inch caliper, and double row of trees along residential adjacency as shown in Exhibit C.
 - c. Enhanced vehicular screening at Crestwood Place and Greenwood Drive
 - d. Foundation planting provided along 75% of Building F and Building G facades
 - e. The existing playground on the property will be removed, and a new commercial-grade playground will be installed adjacent to Building F. It will be fully shaded with custom built awnings.
 - f. Either wrought iron, or wood board on board fence, with cap, and masonry columns, matching the existing fence conditions on site, shall be installed as the perimeter screen with shrubs planted as shown in Exhibit C.
9. Parking standards. All applicable provisions of Division 4. - Parking, Stacking, And Loading Standards, shall be met unless otherwise stated herein or shown within Exhibit C. Parking space dimensions shall be 9 ft by 18 ft and one of the parking lot landscape islands shall be met by provision of a bump-out and adequate shade tree planting.

Exhibit C
Development Plans

B:\Clients\094 (Ramtech Building Systems)\094-22-002 (NTCA - Little Elm)\Survey\094-22-002 Survey Base.dwg
10/7/2022 4:27:55 PM



VICINITY MAP
NOT TO SCALE
LITTLE ELM, TEXAS



EDGEWOOD PLACE
60' RIGHT-OF-WAY
VOLUME 3, PAGE 57, P.R.D.C.T.

LEGEND

O.P.R.D.C.T.
OFFICIAL PUBLIC RECORDS
DENTON COUNTY, TEXAS

D.R.D.C.T.
DEED RECORDS
DENTON COUNTY, TEXAS

P.R.D.C.T.
PLAT RECORDS
DENTON COUNTY, TEXAS

- GREASE TRAP
- AIR CONDITIONER UNIT
- UTILITY PIN FLAG
- GAS MANHOLE
- GAS MARKER
- GAS METER
- TRANSFORMER
- ELECTRIC METER
- TELEPHONE RISER
- MAIL BOX
- SIGN
- POWER POLE
- LIGHT
- SANITARY SEWER MANHOLE
- CLEAN-OUT
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- WATER MANHOLE
- FIRE WATER CONNECTION
- IRRIGATION CONTROL VALVE
- TRAFFIC SIGNAL
- BOLLARD
- GRATE INLET
- STORM MANHOLE
- N NORTH/NORTHING
- S SOUTH
- E EAST/EASTING
- W WEST
- DEGREES
- MINUTES/FEET
- SECONDS/INCHES

FEMA ZONE
~500'~
FEMA BASE FLOOD ELEVATION

TITLE COMMITMENT ITEM
-Ex.GAS- GAS LINE
-Ex.WL- WATER LINE
-Ex.SS-SEWER LINE
-Ex.SP-STORM DRAIN LINE
-Ex.OH-OVERHEAD UTILITY
-Ex.TEL- UNDERGROUND TELEPHONE
-Ex.LUG-BURIED ELECTRIC
-Ex.CATV-BURIED CABLE LINE
-Ex.FOC-BURIED FIBER OPTIC
-CDRL- GUARD RAIL
-CHLK- CHAIN LINK FENCE
-WIRE- WIRE FENCE
-WOOD- WOOD FENCE
-METAL- METAL FENCE
-IRON- IRON FENCE
-PIPE- PIPE RAIL FENCE
-SILT- SILT FENCE
-GUY- GUY WIRE

GENERAL NOTES:

1. The tract shown herein and described above was not abstracted by the surveyor. Additional easements or other encumbrances, whether of record or not may affect the subject tract.

2. According to surveyor's interpretation of information shown on the National Flood Insurance Program (NFIP) "Flood Insurance Rate Map" (FIRM), Community Panel No. 48121C0415G, dated April 18, 2011. The property appears to lie within Zone "X" and the entire property lies within a "Areas determined to be outside the 0.2% annual chance floodplain" zone as defined by the U.S. Department of Housing and Urban Development, Federal Insurance Administration, or the Federal Emergency Management Agency.

3. The above referenced "FIRM" map is for use in administering the "NFIP"; it does not necessarily show all areas subject to flooding, particularly from local sources of small size, which could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. There may be other streams, creeks, low areas, drainage systems or other surface or subsurface conditions existing on or near the subject property which are not studied or addressed as a part of the "NFIP".

4. The surveyor has made no attempt to locate or define hazardous waste areas, habitats, endangered species or any other environmentally sensitive areas on the tract of land shown hereon; nor does this survey make any representations of being an environmental assessment of the tract of land shown hereon.

5. The surveyor has made no attempt to locate or define archeological sites, historical sites or undocumented cemeteries on the tract of land shown hereon; nor does this survey make any representation of being an archeological or historical survey of the tract of land shown hereon.

6. The surveyor has made no attempt to locate abandoned or plugged oil and gas wells, or any other wells on the tract of land shown hereon; nor has the surveyor made any attempt to research same with the Railroad Commission of Texas or any other State agency; nor has the surveyor investigated any mineral or royalty interests in the tract of land shown hereon.

7. Existing utilities shown hereon are from above ground visible features coupled together with maps and plans provided to the surveyor. The surveyor does not make any representation of being a Quality Level A or B sub-surface utility survey of the tract of land shown hereon.

8. All found monuments shown hereon are deemed to be controlling monuments.

9. All bearings shown herein are Texas State Plane Coordinate System, NAD83 (2011), Texas North Central Zone (4202). All distances shown herein are surface distances.

10. **SOURCE BENCHMARK:** Little Elm Monument 8, being located in the grass area on the Northeasterly side of the Town of Little Elm Eldorado West Lift Station on the North side of W. Eldorado Parkway the station is 128.30 feet Southwest of a power pole and is 33.3 feet Northeasterly of a sewer manhole and is 42.5 feet East of the Northeasterly corner of a stone screen wall around said lift station.

Elevation = 551.35'

11. **This survey was prepared without the benefit of title encumbrance research.**



Know what's below.
Call before you dig.
(@ least 48 hours prior to digging)

PROJECT: Lot 1, Block A and Lot 1, Block B
Texas Education Centers Little Elm Campus
Being out of the
D. Cule Survey, Abstract No. 226
Town of Little Elm, Denton County, Texas

PARTIAL
TOPOGRAPHIC
SURVEY

PROJECT NO.:
094-22-002

SCALE: 1" = 30'

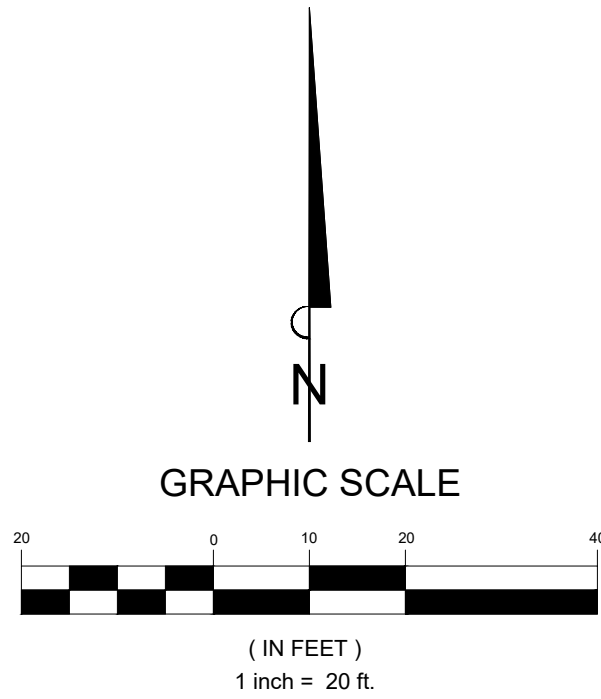
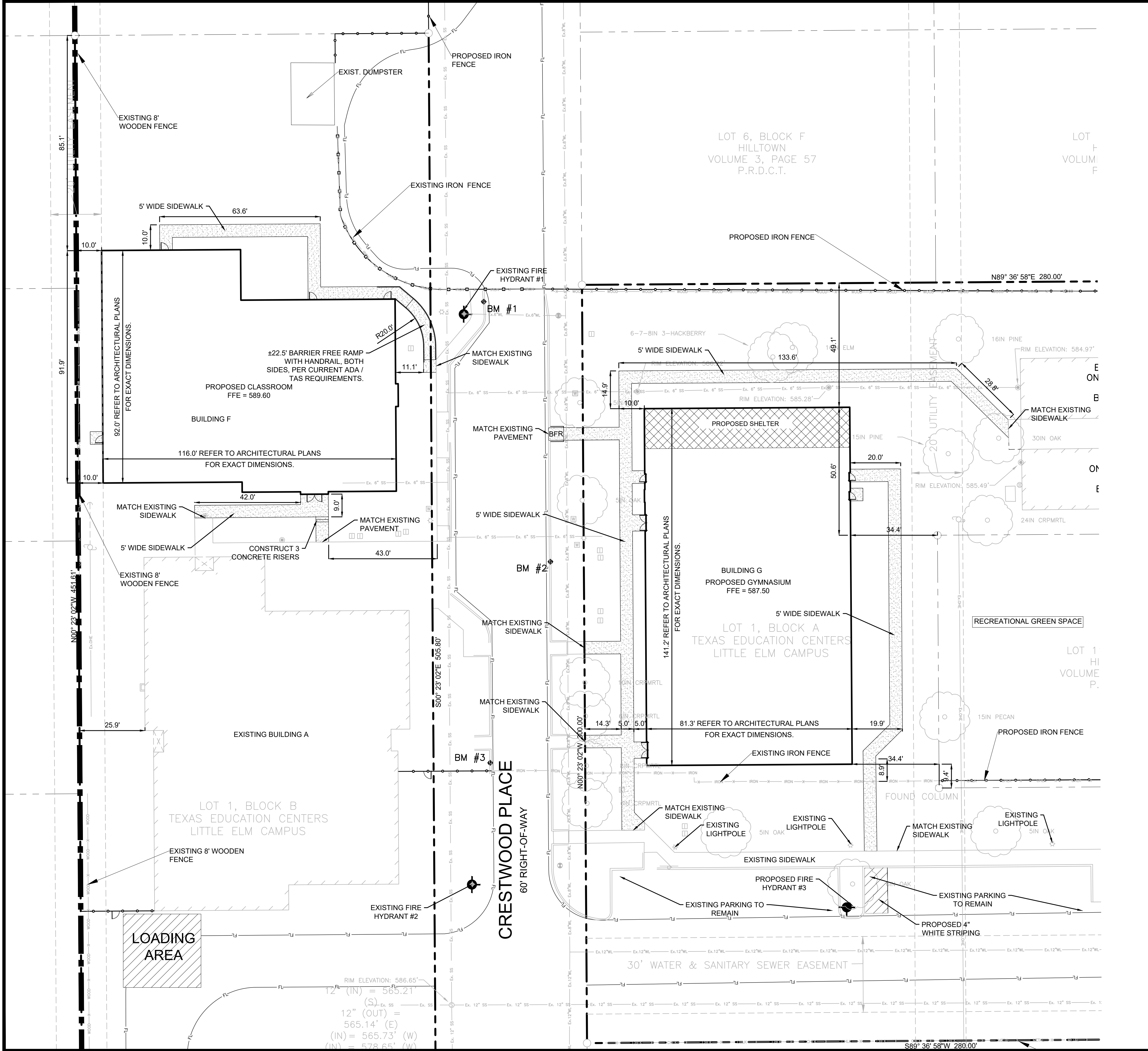
DRAWN BY: sa

CKD BY: md2





SHEET NUMBER

1 OF 1

BANNISTER
ENGINEERING
240 North Mitchell Road | Mansfield, TX 76063 | 817.842.2094 | 817.842.2095 fax
TBPLS REGISTRATION NO. 10193823



LEGEND

	SIDEWALK/FLATWORK
	ACCESSIBLE PARKING SPACE
BFR	BARRIER FREE RAMP
LBJ	LONGITUDINAL BUTT JOINT
	FIRE HYDRANT
	FIRE LANE

NOTES

1. ALL DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
2. REFER TO ARCHITECTURAL PLANS FOR EXACT BUILDING DIMENSIONS. BUILDING DIMENSIONS SHOWN ON THIS PLAN ARE FOR REFERENCE ONLY.
3. REFER TO GENERAL NOTES SHEET FOR ADDITIONAL NOTES.
4. ALL SIDEWALKS TO BE CONSTRUCTED WITH A MAXIMUM CROSS SLOPE OF 2.0%.

NOTES TO CONTRACTOR

1. INFORMATION ON THIS SHEET AND OTHER SHEETS THROUGHOUT THIS PLAN SET IS PART OF A UNIFIED DESIGN. THE CONTRACTOR SHALL NOT SEPARATE DRAWINGS FROM THE SET FOR DISTRIBUTION TO SPECIFIC DISCIPLINES. EACH SUBCONTRACTOR SHALL BE PROVIDED WITH ALL SHEETS WITHIN THIS PLAN SET.
2. CONTRACTOR SHALL REFERENCE GENERAL NOTES SHEET FOR ADDITIONAL INFORMATION. INFORMATION ON THE GENERAL NOTES SHEET IS PART OF A UNIFIED DESIGN AND IS PERTINENT TO THIS PLAN SHEET.
3. CONTRACTOR SHALL REFERENCE ALL IRRIGATION PLANS, MEP SITE PLANS, AND CIVIL ENGINEERING UTILITY PLANS FOR INFORMATION REGARDING SLEEVES BENEATH PAVEMENT.

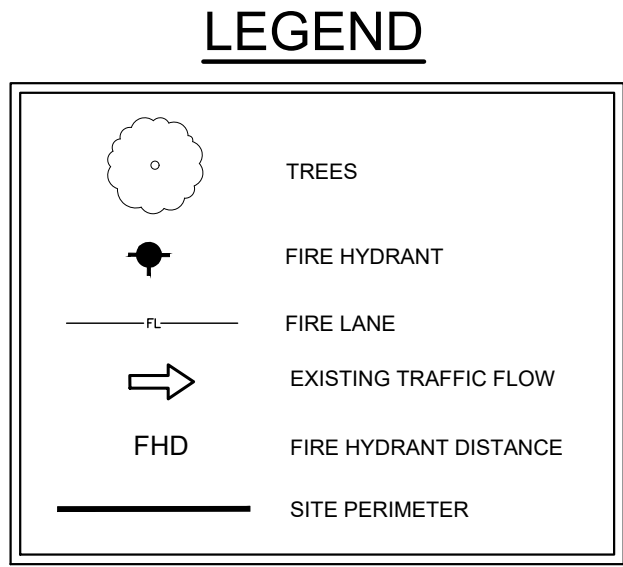
BENCHMARKS

BM #1:
SET X-CUT IN CONCRETE
N:7110619.551
E:2437359.562
ELEV.=587.14

BM #2:
SET X-CUT IN CONCRETE
N:7110516.674
E:2437385.936
ELEV.=587.13

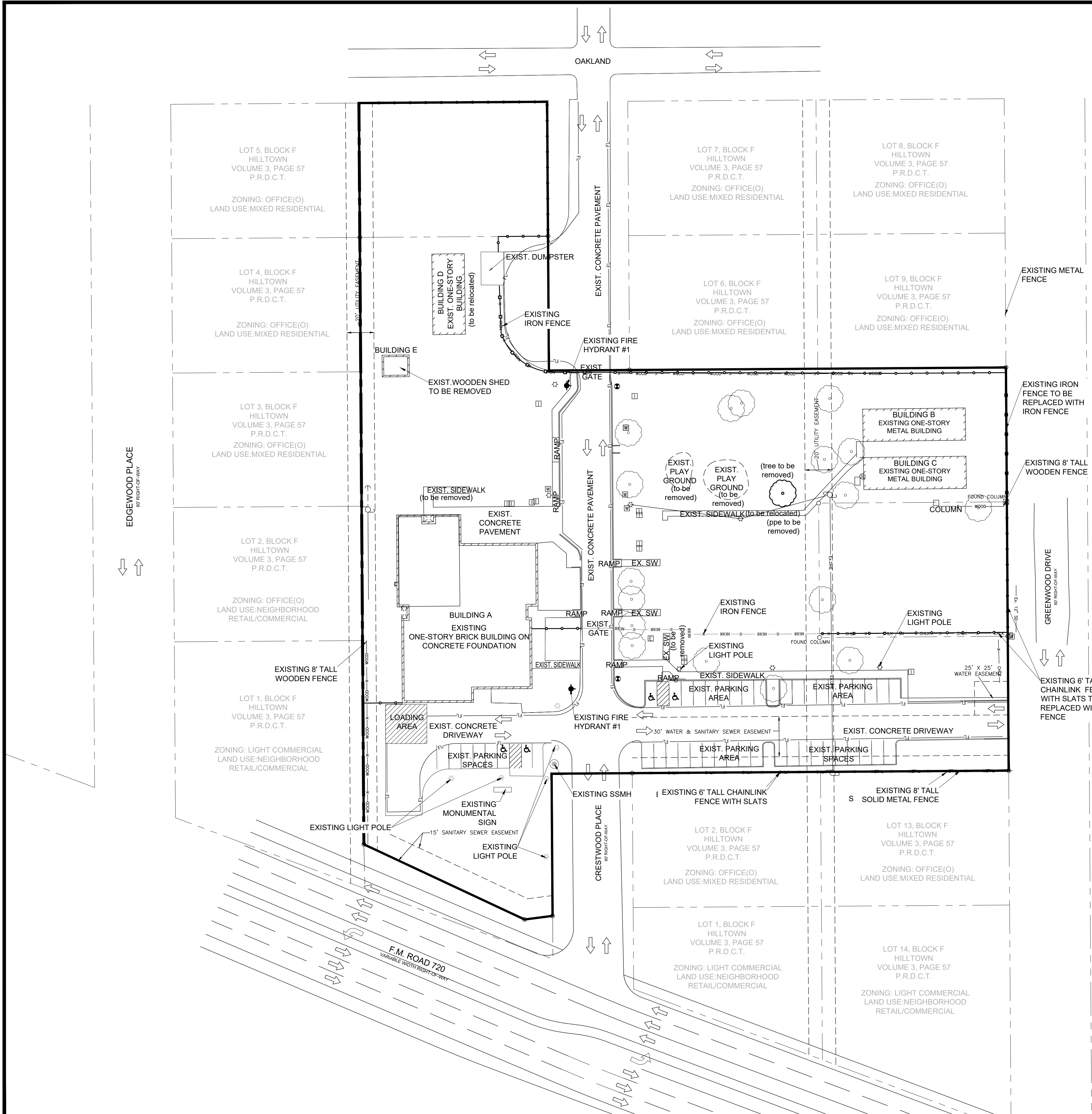


Know what's below.
Call before you dig.
(@ least 48 hours prior to digging)



D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS

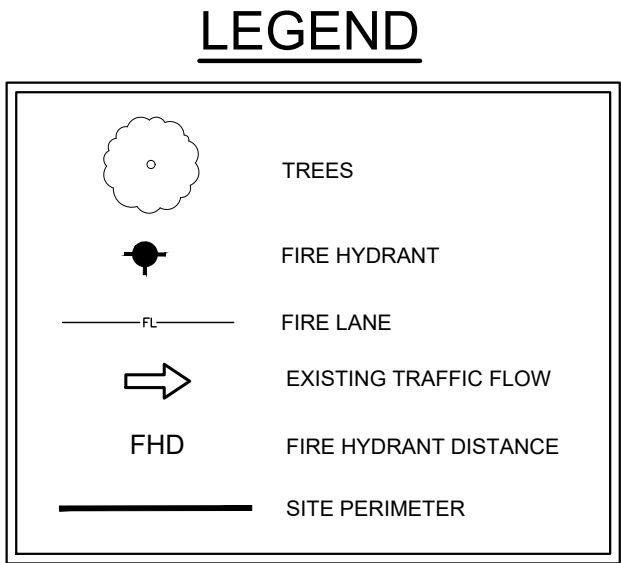
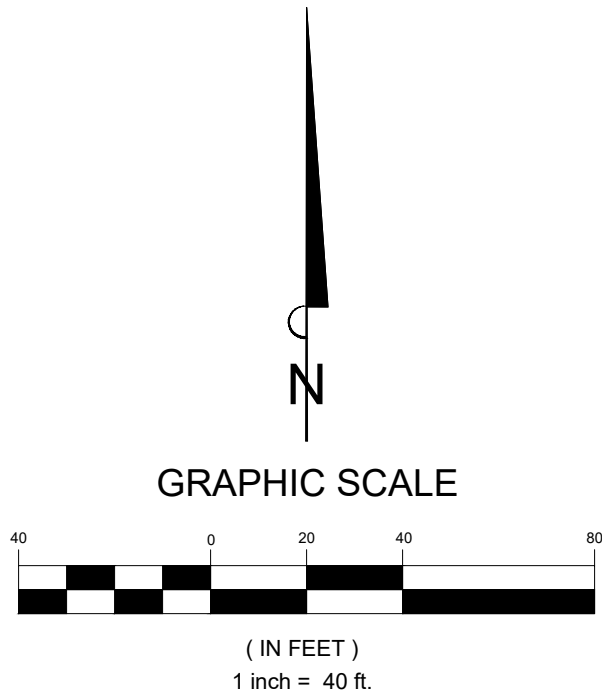
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SITE PLAN PHASE 2- RELOCATION AND DEMOLITION

LOT 1, BLOCK A - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 1, BLOCK B - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 11, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T.
LOT 6, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T

D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS



TEXAS EDUCATION CENTERS
LITTLE ELM CAMPUS
1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS
SITE PLAN PHASE 2
RELOCATION AND DEMOLITION

No.	Date	Revision Description

PROJECT NO.: 094-22-002

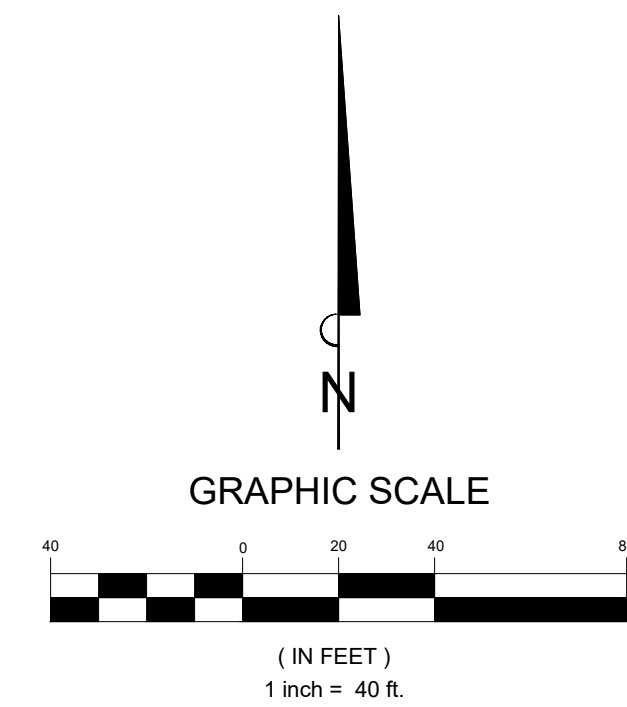
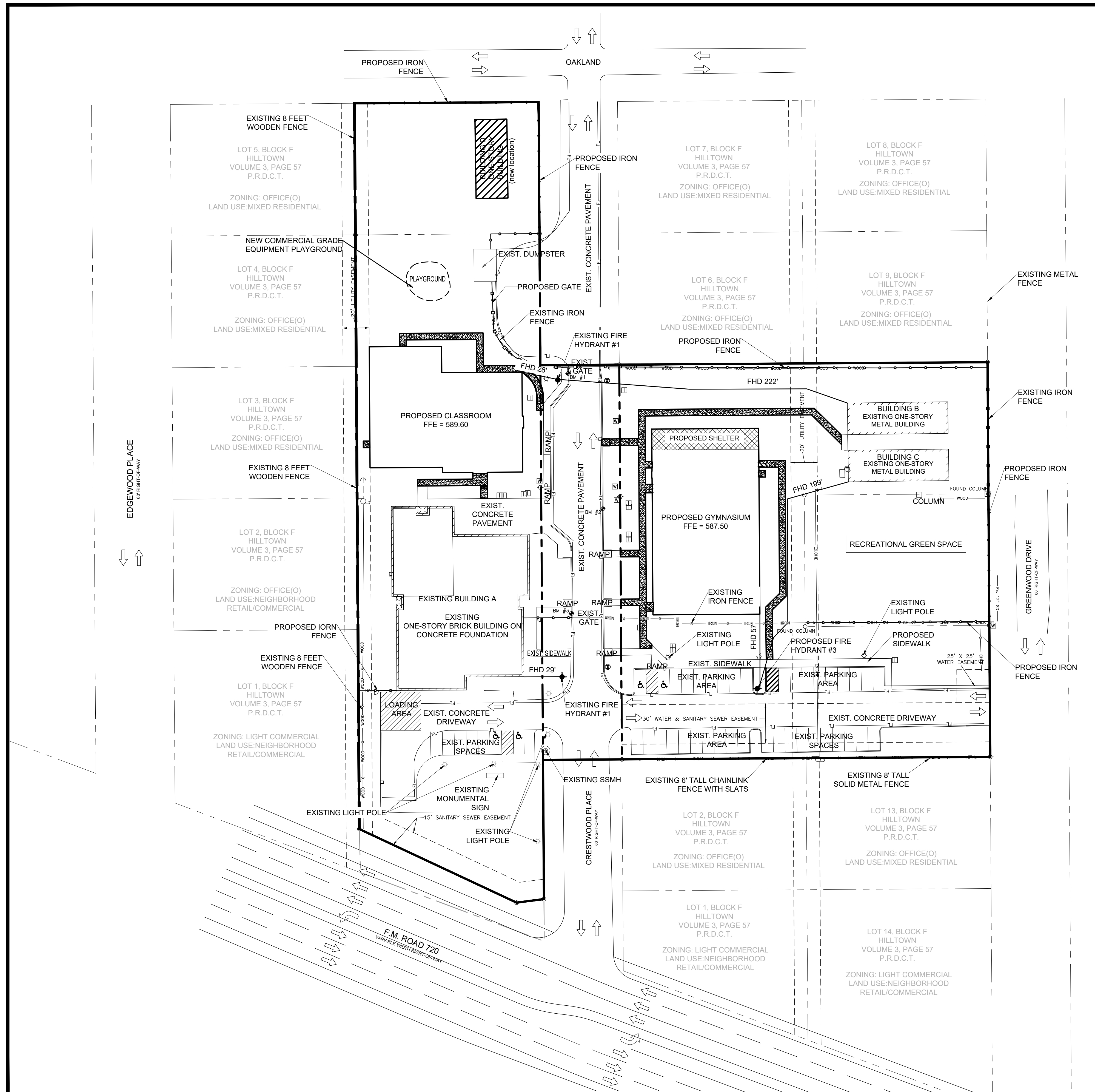
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Engineer HECTOR J. SOTELO, P.E.
P.E. No. 104800 Date FEB 09, 2023

SHEET NUMBER
CS-2



LEGEND

	FIRE HYDRANT
	FIRE LANE
	EXISTING TRAFFIC FLOW
FHD	FIRE HYDRANT DISTANCE
	SITE PERIMETER

SITE PLAN PHASE 3- PROPOSED CONDITION

LOT 1, BLOCK A - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
 LOT 1, BLOCK B - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
 LOT 11, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T.
 LOT 6, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T

D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS

REBANNISTER
ENGINEERING
240 North Mitchell Road | Mansfield, TX 76063 | 817.842.2094 | 817.842.2095 fax
REGISTRATION # E-10599 (TEXAS)

**TEXAS EDUCATION CENTERS
LITTLE ELM CAMPUS
1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS**

**SITE PLAN PHASE 3
PROPOSED CONDITIONS**

[illegible]

PRELIMINARY

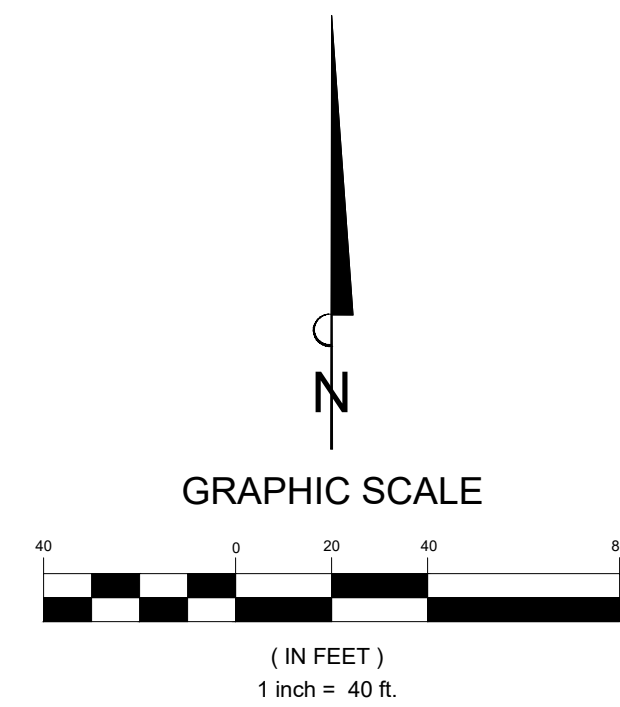
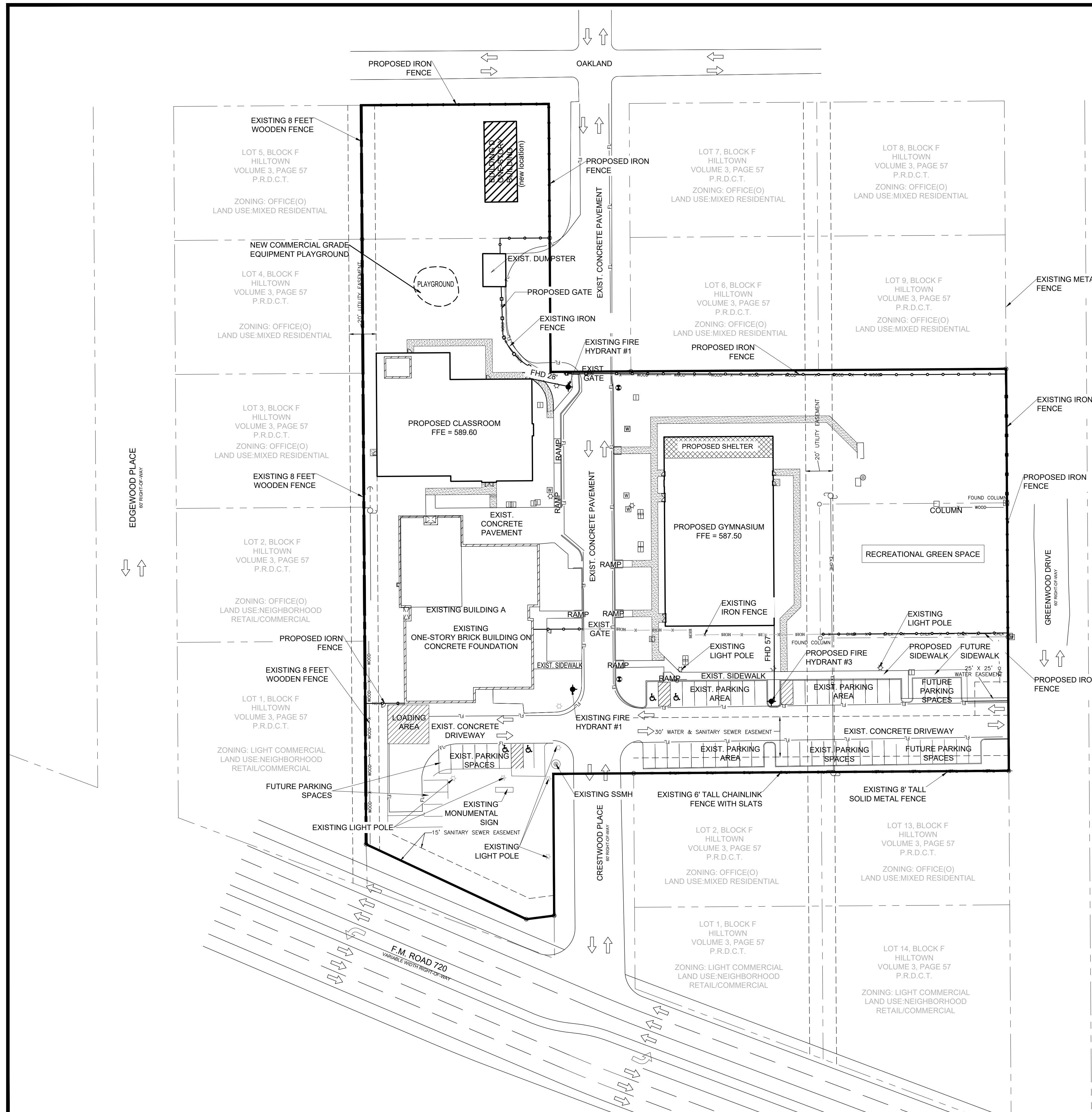
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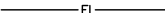


Engineer HECTOR J. SOTELO, P.E.
P.E. No. 104800 Date FEB 09, 2023

SHEET NUMBER

CS-3



LEGEND

	FIRE HYDRANT
	FIRE LANE
	EXISTING TRAFFIC FLOW
FHD	FIRE HYDRANT DISTANCE
LP	EXISTING TREES TO REMAIN
	SITE PERIMETER

SITE PLAN PHASE 4- ULTIMATE CONDITION

LOT 1, BLOCK A - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
 LOT 1, BLOCK B - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
 LOT 11, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T.
 LOT 6, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T

D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS

TEXAS EDUCATION CENTERS

LITTLE ELM CAMPUS

OAK GROVE PARKWAY
LITTLE ELM, TEXAS

SITE PLAN PHASE 4

[illegible]

PROJECT NO: 094-22-002

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P.E. No. 104800 Date FEB 09, 2023

SHEET NUMBER

CS-4

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PARKING SUMMARY TABLE 1 (ULTIMATE CONDITION)	
EXISTING ZONING	OFFICE (O)
LOT COVERAGE	3.83 ACRES
PARKING	
° REQUIRED 1 PER CLASSROOM	23 SPACES
° REQUIRED GYM (1 PER 4 SEATS) (150 SEATS/ 4)	38 SPACES
TOTAL REQUIRED	61 SPACES
EXISTING	61 SPACES
FUTURE	61 SPACES
° HANDICAPPED PARKING	
HC PARKING REQUIRED	3 SPACES
HC PARKING PROVIDED (INCLUDED)	4 SPACES

SITE DATA SUMMARY TABLE 2 (ULTIMATE CONDITION)						
BUILDING ID	CONDITION	BUILDING USE	LAND USE	SIZE IN S.F.	NO OF CLASSROOM	NO OF ASSEMBLY SEATS
BUILDING A	EXISTING	CLASSROOM/ CAFETERIA/ASSEMBLY	COMMERCIAL	9,714	5	141 **
BUILDING B	EXISTING	CLASSROOM TO BE REMOVED	MIXED RESIDENTIAL	1,832	N/A *	N/A
BUILDING C	EXISTING	CLASSROOM TO BE REMOVED	MIXED RESIDENTIAL	1,831	N/A *	N/A
BUILDING D	EXISTING	MAINTENANCE	MIXED RESIDENTIAL	1,454	N/A	N/A
BUILDING F	PROPOSED	CLASSROOM BUILDING	NEIGHBORHOOD RETAIL/COMMERCIAL	12,321	14	N/A
BUILDING G	PROPOSED	CLASSROOM/ GYM	MIXED RESIDENTIAL	11,482	4	150 **
TOTAL				38,634	23	291

NOTES

1. * CLASSROOMS WILL BE REMOVED IN ULTIMATE PHASE

2. ** PARKING REQUIREMENT FOR CLASSROOM AND GYMNASIUM IS CONSIDERED ONE USE AT A TIME

LOT & BLOCK DATA SUMMARY TABLE 3	
LOT	SIZE (ACRES)
LOT 1, BLOCK A	1.60
LOT 1, BLOCK B	1.55
LOT 11, BLOCK F	0.35
LOT 6, BLOCK F	0.32
TOTAL	3.83

SITE PLAN PHASE 4- SITE DATA TABLES

LOT 1, BLOCK A - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 1, BLOCK B - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 11, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T.
LOT 6, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T

D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS

TEXAS EDUCATION CENTERS
LITTLE ELM CAMPUS
1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS

SITE DATA TABLES

No.	Date	Revision Description
PROJECT NO.: 094-22-002		

PRELIMINARY

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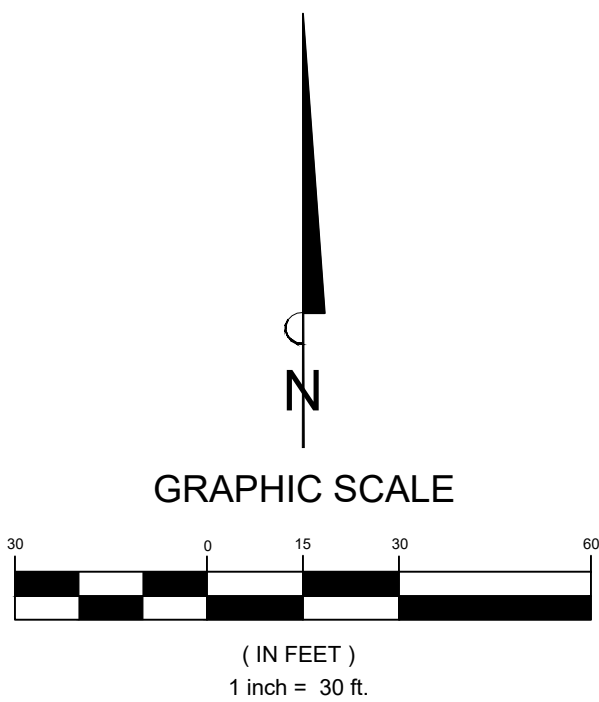
SHEET NUMBER

CS-5



PLANT SCHEDULE							
TREES	CODE	QTY	BOTANICAL / COMMON NAME	CONT	CAL	SIZE	NOTES
		30	EXISTING TREE TO REMAIN	N/A			
	PC	12	PISTACIA CHINENSIS / CHINESE PISTACHE	45 GAL.	4"	10'-12'	FULL MATCHING, SYMMETRICAL
	QM	16	QUERCUS MUEHLENBERGII / CHINKAPIN OAK	45 GAL.	4"	10'-12'	FULL MATCHING, SYMMETRICAL
	QS	7	QUERCUS SHUMARDII / SHUMARD RED OAK	45 GAL.	4"	10'-12'	FULL MATCHING, SYMMETRICAL
	QV	15	QUERCUS VIRGINIANA / SOUTHERN LIVE OAK	45 GAL.	4"	10'-12'	FULL MATCHING, SYMMETRICAL
	UC	6	ULMUS CRASSIFOLIA / CEDAR ELM	45 GAL.	4"	10'-12'	FULL MATCHING, SYMMETRICAL
SHRUBS	CODE	QTY	BOTANICAL / COMMON NAME	CONT	SIZE	SPACING	NOTES
	SA	29	/ EXISTING BURFORD HOLLY TO REMAIN	N/A			
	HP	4	HESPERALOE PARVIFLORA / RED YUCCA	3 GAL	24" HT	PER PLAN	FULL MATCHING, SYMMETRICAL
	ID	221	ILEX CORNUTA 'DWARF BURFORD' / DWARF BURFORD HOLLY	3 GAL.	36" HT	PER PLAN	FULL MATCHING, SYMMETRICAL
	IN2	2	ILEX X 'NELLIE R STEVENS' / NELLIE STEVENS HOLLY	15 GAL.	48" HT	PER PLAN	FULL MATCHING, SYMMETRICAL
	JA	41	JUNIPERUS HORIZONTALIS 'ANDORRA' / ANDORRA JUNIPER	3 GAL.	12" HT	2' O.C..	FULL MATCHING, SYMMETRICAL
	LG	25	LEUCOPHYLLUM FRUTESCENS 'GREEN CLOUD' TM / GREEN CLOUD TEXAS RANGER	3 GAL	36" HT	PER PLAN	FULL MATCHING, SYMMETRICAL
	MC	44	MUEHLENBERGIA CAPILLARIS / PINK MUHLY	3 GAL	24" HT	PER PLAN	FULL MATCHING, SYMMETRICAL
	NT	18	NASSELLA TENUISSIMA 'PONY TAILS' / MEXICAN FEATHER GRASS	1 GAL	12" HT	PER PLAN	FULL MATCHING, SYMMETRICAL
SHRUB AREAS	CODE	QTY	BOTANICAL / COMMON NAME	CONT	HEIGHT	SPACING	NOTES
	NP3	75	NASSELLA TENUISSIMA 'PONY TAILS' / MEXICAN FEATHERGRASS	1 GAL.	12" HT	24" O.C.	FULL MATCHING, SYMMETRICAL
GROUND COVERS	CODE	QTY	BOTANICAL / COMMON NAME	NOTES			
	CT	AS NEEDED	CYNODON DACTYLON 'TIF 419' / BERMUDA GRASS	SOD			
	EP	AS NEEDED	EUONYMUS COLORATUS / PURPLE WINTERCREEPER	1 GAL., 16" O.C., TRIANGULAR SPACING.			

- CONTRACTOR TO REMOVE AND REPAIR EXISTING IRRIGATION SYSTEM DAMAGED DUE TO CONSTRUCTION.
- CONTRACTOR TO INSTALL AND MODIFY EXISTING IRRIGATION SYSTEM AS NEEDED INCLUDING ADDING NEW ZONES, BUBBLERS, SPRAY HEADS, DRIP IRRIGATION AND CONFIRMING EXISTING CONTROLLER CAN HANDLE ADDITIONAL ZONES IF NEEDED AND REPLACE IF NEEDED.



Know what's below.
Call before you dig.
 (@ least 48 hours prior to digging)

BENCHMARKS

BM #1:
SET X-CUT IN CONCRETE
N:7110619.551
E:2437359.562
ELEV.=587.14'

BM #2:
SET X-CUT IN CONCRETE
N:7110516.674
E:2437385.936
ELEV.=587.13'

LITTLE ELM CAMPUS
1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS

LANDSCAPE PLAN

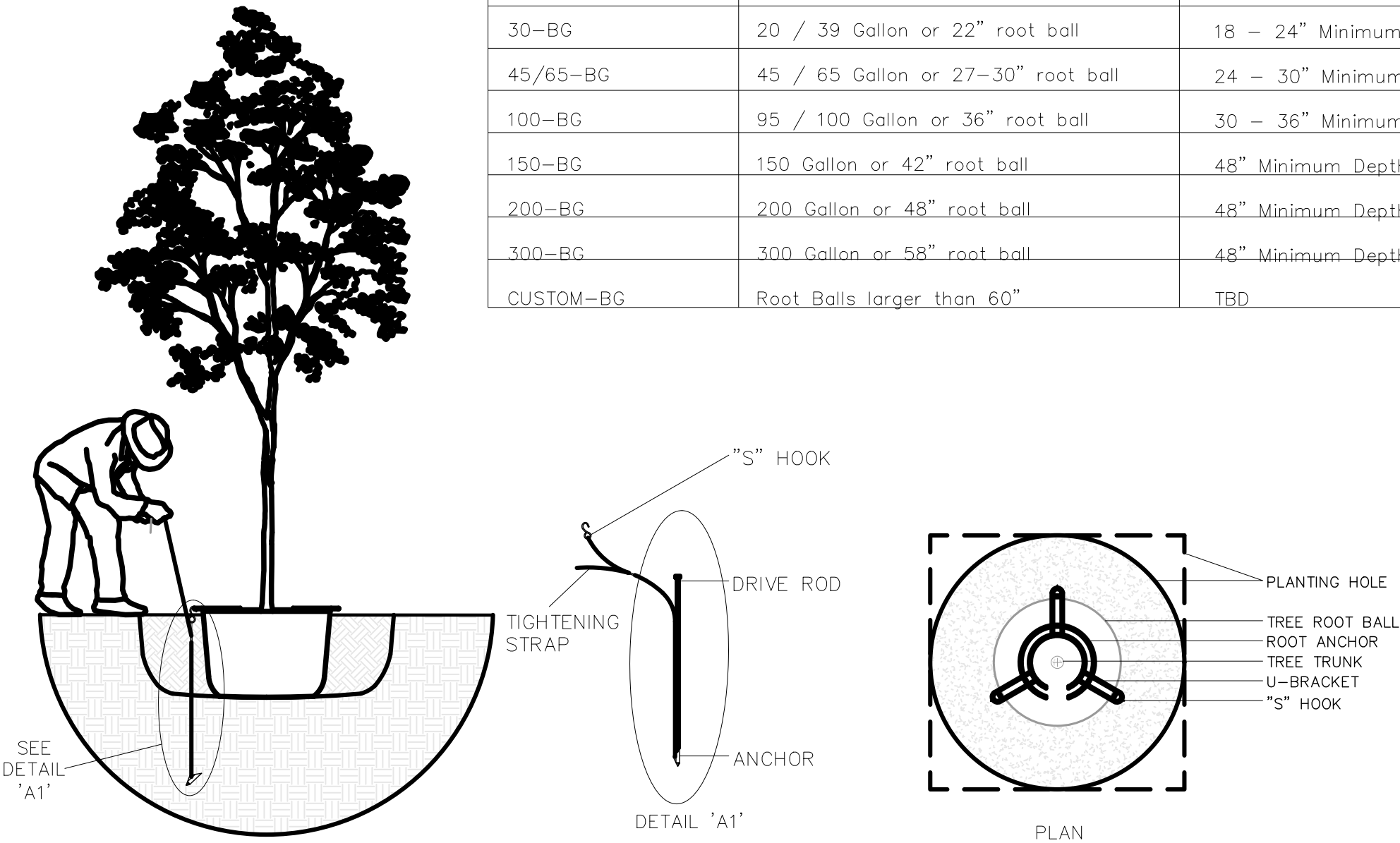


SHEET NUMBER

L-1.0

GENERAL NOTES :

1. Locate all utilities prior to digging. Contractor shall be responsible for all damage incurred by his/her work.
2. Contractor shall advise the Owner and Landscape Architect of any condition found on site which prohibits installation as shown on these plans.
3. If a discrepancy between drawings and plant schedule is found, the drawings shall take precedent over the plant schedule.
4. Plant material shall comply with all sizing and grading standards of the latest edition of 'American Standard for Nursery Stock.'
5. Contractor shall stake out tree locations and bed configuration for approval by Owner prior to installation.
6. Substitutions shall not be made without prior written authorization from the Owner or Landscape Architect.
7. All disturbed areas not indicated as planting beds shall be sodded or seeded by Contractor to provide an established turf area.
8. Contractor shall remove reasonable amount of stones, dead roots, detritus and other undesirable material from existing soil.
9. If rocks are encountered, remove to a depth of 3" and add 3" of friable fertile topsoil to all sodded areas. Contractor to ensure that site is graded according to the Engineer's grading plan.
10. Lawn areas shall have 3" minimum friable topsoil and be treated with fertilizer applied at a rate of 20 pounds per 1,000 square feet.
11. Soil preparation for planting beds shall be as follows:
 - 3" of organic compost
 - 20 pounds of organic fertilizer / 1,000 sf of bed area
 - Till bed to a depth of 6" to 8"
 - Check soil acidity. Soil acidity should range from 5.0 to 7.0 pH. Regulate if necessary.
12. All plant beds shall be top dressed with a minimum 3" of Native Hardwood Mulch.
13. Provide steel edge between all plant beds and lawn areas unless indicated differently on plans.
14. Tree planting pits shall be cleared of undesirable material and backfilled with prepared top soil. Place 1" of compost and 3" of shredded hardwood mulch on top of root ball.
15. The Contractor will be held liable for any damage caused to trees due to improper staking methods, including absence of staking throughout the warranty period.
16. Trees shall be planted at least 2.5 feet from any right-of-way line, curb, walk or fire hydrant, and outside all utility easements.
17. Trees shall be planted at least 8 feet from any public utility line where possible. In the event this is not possible, Contractor shall install a root barrier, per the detail(s) noted on this sheet.
18. Trees overhanging walks and parking areas shall have a clear trunk height of 7 feet from finish surface grade.
19. Contractor shall warranty plant material to remain alive and healthy for a period of one year after the final acceptance. All plant material shall be maintained in a healthy condition in accordance with the season. Dead, damaged or destroyed plant material shall be replaced in kind within thirty days. Warranty shall not include damage for loss of plant material due to natural causes, acts of vandalism or negligence on the part of the owner.
20. Landscape areas shall be kept free of trash, litter and weeds.
21. An automatic irrigation system shall be provided to maintain all landscape areas. Overspray on streets is prohibited.
22. Installing contractor to maintain landscaping for 30 days from owner occupancy to establish plants and grass, mowing and trimming to be included.
23. All areas disturbed by construction shall be fine graded and re-established by sod. These areas shall be irrigated and maintained until permanent stand of grass is achieved with a minimum of 70% coverage. This is to include all areas to the back of curb around the property.
24. Any hardwood mulched beds on site shall have permeable weed mat installed prior to plant material and mulch being installed.
25. All bedding areas with ground cover (Asian Jasmine, Wintercreeper, etc.) shall be top dressed with hardwood mulch until ground cover has covered area completely.
26. Any switch gear devices, electrical transformers, telephone pedestals, and hvac units located on the property are to be screened. If these devices have been altered from the most recent plans, the contractor is to verify placement of these utilities and contact Landscape Architect for plant material specifications and placement.
27. Landscape contractor shall not place topsoil or mulch above brick ledge of the building and shall not block weep holes on the building.
28. If the grades on site at the time the landscape contractor is set to begin work does not allow the brick ledge and weep holes to remain uncovered, it is the landscape contractor's responsibility to notify the owner or general contractor immediately.
29. Landscaping Maintenance: The property owner, tenant or agent, shall be responsible for the maintenance of all required landscaping in a healthy, neat, orderly and live-growing condition at all times. This shall include mowing, edging, pruning, fertilizing, irrigation, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such materials not a part of the landscaping. Plant materials that die shall be replaced with plant materials of similar variety and size.

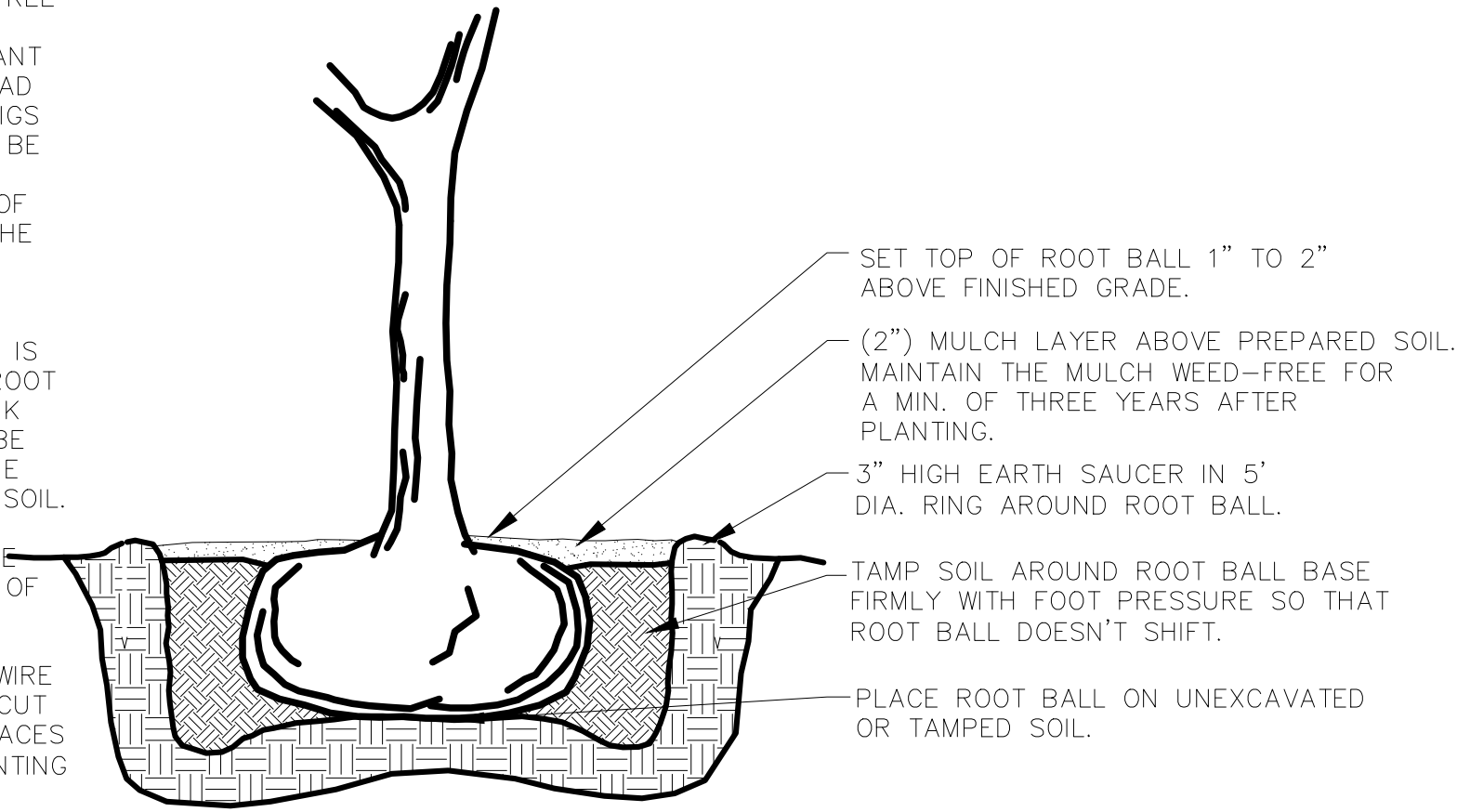


A TREE STAKING DETAIL

NOT TO SCALE

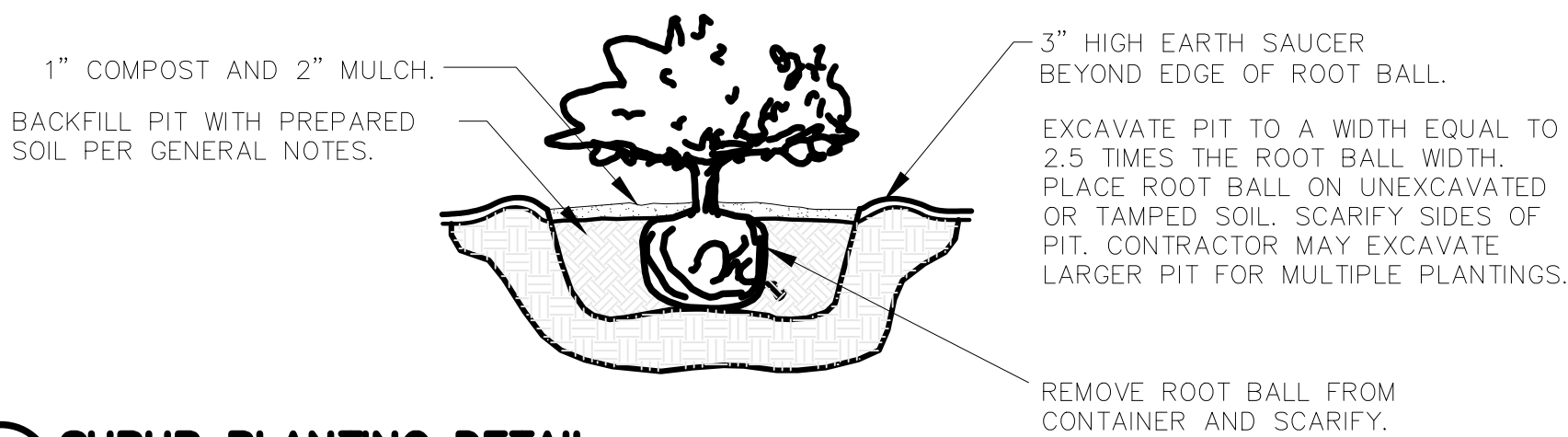
NOTES:

1. DO NOT HEAVILY PRUNE THE TREE AT PLANTING. PRUNE ONLY CROSSOVER LIMBS, CO-DOMINANT LEADERS, AND BROKEN OR DEAD BRANCHES. SOME INTERIOR TWIGS AND LATERAL BRANCHES MAY BE PRUNED; HOWEVER, DO NOT REMOVE THE TERMINAL BUDS OF BRANCHES THAT EXTEND TO THE EDGE OF THE CROWN.
2. EACH TREE MUST BE PLANTED SUCH THAT THE TRUNK FLARE IS VISIBLE AT THE TOP OF THE ROOT BALL. TREES WHERE THE TRUNK FLARE IS NOT VISIBLE SHALL BE REJECTED. DO NOT COVER THE TOP OF THE ROOT BALL WITH SOIL.
3. REMOVE ALL TWINE, ROPE, WIRE AND BURLAP FROM TOP HALF OF ROOT BALL.
4. IF PLANT IS SHIPPED WITH A WIRE BASKET AROUND ROOT BALL, CUT THE WIRE BASKET IN FOUR PLACES AND FOLD DOWN 8" INTO PLANTING HOLE.



B TREE PLANTING DETAIL

NOT TO SCALE



C SHRUB PLANTING DETAIL

NOT TO SCALE

ROOT ANCHOR ITEM#	ROOT BALL & CONTAINER SIZE	ANCHOR INSTALLATION DEPTH	QUANTITY & ANCHOR SIZE
15-BG	10 / 15 Gallon or 17" root ball	12 - 18" Minimum Depth	3 - V68 Anchors
30-BG	20 / 39 Gallon or 22" root ball	18 - 24" Minimum Depth	3 - V68 Anchors
45/65-BG	45 / 65 Gallon or 27-30" root ball	24 - 30" Minimum Depth	3 - V68 Anchors
100-BG	95 / 100 Gallon or 36" root ball	30 - 36" Minimum Depth	3 - V68 Anchors
150-BG	150 Gallon or 42" root ball	48" Minimum Depth	3 - V68 Anchors
200-BG	200 Gallon or 48" root ball	48" Minimum Depth	3 - V88 Anchors
300-BG	300 Gallon or 58" root ball	48" Minimum Depth	3 - V88 Anchors
CUSTOM-BG	Root Balls larger than 60"	TBD	

STEP 1:

- Set tree in planting pit.
- Place anchor with ring side down against top of root ball.
- Center root anchor's inner ring(s) around trunk of tree.
- Align drive rod as close as possible to outside edge of u-bracket.

STEP 2:

- Drive anchor straight down into undisturbed subbase soil.
- See chart for recommended depths per tree size.

STEP 3:

- Remove drive rod.
- Repeat steps 1 & 2 for all three (3) anchor locations.
- Pull back on strap approximately 3" for the v-68 anchor, or 6" to 7" for the v-88 anchor to set anchor into a horizontal or locked position. A fulcrum may be required to assist in setting the anchor.
- Place "S" hook over the end of the u-bracket.
- Pull strap up vertically until root anchor rings bite into the top of the root ball and u-brackets are setting flush on top of the root ball.
- Tie excess strap off to the u-bracket allowing enough remaining strap to adjust tree, if necessary.



Know what's below.
Call before you dig.
(@ least 48 hours prior to digging)

BENCHMARKS

BM #1: SET X-CUT IN CONCRETE N:7110619.551 E:2437359.562 ELEV.=587.14'	BM #2: SET X-CUT IN CONCRETE N:7110516.674 E:2437385.936 ELEV.=587.13'
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TEXAS EDUCATION CENTERS

LITTLE ELM CAMPUS

1851 OAK GROVE PARKWAY

LITTLE ELM, TEXAS

LANDSCAPE NOTES

No.	Date	Revision	Description

PROJECT NO.: 094-22-002



SHEET NUMBER

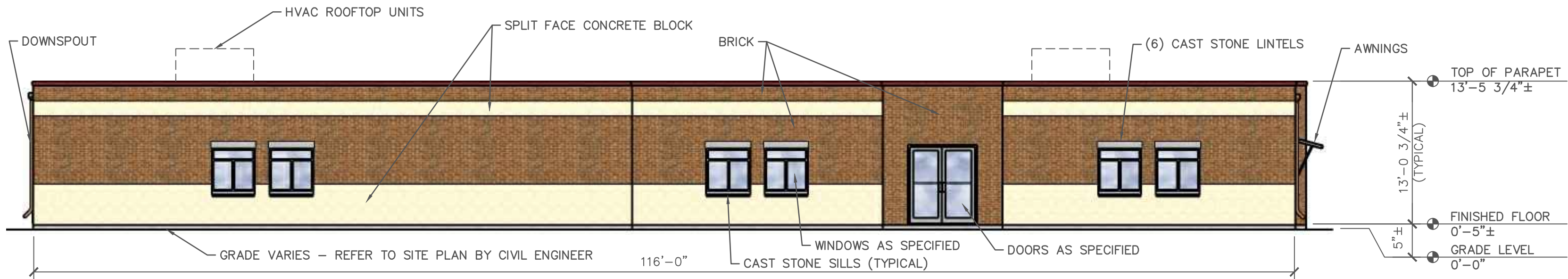
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Building A

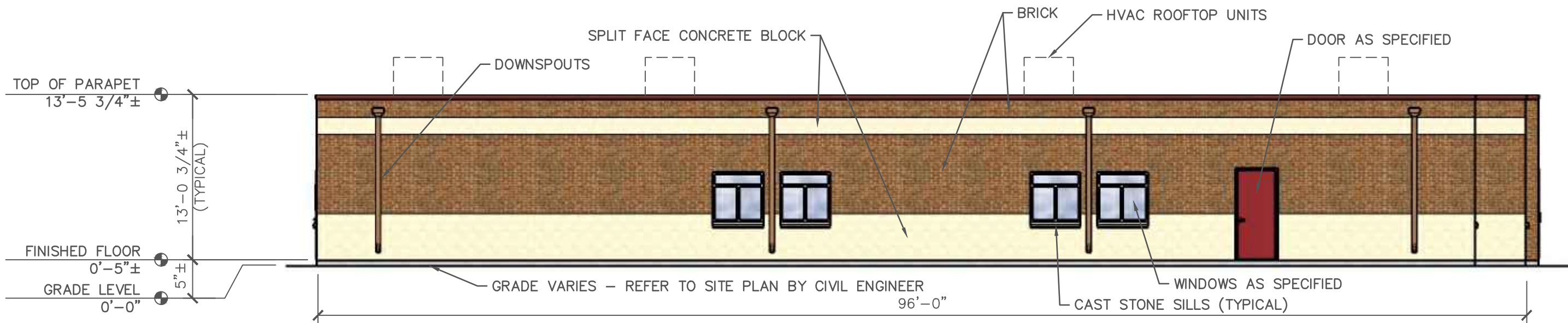


Building F

Classroom Building South Elevation		
Material	SF	Percentage
Brick	827.9	55.2
Split Face Concrete Block	504	33.6
Windows	96	6.4
Doors	45.4	3
Cast Stone Lintels and Sills	25.7	1.7
Total	1499	100

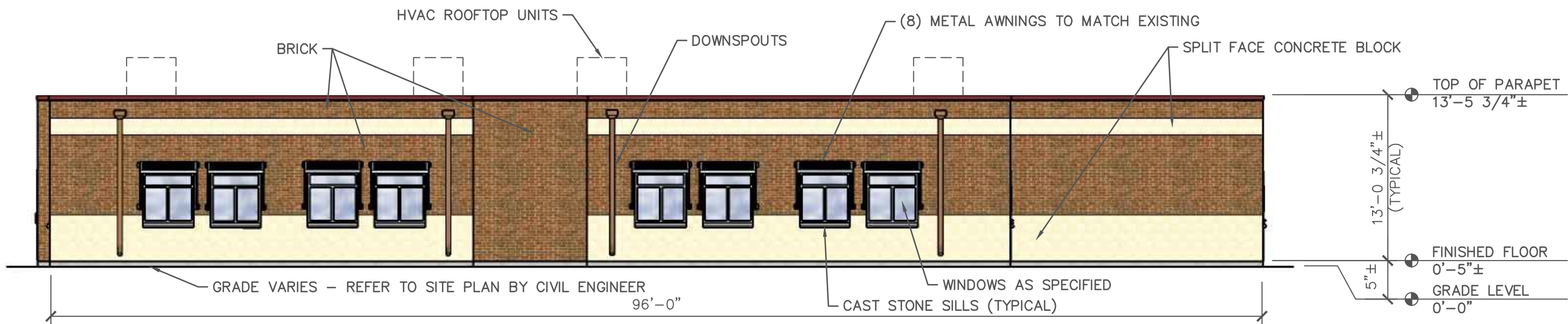


Front/ South Elevation



West Elevation

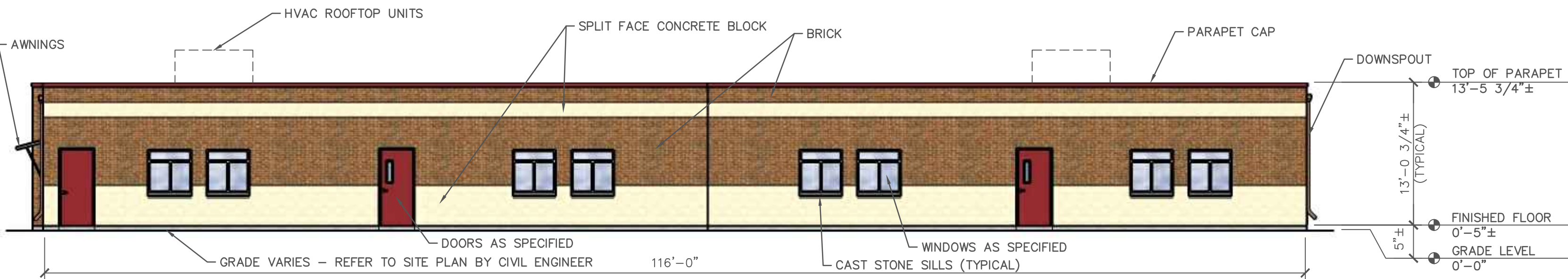
Classroom Building West Elevation		
Material	SF	Percentage
Brick	695.1	55.9
Split Face Concrete Block	453.8	36.5
Windows	64	5.1
Doors	23.9	1.9
Cast Stone Lintels and Sills	6	0.5
Total	1242.8	100



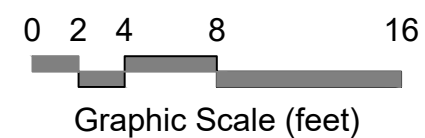
East Elevation

Classroom Building East Elevation		
Material	SF	Percentage
Brick	672.9	54.1
Split Face Concrete Block	429.9	34.6
Windows	128	10.3
Doors	0	0
Cast Stone Lintels and Sills	12	1
Total	1242.8	100

Classroom Building North Elevation		
Material	SF	Percentage
Brick	776.9	51.8
Split Face Concrete Block	510.4	34
Windows	128	8.5
Doors	71.7	4.8
Cast Stone Lintels and Sills	12	0.8
Total	1499	100

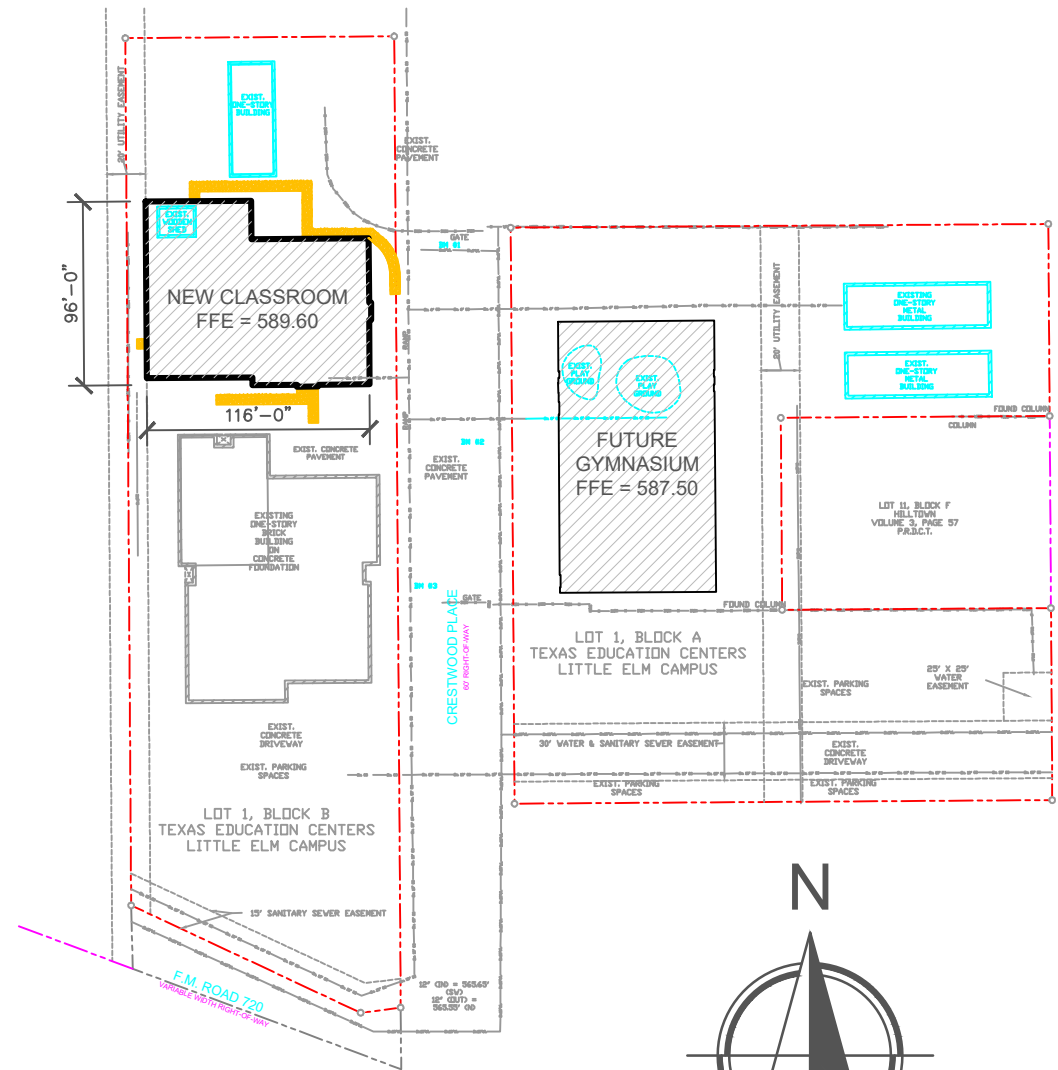


North Elevation



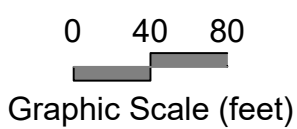
Total Classroom Building				
Material	SF	Percentage	Mfr.	Color
Brick	2972.8	54.2	TBD	As Selected
Split Face Concrete Block	1898.1	34.6	TBD	As Selected
Windows	416	7.6	TBD	As Selected
Doors	141	2.6	TBD	As Selected
Cast Stone Lintels and Sills	55.7	1	TBD	As Selected
Total	5483.6	100		

- NOTES:
- THIS FACADE PLAN IS FOR CONCEPTUAL PURPOSES ONLY. ALL BUILDING PLANS REQUIRE REVIEW AND APPROVAL BY DEVELOPMENT SERVICES.
 - ALL MECHANICAL UNITS SHALL BE SCREENED FROM PUBLIC VIEW, OR AS REQUIRED BY APPROVED PLAN DEVELOPMENT SUBMITTAL.
 - ALL SIGNAGE AREAS AND LOCATIONS ARE SUBJECT TO APPROVAL OF DEVELOPMENT SERVICES DIRECTOR.
 - WHEN PERMITTED, EXPOSED UTILITY BOXES AND CONDUITS SHALL BE PAINTED TO MATCH THE BUILDING.
 - ROOF ACCESS SHALL BE PROVIDED INTERNALLY, UNLESS OTHERWISE PERMITTED BY THE CHIEF BUILDING OFFICIAL.



LOT 1, BLOCK B AND LOT 1, BLOCK A TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS

Site Plan



OWNER:
NORTH TEXAS COLLEGIATE ACADEMY
EAST CAMPUS
1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS 75068
972-292-3562

APPLICANT:
RAMTECH BUILDING SYSTEMS, INC.
1400 U.S. HWY 287 SOUTH
MANSFIELD, TX 76063
817-473-9376

ARCHITECT:
ANTHONY W. MOTTLA ARCHITECTS
308 E. MARVIN AVENUE
WAXAHACHIE, TX 75165
972-923-2269

PROJECT: NORTH TEXAS COLLEGIATE ACADEMY
96'-0" x 116'-0" CLASSROOM BUILDING
LOCATION: LITTLE ELM, TEXAS

PROJECT NUMBER: 220702
DATE: 01-19-23
DRAWN BY: NM
SHEET NO.

A2
A-1017.2

PLAN REVISIONS

MARK

© COPYRIGHT
NOTICE

A RAMTECH CLIENT HAS THE RIGHT TO
DUPLICATE, USE, OR DISCLOSE THE DATA
FURNISHED IN THESE DRAWINGS IN
WHOLE OR IN PART, WITHOUT THE WRITTEN
CONSENT OF RAMTECH BUILDING SYSTEMS, INC.
AND THE CLIENT. ALL OTHERS SHALL
OBTAIN WRITTEN PERMISSION AUTHORIZING
DUPLICATION FROM RAMTECH.

RAMTECH
Building Systems, Inc.
1402 U.S. HWY. 287 SOUTH
MANSFIELD, TEXAS 76063



Date: 03/07/2023
Agenda Item #: 5. D.
Department: Development Services
Strategic Goal: Promote and expand Little Elm's identity
Staff Contact: Fred Gibbs, Director of Development Services

AGENDA ITEM:

Present, Discuss, and Consider Action on a **Development Agreement between the Town of Little Elm and North Texas Collegiate Academy.**

DESCRIPTION:

The attached agreement is to solidify the Planned Development and the intended design of the proposed development as outlined in the associated development documents and plans for North Texas Collegiate Academy Planned Development.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDED ACTION:

Staff recommends Council to consider and execute the attached agreement.

Attachments

Development Agreement - North Texas Collegiate Academy PD

STATE OF TEXAS §
 §
COUNTY OF DENTON §

**DEVELOPMENT AGREEMENT
FOR NORTH TEXAS COLLEGIATE
ACADEMY PD**

This Development Agreement for Little Elm Court Planned Development (“**Agreement**”) is entered into between North Texas Collegiate Academy (“**Developer**”), whose address for purposes of this Agreement is 4601 North Interstate 35, Denton, Texas 76207, and the Town of Little Elm, Texas (“**Town**”), whose address for purposes of this Agreement is 100 W. Eldorado Parkway, Little Elm, TX 75068. Developer and the Town are sometimes referred herein together as the “**Parties**” and individually as a “**Party**.”

Recitals:

1. Developer is the owner of 4.219 acres generally located at 1851 Oak Grove Parkway, on the north side of Oak Grove Parkway, in the Town of Little Elm, Texas (the “**Property**”), which Property is more particularly described in **Exhibit A** attached hereto.
2. In furtherance of the development of the Property, the Parties have negotiated certain matters regarding the Property as set forth in this Agreement.
3. The Parties seek to memorialize these negotiated matters and to include them in this contractually-binding Agreement.

NOW, THEREFORE, for and in consideration of the above and foregoing premises, the benefits to each of the Parties from this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged and agreed, the Parties do hereby agree as follows:

Section 1. Incorporation of Premises. The above and foregoing Recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Term. This Agreement shall be effective as of the date of execution of this Agreement by the last of the Parties to do so (“**Effective Date**”). This Agreement shall remain in full force and effect from the Effective Date until terminated by the mutual agreement of all of the Parties in writing, or until all obligations in the Agreement have been fulfilled (“**Term**”).

Section 3. Agreements. The Parties agree as follows:

- A. The negotiated and agreed upon zoning and development standards contained in the North Texas Collegiate Academy PD Ordinance, attached hereto as **Exhibit B**, which incorporate by reference the general zoning regulations of the Town’s zoning ordinance, are hereby adopted and incorporated into this agreement as contractually-binding obligations of the Developer.

Section 4. Miscellaneous.

A. Applicability of Town Ordinances. When the Property is developed, Developer shall construct all structures on the Property, in accordance with all applicable Town ordinances and building/construction codes, whether now existing or arising prior to such construction in the future.

B. Default/Mediation. 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 thirty (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. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

C. Venue. This Agreement and any dispute arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to its conflict of law rules. In the event of any dispute or action under this Agreement, venue for any and all disputes or actions shall be instituted and maintained in Denton County, Texas.

D. Relationship of Parties. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the Parties.

E. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

F. Cumulative Rights and Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law statute, ordinance, or otherwise. The failure by any Party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such Party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any

rights and remedies any Party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement, except as otherwise expressly set forth herein.

G. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

H. Surviving Rights. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration.

I. Applicable Laws. This Agreement is made subject to the existing provisions of the Charter of the Town of Little Elm, its present rules, regulations, procedures and ordinances, and all applicable laws, rules, and regulations of the State of Texas and the United States.

J. Authority to Execute. The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

K. Amendments. This Agreement may be only amended or altered by written instrument signed by the Parties.

L. Headings. The headings and captions used in this Agreement are for the convenience of the Parties only and shall not in any way define, limit or describe the scope or intent of any provisions of this Agreement.

M. Entire Agreement. This Agreement is the entire agreement between the Parties with respect to the subject matters covered in this Agreement. There are no other collateral oral or written agreements between the Parties that in any manner relates to the subject matter of this Agreement, except as provided or referenced in this Agreement.

N. Filing in Deed Records. This Agreement shall be recorded in the real property records of Denton County, Texas. This Agreement and all of its terms, conditions, and provisions is and shall constitute a restriction and condition upon the development of the Property and all portions thereof and a covenant running with the Property and all portions thereof, and is and shall be binding upon Developer and all of Developer's heirs, successors, and assigns and the future owners of the Property and any portion thereof; provided, however, this Agreement shall not constitute an obligation of or be deemed a restriction or encumbrance with respect to any final platted residential lot upon which a completed home has been constructed.

O. Notification of Sale or Transfer; Assignment of Agreement. Developer shall notify the Town in writing of any sale or transfer of all or any portion of the Property, within ten (10) business days of such sale or transfer. Developer has the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest

of Developer under this Agreement, to any person or entity (an “**Assignee**”) that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with Developer. Each assignment shall be in writing executed by Developer and the Assignee and shall obligate the Assignee to be bound by this Agreement with respect to the portion of the Property transferred to Assignee. If the Property is transferred or owned by multiple parties, this Agreement shall only apply to, and be binding on, such parties to the extent of the Property owned by such successor owner, and if the Developer or any Assignee is in default under this Agreement, such default shall not be an event of default for any non-defaulting Assignee which owns any portion of the Property separate from the defaulting Developer or Assignee. A copy of each assignment shall be provided to the Town within ten (10) business days after execution. Provided that the successor developer assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement with respect to the Property transferred to the successor developer, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon receipt of the assignment by the Town. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment. Developer shall maintain true and correct copies of all assignments made by Developer to Assignees, including a copy of each executed assignment and the Assignee’s Notice information.

P. Sovereign Immunity. The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

Q. Exactions/Infrastructure Costs. Developer has been represented by legal counsel, or has had an opportunity to do so, in the negotiation of this Agreement, and been advised, or has had the opportunity to have legal counsel review this Agreement and advise Developer, regarding Developer’s rights under Texas and federal law. Developer hereby waives any requirement that the Town retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the Town in this Agreement are roughly proportional or roughly proportionate to the proposed development’s anticipated impact. Developer specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code; however, notwithstanding the foregoing, Developer hereby releases the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.

R. Waiver of Texas Government Code § 3000.001 et seq. With respect to the improvements constructed on the Property pursuant to this Agreement, Developer hereby waives any right, requirement or enforcement of Texas Government Code §§ 3000.001-3000.005.

S. Rough Proportionality. Developer hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution with respect to infrastructure requirements imposed by this Agreement.

Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this Agreement, with respect to infrastructure requirements imposed by this Agreement.

T. Form 1295 Certificate. The Developer agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Developer agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the Town, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.

U. Undocumented Workers Provision. The Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement to Developer plus six percent (6.0%), not later than the 120th day after the date the Town notifies Developer of the violation.

V. Non-Boycott of Israel Provision. In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless Developer is not subject to Chapter 2270 of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Developer verifies that Developer does not boycott Israel and will not boycott Israel during the Term of this Agreement.

W. Prohibition on Contracts with Certain Companies Provision. In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

X. Report Agreement to Comptroller's Office. Town covenants and agrees to report this Agreement to the State Comptroller's office within fourteen (14) days of the Effective Date of this Agreement, in accordance with Section 380.004 of the Texas Government Code, as added by Texas House Bill 2404, 87th Tex. Reg. Session (2021) (effective September 1, 2021). [For Chapter 380 Agreements]

Y. Verification Against Discrimination of Firearm or Ammunition Industries.

Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.

Z. Verification Against Discrimination Developer Does Not Boycott Energy Companies.

Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.

EXECUTED by the Parties on the dates set forth below, to be effective as of the date first written above.

DEVELOPER

a North Texas Collegiate Academy

By: Dr. Lisa Stanley

Date: 03/01/2023

TOWN OF LITTLE ELM, TEXAS

By: _____

Matt Mueller
Town Manager

Date: _____

ATTEST:

By: _____

Caitlan Biggs
Town Secretary

STATE OF TEXAS §
 §
COUNTY OF DENTON §

Before me, the undersigned authority, on this _____ day of _____, 2023, personally appeared MATT MUELLER, Town Manager of the Town of Little Elm, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: _____
Notary Public, State of Texas

My Commission Expires: _____

STATE OF TEXAS §
 §
COUNTY OF Denton §

Before me, the undersigned authority, on this 1st day of March, 2023, personally appeared Lisa Stanley, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity of a duly authorized representative of North Texas Collegiate Academy

[Seal]

By: Kim Johnson
Notary Public, State of Texas

My Commission Expires: 5/10/26

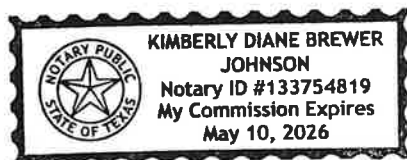


EXHIBIT A

Property Description

BEING all of Lot 11, Block F, Lot 6, Block 8, and part of Crestwood Place Right Of Way, Hill Town, Subdivision Unit No. One, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat thereof recorded in Volume 3, Page 57, Plat Records, Denton County, Texas, and all of Lot 1, Block A and Lot 1 of Block 8, Texas Education Centers Little Elm Campus Addition, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat thereof recorded in Volume 2014, Page 227 of the plat records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped "4613" found for corner at the southwest corner of said Block 8, said iron rod being in the north Right Of Way line of F.M. No. 720

THENCE N 00°23'02" W following the west line of Block B a distance of 551.62' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner at the northwest corner of said Lot 6, said iron rod being in the south Right Of Way line of Oakland Street;

THENCE N 89°36'58" E following the south Right Of Way line of Oakland Street a distance of 140.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner at the intersection of the south ROW line of Oakland Street and the west ROW line of Crestwood Place;

THENCE S 00°23'02" E following the west ROW line of Crestwood Place a distance of 200.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner;

THENCE N 89°36'58" E crossing Crestwood Place a distance of 340.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" found for corner in the west ROW line of Greenwood Drive;

THENCE S 00°23'02" E following the west ROW line of Greenwood Drive a distance of 300.00' to 1/2" iron rod found for corner;

THENCE S 89°36'58" W a distance of 340.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner in the west ROW line of Crestwood Place;

THENCE S 00°23'02" E following the west ROW line of Crestwood Place a distance of 105.80' to a TxDOT monument found for corner;

THENCE S 82°39'48" W following the west ROW line of Crestwood Place a distance of 20.99' to a TxDOT monument found for corner at the intersection of the west ROW line of Crestwood Place and the north ROW line of F.M. No. 720;

THENCE N 64°55'33" W following the north ROW line of F.M. No. 720 a distance of 131.98' to the POINT OF BEGINNING and containing 183,762 Square Feet or 4.219 Acres of land.

EXHIBIT B
PD Ordinance

**TOWN OF LITTLE ELM
ORDINANCE NO. 1704**

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, BY AMENDING THE ZONING FROM OFFICE DISTRICT, TO A NEW PLANNED DEVELOPMENT – LIGHT COMMERCIAL (PD-LC) DISTRICT IN ORDER TO ALLOW EXPANSION OF AN EXISTING PUBLIC CHARTER SCHOOL CAMPUS, WITH MODIFIED DEVELOPMENT STANDARDS ON 4.219 ACRES OF LAND GENERALLY LOCATED AT 1851 OAK GROVE PARKWAY; PROVIDING A SAVINGS CLAUSE; CORRECTING THE OFFICIAL ZONING MAP; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

WHEREAS, the Town possesses all the rights, powers, and authorities possessed by all home rule municipalities, including the authority to regulate land uses under Chapter 211 of the Texas Local Government Code; and

WHEREAS, a request is made for rezoning to a Planned Development - Light Commercial (PD-LC) with modified development standards approximately 4.219 acres of land, more specifically described in the exhibits, attached hereto; and

WHEREAS, this zoning change is in accordance with the most current adopted Comprehensive Plan of the Town of Little Elm; and

WHEREAS, the Town Council and the Planning & Zoning Commission of the Town of Little Elm, in compliance with the laws of the State of Texas and the ordinances of the Town of Little Elm, have given the required notices and held the required public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the affected area and in the vicinity thereof regarding the requested zoning change described herein; and

WHEREAS, at its regular meeting held on February 16, 2023 the Planning & Zoning Commission considered and made a recommendation to approve this request for

Planned Development - Light Commercial (PD-LC), Case No. PD-22-12898; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning & Zoning Commission and any other information and materials received at the public hearing, the Town Council of the Town of Little Elm, Texas, has determined that the request is in the interest of public health, safety and welfare of the citizens of the Town of Little Elm.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. ZONING AMENDMENT That Ordinance No. 226 of the Town of Little Elm, Texas, the same being the Comprehensive Zoning Ordinance of the Town, is hereby amended by issuing Planned Development-Light Commercial (PD-LC) with modified development standards in order to allow expansion of an existing public charter school campus generally located at 1851 Oak Grove Parkway, within Little Elm Town limits, approximately 4.219 acres of land more particularly described as **Exhibit A**, and attached hereto, subject to all of the terms and conditions set forth herein, the terms and conditions of the Comprehensive Zoning Ordinance, and all other applicable ordinances, laws, rules, regulations, and standards.

SECTION 3. CONDITIONS AND REGULATIONS. The permitted uses and standards shall be in accordance with the Light Commercial (LC) District, unless otherwise specified herein:

- a) The Zoning and Land Use Regulations, and all conditions set forth in **Exhibit B** attached hereto and made a part hereof for all purposes shall be adhered to in their entirety for the purposes of this Planned Development. In the event of conflict between the provisions of **Exhibit B** and provisions of any other exhibit, the provisions of **Exhibit B** control.

SECTION 4. PLANNED DEVELOPMENT MASTER PLAN The Concept Plan Exhibit and related plans, images, and documents approved and described as **Exhibit C** attached hereto and made a part hereof are approved. The subject property shall be improved in accordance with the plans set forth in **Exhibit C**.

- a) If, after two years from the date of approval of the Planned Development Master Plan, no substantial development progress has been made within the PD, then the Planned Development Master Plan shall expire. If the Planned Development

Master Plan expires, a new Planned Development Master Plan must be submitted and approved according to the procedures within the Zoning Ordinance, Planned Development Districts. An extension of the two year expiration shall be granted if a development application for the PD has been submitted and is undergoing the development review process or if the Director of Development Services determines development progress is occurring.

- b) The Planned Development Master Plan shall control the use and development of the property, and all building permits and development requests shall be in accordance with the plan until it is amended by the City Council.
- c) If a change to the Concept Plan, if any, is requested, the request shall be processed in accordance with the development standards in effect at the time the change is requested for the proposed development.

SECTION 5. SAVINGS. This Ordinance shall be cumulative of all other ordinances of the Town, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are indirect conflict with the provisions of this Ordinance; provided, however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances, and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

SECTION 5. ZONING MAP. The official zoning map of the Town shall be amended to reflect the changes in zoning made by this ordinance.

SECTION 6. PENALTY. Any person, firm, or corporation violating any of the provision of this ordinance shall be punished by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 7. SEVERABILITY. The sections, paragraphs, sentences , phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid or unconstitutional, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of the ordinance without the valid parts and to this end the provisions of this ordinance shall remain in full force and effect.

SECTION 8. REPEALER. That all ordinances of the Town of Little Elm in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of that conflict.

SECTION 9. EFFECTIVE DATE. That this Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the Town Charter.

PASSED AND APPROVED by the Town Council of the Town of Little Elm, Texas on the 7th day of March, 2023.

Town of Little Elm, Texas

Curtis Cornelious, Mayor

ATTEST:

Caitlan Biggs, Town Secretary

Exhibit A
Property Description

BEING all of Lot 11, Block F, Lot 6, Block 8, and part of Crestwood Place Right Of Way, Hill Town, Subdivision Unit No. One, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat there of recorded in Volume 3, Page 57, Plat Records, Denton County, Texas, and all of Lot 1, Block A and Lot 1 of Block 8, Texas Education Centers Little Elm Campus Addition, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat thereof recorded in Volume 2014, Page 227 of the plat records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped "4613" found for corner at the southwest corner of said Block 8, said iron rod being in the north Right Of Way line of F.M. No. 720

THENCE N 00°23'02" W following the west line of Block B a distance of 551.62' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner at the northwest corner of said Lot 6, said iron rod being in the south Right Of Way line of Oakland Street;

THENCE N 89°36'58" E following the south Right Of Way line of Oakland Street a distance of 140.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner at the intersection of the south ROW line of Oakland Street and the west ROW line of Crestwood Place;

THENCE S 00°23'02" E following the west ROW line of Crestwood Place a distance of 200.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner;

THENCE N 89°36'58" E crossing Crestwood Place a distance of 340.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" found for corner in the west ROW line of Greenwood Drive;

THENCE S 00°23'02" E following the west ROW line of Greenwood Drive a distance of 300.00' to 1/2" iron rod found for corner;

THENCE S 89°36'58" W a distance of 340.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner in the west ROW line of Crestwood Place;

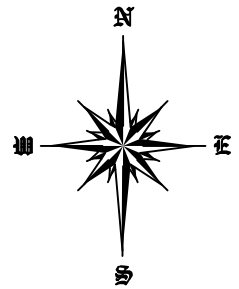
THENCE S 00°23'02" E following the west ROW line of Crestwood Place a distance of 105.80' to a TxDOT monument found for corner;

THENCE S 82°39'48" W following the west ROW line of Crestwood Place a distance of 20.99' to a TxDOT monument found for corner at the intersection of the west ROW line of Crestwood Place and the north ROW line of F.M. No. 720;

THENCE N 64°55'33" W following the north ROW line of F.M. No. 720 a distance of 131.98' to the POINT OF BEGINNING and containing 183,762 Square Feet or 4.219 Acres of land.

Oakland Street

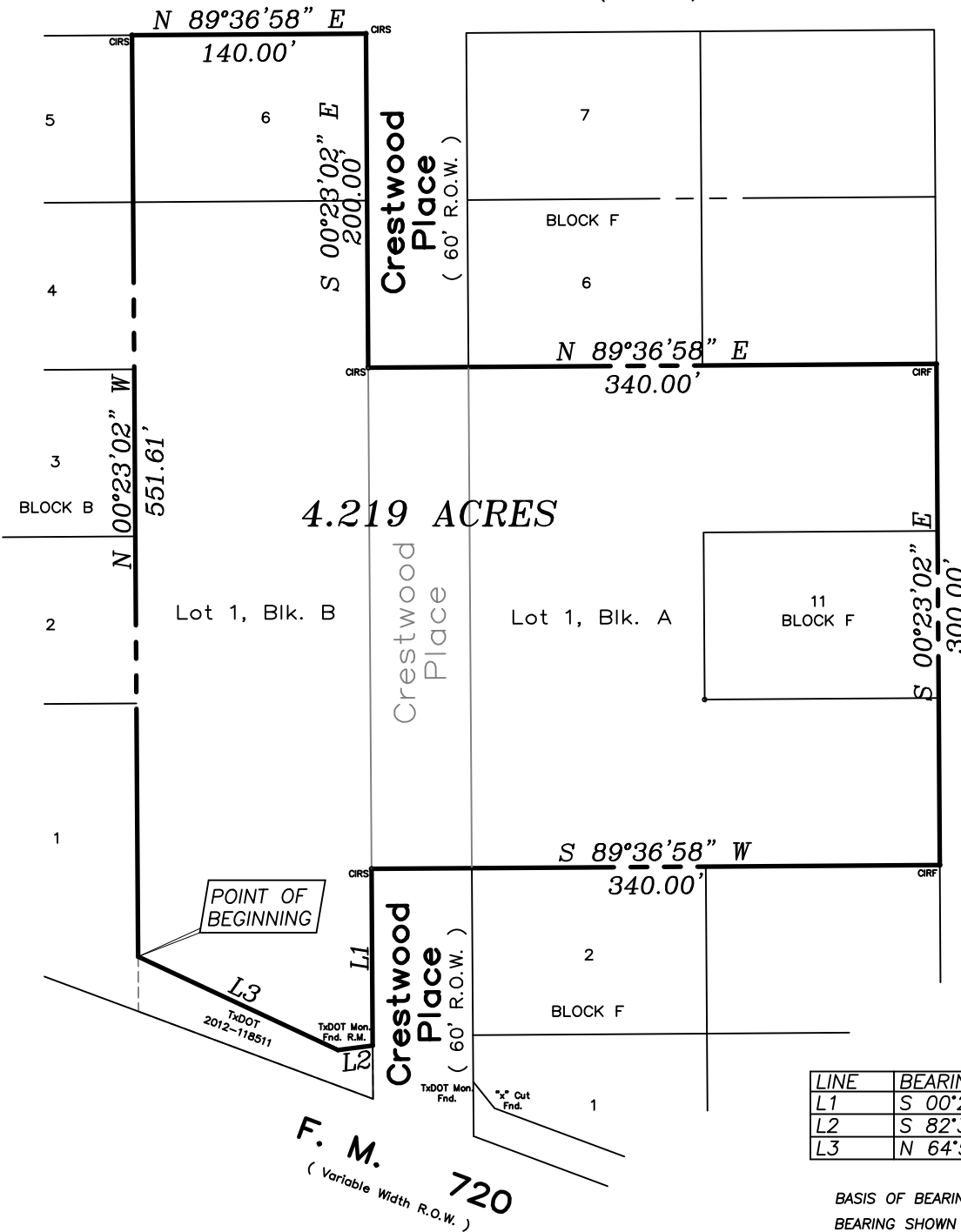
(60' R.O.W.)



NORTH
SCALE 1" = 100'

LEGEND

R.M. = REFERENCE MONUMENT
CIRF = CAPPED 1/2" IRON ROD
FOUND STAMPED "4613"
CIRS = CAPPED 1/2" IRON ROD
SET STAMPED "4613"



LINE	BEARING	DISTANCE
L1	S 00°23'02" E	105.70'
L2	S 82°39'48" W	20.99'
L3	N 64°55'33" W	131.98'

BASIS OF BEARINGS

BEARING SHOWN ARE BASED ON NAD 83
STATE PLANE COORDINATES AS ESTABLISHED
BY GPS USING WESTERN DATA NETWORK.



SURDUKAN SURVEYING, INC.

P.O. BOX 126
ANNA, TEXAS 75409
(972) 924-8200
TEXAS FIRM NO. 10069500



EXHIBIT "A"
PLAN DEVELOPMENT
4.219 ACRES
D. CURE SURVEY
ABSTRACT NO. 226
TOWN OF LITTLE ELM
DENTON COUNTY, TEXAS

SCALE 1" = 100'

DATE: NOVEMBER 30, 2022

SHEET 1 OF 2

JOB NO. 2022-243

LEGAL DESCRIPTION

BEING all of Lot 11, Block F, Lot 6, Block B, and part of Crestwood Place Right Of Way, Hill Town, Subdivision Unit No. One, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat there of recorded in Volume 3, Page 57, Plat Records, Denton County, Texas, and all of Lot 1, Block A and Lot 1 of Block B, Texas Education Centers Little Elm Campus Addition, an Addition to the Town of Little Elm, Denton County, Texas, according to the plat thereof recorded in Volume 2014, Page 227 of the plat records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped "4613" found for corner at the southwest corner of said Block B, said iron rod being in the north Right Of Way line of F.M. No. 720

THENCE N 00°23'02" W following the west line of Block B a distance of 551.62' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner at the northwest corner of said Lot 6, said iron rod being in the south Right Of Way line of Oakland Street;

THENCE N 89°36'58" E following the south Right Of Way line of Oakland Street a distance of 140.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner at the intersection of the south ROW line of Oakland Street and the west ROW line of Crestwood Place;

THENCE S 00°23'02" E following the west ROW line of Crestwood Place a distance of 200.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner;

THENCE N 89°36'58" E crossing Crestwood Place a distance of 340.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" found for corner in the west ROW line of Greenwood Drive;

THENCE S 00°23'02" E following the west ROW line of Greenwood Drive a distance of 300.00' to 1/2" iron rod found for corner;

THENCE S 89°36'58" W a distance of 340.00' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner in the west ROW line of Crestwood Place;

THENCE S 00°23'02" E following the west ROW line of Crestwood Place a distance of 105.80' to a TxDOT monument found for corner;

THENCE S 82°39'48" W following the west ROW line of Crestwood Place a distance of 20.99' to a TxDOT monument found for corner at the intersection of the west ROW line of Crestwood Place and the north ROW line of F.M. No. 720;

THENCE N 64°55'33" W following the north ROW line of F.M. No. 720 a distance of 131.98' to the POINT OF BEGINNING and containing 183,762 Square Feet or 4.219 Acres of land.



David J. Surdukan

DATE: NOVEMBER 30, 2022

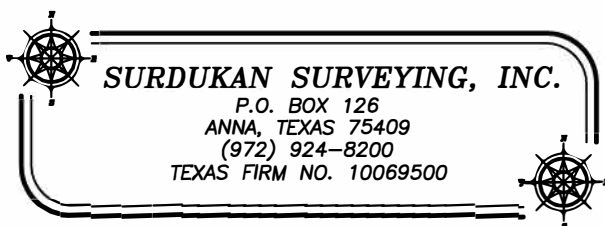
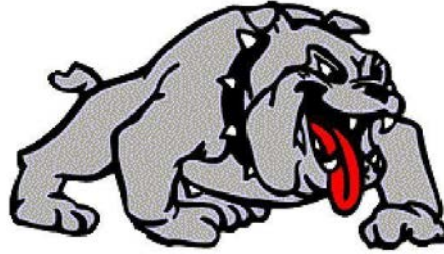


EXHIBIT "A"
PLAN DEVELOPMENT
4.219 ACRES
D. CURE SURVEY
ABSTRACT NO. 226
TOWN OF LITTLE ELM
DENTON COUNTY, TEXAS

Exhibit B
PD Standards



NORTH TEXAS COLLEGIATE ACADEMY

PLANNED DEVELOPMENT SUBMITTAL

February 9, 2023

Prepared By



Ramtech Building Systems, Inc.
Mansfield, TX 76063
817-473-9376

**NORTH TEXAS COLLEGIATE ACADEMY
PLANNED DEVELOPMENT DISTRICT**

INTENT & PURPOSE

This zoning submittal encompasses approximately 4.219 acres of land within the Town of Little Elm, more fully described on the legal description attached as **Exhibit A** (the "Property"). The proposed use for the Property is Educational, as the entirety of the property is and will be used for North Texas Collegiate Academy's East Campus, a public charter school which serves the needs of Pre-K through 8th grade students in Little Elm and the surrounding areas. This Planned Development ("PD") will provide the zoning regulations, as depicted in **Exhibit B**, necessary to redevelop the site; final layout and site improvements must generally conform to **Exhibit C**.

It is the intent of this PD to alter the zoning for the Property from current zoning of Office to Light Commercial (LC) base zoning with modified development standards in order to capture the existing conditions of the site as well as allow expansion and redevelopment of the school campus. Any conflict between this PD and the Zoning Ordinance shall be resolved in favor of those regulations set forth in this PD, or as may be ascertained through the intent of this PD. As used herein, "Zoning Ordinance" means the Little Elm Development Standards, Article VI of the Code of Ordinances in effect on the effective date of this agreement, except as otherwise defined in the agreement. Uses and development regulations specifically modified, designed, or included in the PD shall not be subject to amendment after the date of adoption of this PD (The "Effective Date") (whether through the amendment of the Zoning Ordinance or otherwise), except through an amendment of this PD. Uses and development regulations which otherwise are not specifically modified, designated or included in the PD shall be controlled by the "Zoning Ordinance" unless the context provides to the contrary.

Review and approval of a site plan by the Planning and Zoning Commission and the Town Council (In accordance with Section 107.03 of the Code of Ordinances) shall be required for any tract/lot within the PD district. No certificate of occupancy shall be obtained unless all construction and development conform to the Site Plan as approved by Town Council.

Exhibit B
Development Standards

1. **Purpose:** The purpose of this Planned Development is to capture all current and future development of North Texas Collegiate Academy's East Campus in one cohesively zoned district. Furthermore, it will establish the standards of design for the currently proposed classroom building (Building F) and gymnasium (Building G).
2. **Project Location:** The proposed PD site is generally addressed as 1851 Oak Grove Parkway, as Legally defined in Exhibit A and as designed in Exhibit C. It is the intent of this PD that the entire project site be platted as one commercial lot per the Town's Subdivision Ordinance.
3. **Use Regulations:** The land and premises of the Property, including any current or future building construction or renovation will be exclusively for the Charter School use. Existing and proposed structures include:
 - a. Building A – Administrative/Classroom Building: Existing, to remain as outlined within Exhibit C.
 - b. Building B – Temporary Classroom Building: Existing 1,832 sf one-story structure to be removed within one year of construction completion of Building F. No additional temporary classroom buildings allowed unless approved through a Specific Use Permit (SUP).
 - c. Building C - Temporary Classroom Building: Existing 1,832 sf one-story structure to be removed within one year of construction completion of Building F. No additional temporary classroom buildings allowed unless approved through a Specific Use Permit (SUP).
 - d. Building D – Facilities and Maintenance Building: Existing 1,454 sf one-story structure to be relocated as outlined within Exhibit C.
 - e. Building F - Modular Classroom Building: Proposed approximately 9,700 sf education building with 14 individual classrooms, male and female restrooms, and storage rooms as outlined within Exhibit C. The building will be constructed modularly, but will be installed on an engineered concrete slab foundation, clad with brick and stone, and finished out in a manner that will be indistinguishable from a site-constructed building.
 - f. Building G - School Gymnasium Building: Proposed approximately 11,500sf gymnasium building, with full-size basketball/volleyball court, four additional classrooms, male and female restrooms, and minimal storage and office space as outlined within Exhibit C. [As it is currently contemplated, more than 2,500sf of classroom, corridor and bathroom space will be constructed and designated as a storm shelter.]
 - g. Storage Shed - The existing 320 sf red storage shed will be demolished and removed. No additional accessory structures allowed.
4. **Base Zoning District:** The permitted uses and standards of the development shall be in accordance with the Light Commercial (LC) zoning as defined in the Zoning Ordinance, unless otherwise specified in the PD regulations. The charter school use, as described herein shall be allowed by right.
5. **Height and Area Regulations:** This Planned Development shall follow and conform to the Height and Area requirements defined by the Light Commercial district development standards.

6. Conceptual Site Plan: The proposed site plan for the abovementioned classroom building and gymnasium is detailed on Exhibit C. The development will include cohesive design elements that are largely consistent with the requirements of Light Commercial zoning.

The Concept Plan attached hereto as part of Exhibit C, and incorporated herein by reference, demonstrates potential locations the uses and structures permitted under this PD. An amendment to a concept plan approved as a part of the ordinance establishing the planned development district is a change in zoning district classification and must follow the same procedures set forth in Section 106.04.03, except the Director of Development Services may approve minor revisions which do not alter the basic relationship of the proposed development.

7. Architectural Design Standards: All applicable provisions of Sec. 106.06.05 – Architectural Standards for Commercial Structures (Includes Office, Retail, Commercial, Mixed Use, etc.), shall be met unless otherwise stated herein.
- a. Architectural design and standards for existing buildings to remain on campus, Building A and Building D, are captured through Exhibit C. Building D, however, upon relocation, will be painted to match the rest of the primary buildings on campus, installed with underpinning foundation, with an aesthetically compatible skirt to hide the ground supports.
 - b. Proposed Building F and Building G shall be designed and constructed in a manner that will endure and remain attractive long-term. Building F shall be constructed as shown on the Façade Plans within Exhibit C. Building G Façade Plans are not provided at the time of PD due to ongoing redesign efforts in conjunction with the current building code requirements for school storm shelters. However, the exterior design and construction of Building G shall be compatible with Building F as described herein.
 - i. Building F. Shall be clad with 100% masonry materials on the exterior, entirely comprised of brick and split-face block to match the existing Building A, with at least 60% brick and 40% split face block, and is detailed on the Façade Plan in Exhibit C. Tri-partite design will be met through provision of split-face wainscot base, brick middle section and split-face top band. Each exterior wall will have multiple windows, but for classroom safety reasons, the glazing will total approximately 8% of the total façade. Primary facades shall only be required to provide horizontal articulation. Building F shall be design inclusive of a 1' parapet wall around the entire perimeter of the building to shield any view of the flat membrane roof. Window awnings as well as accented windows and doors shall count toward any additional auxiliary architectural requirements. Any roof or ground-mounted mechanical equipment shall be screened from offsite.
 - ii. Building G. In order to accommodate a new storm shelter, and to fulfill the exterior masonry requirements, the gymnasium building will also be clad with a combination of brick and split-face block, in a similar ratio to that of Building F. The classroom portion of the gym building was initially expected to include windows with awnings, but per 106.06.05(c), they may be converted to faux windows, as that portion of the building will likely house the storm shelter. There are no windows contemplated where the court and bleachers reside, as they wouldn't be safe or appropriate for that space. The building's exterior is not currently designed to have horizontal articulations, but it will

have a standing seam pitched roof that will count as a vertical articulation per 106.06.05(f). Awnings above the windows to enhance the front façade shall fulfill the auxiliary architectural requirements As with Building F, Building G's roof or ground-mounted mechanical equipment will be screened in a way that shields it from offsite view.

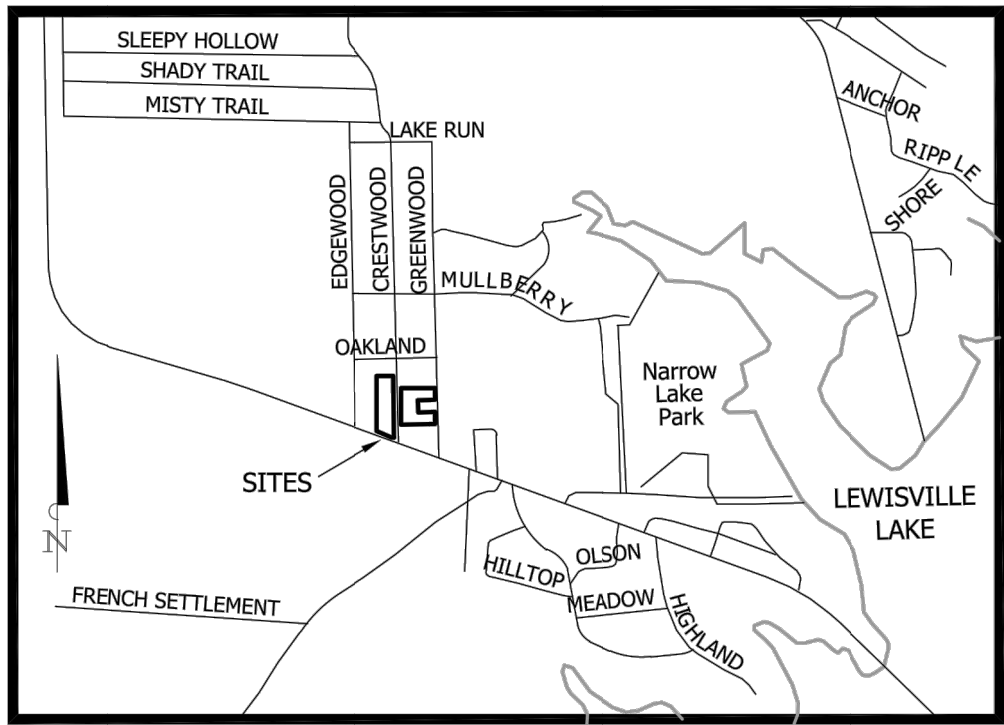
8. Commercial Landscape and Screening Requirements. All applicable provisions of Sec. 106.06.18 – Commercial Landscape Requirements and Sec. 106.06.31 - Screening, shall be met unless otherwise stated herein or shown within Exhibit C.

Project area landscaping shall be improved as shown within Exhibit C as well as outline below:

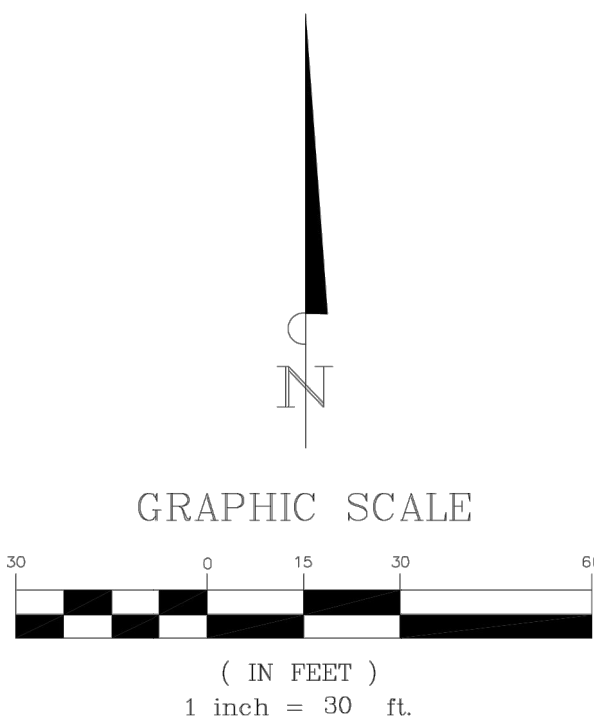
- a. Enhanced landscaping along F.M. Road 720 frontage, specifically planting bed around the monument sign, enhanced shrub plantings for vehicular screening, and uplit trees at the school's entrance gate.
 - b. Enhanced site canopy is provided by way of perimeter trees and landscaped parking islands, with all trees provided at 4 inch caliper, and double row of trees along residential adjacency as shown in Exhibit C.
 - c. Enhanced vehicular screening at Crestwood Place and Greenwood Drive
 - d. Foundation planting provided along 75% of Building F and Building G facades
 - e. The existing playground on the property will be removed, and a new commercial-grade playground will be installed adjacent to Building F. It will be fully shaded with custom built awnings.
 - f. Either wrought iron, or wood board on board fence, with cap, and masonry columns, matching the existing fence conditions on site, shall be installed as the perimeter screen with shrubs planted as shown in Exhibit C.
9. Parking standards. All applicable provisions of Division 4. - Parking, Stacking, And Loading Standards, shall be met unless otherwise stated herein or shown within Exhibit C. Parking space dimensions shall be 9 ft by 18 ft and one of the parking lot landscape islands shall be met by provision of a bump-out and adequate shade tree planting.

Exhibit C
Development Plans

B:\Clients\094 (Ramtech Building Systems)\094-22-002 (NTCA - Little Elm)\Survey\094-22-002 Survey Base.dwg
10/7/2022 4:27:55 PM



VICINITY MAP
NOT TO SCALE
LITTLE ELM, TEXAS



EDGEWOOD PLACE
60' RIGHT-OF-WAY
VOLUME 3, PAGE 57, P.R.D.C.T.

LEGEND

- O.P.R.D.C.T.
OFFICIAL PUBLIC RECORDS
DENTON COUNTY, TEXAS
- D.R.D.C.T.
DEED RECORDS
DENTON COUNTY, TEXAS
- P.R.D.C.T.
PLAT RECORDS
DENTON COUNTY, TEXAS
- GREASE TRAP
 - AIR CONDITIONER UNIT
 - UTILITY PIN FLAG
 - GAS MANHOLE
 - GAS MARKER
 - GAS METER
 - TRANSFORMER
 - ELECTRIC METER
 - TELEPHONE RISER
 - MAIL BOX
 - SIGN
 - POWER POLE
 - LIGHT
 - SANITARY SEWER MANHOLE
 - CLEAN-OUT
 - FIRE HYDRANT
 - WATER VALVE
 - WATER METER
 - WATER MANHOLE
 - FIRE WATER CONNECTION
 - IRRIGATION CONTROL VALVE
 - TRAFFIC SIGNAL
 - BOLLARD
 - GRATE INLET
 - STORM MANHOLE
 - NORTH/NORTHING
 - SOUTH
 - EAST/EASTING
 - WEST
 - DEGREES
 - MINUTES/FEET
 - SECONDS/INCHES
- FEMA ZONE
~500'~
FEMA BASE FLOOD ELEVATION
- TITLE COMMITMENT ITEM
- Ex.GAS- GAS LINE
 - Ex.WL- WATER LINE
 - Ex.SS-SEWER LINE
 - Ex.SP-STORM DRAIN LINE
 - Ex.OHE-OVERHEAD UTILITY
 - Ex.TEL- UNDERGROUND TELEPHONE
 - Ex.UGE-BURIED ELECTRIC
 - Ex.CATV-BURIED CABLE LINE
 - Ex.FOC- BURIED FIBER OPTIC
 - CDRL- GUARD RAIL
 - CHLK- CHAIN LINK FENCE
 - WIRE- WIRE FENCE
 - WOOD- WOOD FENCE
 - METAL- METAL FENCE
 - IRON- IRON FENCE
 - PIPE- PIPE RAIL FENCE
 - SILT- SILT FENCE
 - GUY- GUY WIRE

GENERAL NOTES:

- The tract shown herein and described above was not abstracted by the surveyor. Additional easements or other encumbrances, whether of record or not may affect the subject tract.
- According to surveyor's interpretation of information shown on the National Flood Insurance Program (NFIP) "Flood Insurance Rate Map" (FIRM), Community Panel No. 48121C0415G, dated April 18, 2011. The property appears to lie within Zone "X" and the entire property lies within a "Areas determined to be outside the 0.2% annual chance floodplain" zone as defined by the U.S. Department of Housing and Urban Development, Federal Insurance Administration, or the Federal Emergency Management Agency.
- The above referenced "FIRM" map is for use in administering the "NFIP"; it does not necessarily show all areas subject to flooding, particularly from local sources of small size, which could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. There may be other streams, creeks, low areas, drainage systems or other surface or subsurface conditions existing on or near the subject property which are not studied or addressed as a part of the "NFIP".
- The surveyor has made no attempt to locate or define hazardous waste areas, habitats, endangered species or any other environmentally sensitive areas on the tract of land shown hereon; nor does this survey make any representations of being an environmental assessment of the tract of land shown hereon.
- The surveyor has made no attempt to locate or define archeological sites, historical sites or undocumented cemeteries on the tract of land shown hereon: nor does this survey make any representation of being an archeological or historical survey of the tract of land shown hereon.
- The surveyor has made no attempt to locate abandoned or plugged oil and gas wells, or any other wells on the tract of land shown hereon; nor has the surveyor made any attempt to research same with the Railroad Commission of Texas or any other State agency; nor has the surveyor investigated any mineral or royalty interests in the tract of land shown hereon.
- Existing utilities shown hereon are from above ground visible features coupled together with maps and plans provided to the surveyor. The surveyor does not make any representation of being a Quality Level A or B sub-surface utility survey of the tract of land shown hereon.
- All found monuments shown hereon are deemed to be controlling monuments.
- All bearings shown herein are Texas State Plane Coordinate System, NAD83 (2011), Texas North Central Zone (4202). All distances shown herein are surface distances.
- SOURCE BENCHMARK:** Little Elm Monument 8, being located in the grass area on the Northeasterly side of the Town of Little Elm Eldorado West Lift Station on the North side of W. Eldorado Parkway the station is 128.30 feet Southwest of a power pole and is 33.3 feet Northeasterly of a sewer manhole and is 42.5 feet East of the Northeasterly corner of a stone screen wall around said lift station.
Elevation = 551.35'
- This survey was prepared without the benefit of title encumbrance research.**

LOT 5, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 6, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 7, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 8, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 4, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 6, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 9, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 3, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 2, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

LOT 1, BLOCK F
HILLTOWN
VOLUME 3, PAGE 57
P.R.D.C.T.

D. CULE SURVEY
ABSTRACT NUMBER 226

15' SANITARY SEWER EASEMENT
INSTRUMENT NUMBER 2014-227, P.R.D.C.T.

F.M. ROAD 720
VARIABLE WIDTH RIGHT-OF-WAY
INSTRUMENT NUMBER 2012-118511
O.P.R.D.C.T.

CRESTWOOD PLACE
60' RIGHT-OF-WAY
VOLUME 3, PAGE 57, P.R.D.C.T.

GREENWOOD DRIVE
60' RIGHT-OF-WAY
VOLUME 3, PAGE 57, P.R.D.C.T.



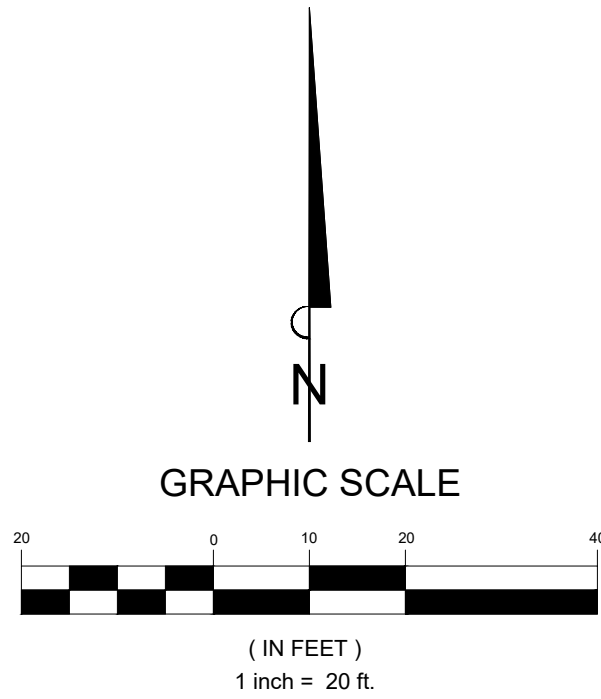
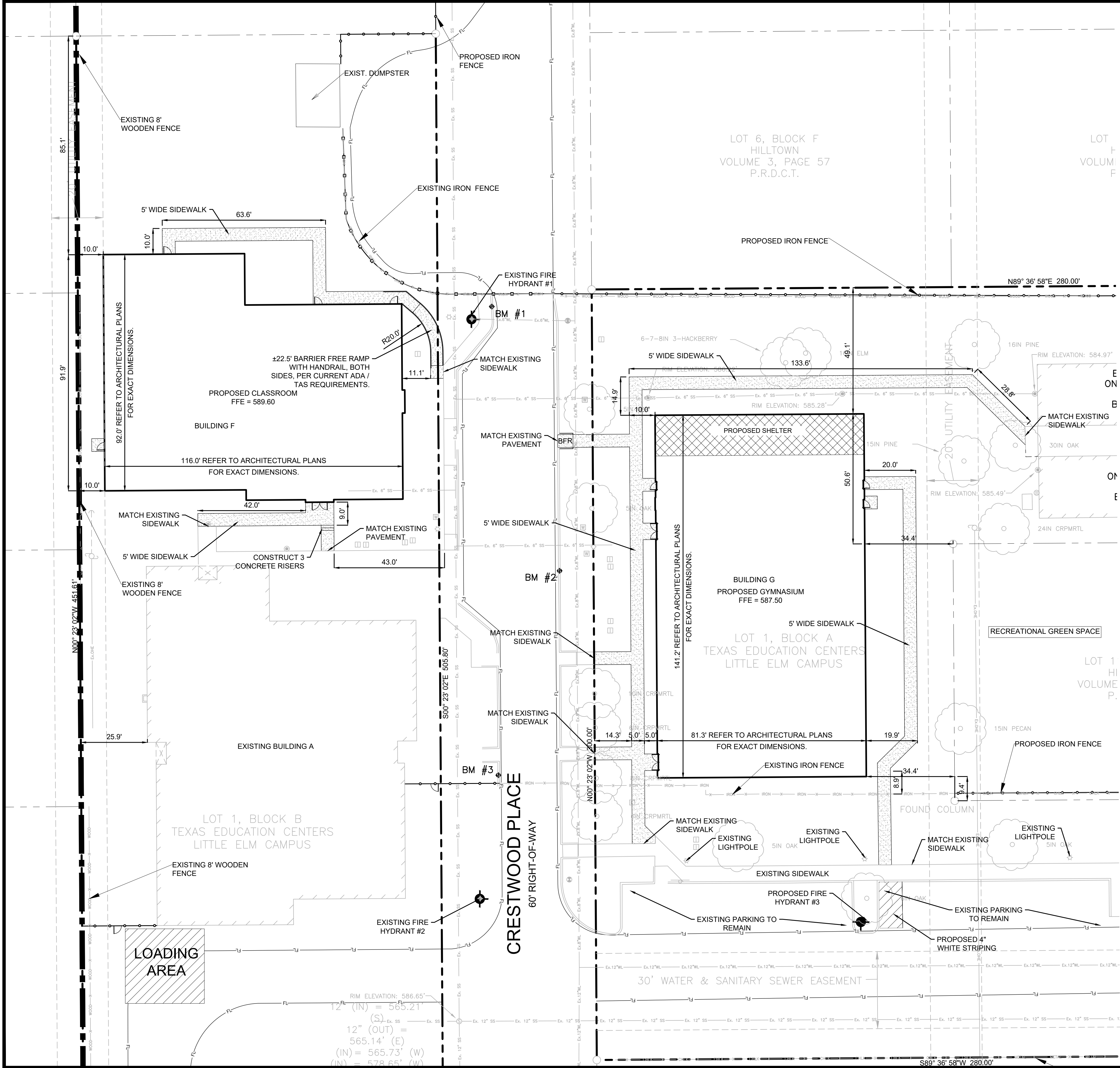
Know what's below.
Call before you dig.
(@ least 48 hours prior to digging)

PROJECT: Lot 1, Block A and Lot 1, Block B
Texas Education Centers Little Elm Campus
Being out of the
D. Cule Survey, Abstract No. 226
Town of Little Elm, Denton County, Texas

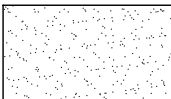


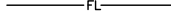
PARTIAL
TOPOGRAPHIC
SURVEY

PROJECT NO.:
094-22-002
SCALE: 1" = 30'
DRAWN BY: sa
CKD BY: md2
SHEET NUMBER
1 OF 1

BANNISTER
ENGINEERING
240 North Mitchell Road | Mansfield, TX 76063 | 817.842.2094 | 817.842.2095 fax
TBPLS REGISTRATION NO. 10193823



LEGEND

	SIDEWALK/FLATWORK
	ACCESSIBLE PARKING SPACE
BFR	BARRIER FREE RAMP
LBJ	LONGITUDINAL BUTT JOINT
	FIRE HYDRANT
	FIRE LANE

NOTES

1. ALL DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
2. REFER TO ARCHITECTURAL PLANS FOR EXACT BUILDING DIMENSIONS. BUILDING DIMENSIONS SHOWN ON THIS PLAN ARE FOR REFERENCE ONLY.
3. REFER TO GENERAL NOTES SHEET FOR ADDITIONAL NOTES.
4. ALL SIDEWALKS TO BE CONSTRUCTED WITH A MAXIMUM CROSS SLOPE OF 2.0%.

NOTES TO CONTRACTOR

1. INFORMATION ON THIS SHEET AND OTHER SHEETS THROUGHOUT THIS PLAN SET IS PART OF A UNIFIED DESIGN. THE CONTRACTOR SHALL NOT SEPARATE DRAWINGS FROM THE SET FOR DISTRIBUTION TO SPECIFIC DISCIPLINES. EACH SUBCONTRACTOR SHALL BE PROVIDED WITH ALL SHEETS WITHIN THIS PLAN SET.
2. CONTRACTOR SHALL REFERENCE GENERAL NOTES SHEET FOR ADDITIONAL INFORMATION. INFORMATION ON THE GENERAL NOTES SHEET IS PART OF A UNIFIED DESIGN AND IS PERTINENT TO THIS PLAN SHEET.
3. CONTRACTOR SHALL REFERENCE ALL IRRIGATION PLANS, MEP SITE PLANS, AND CIVIL ENGINEERING UTILITY PLANS FOR INFORMATION REGARDING SLEEVES BENEATH PAVEMENT.

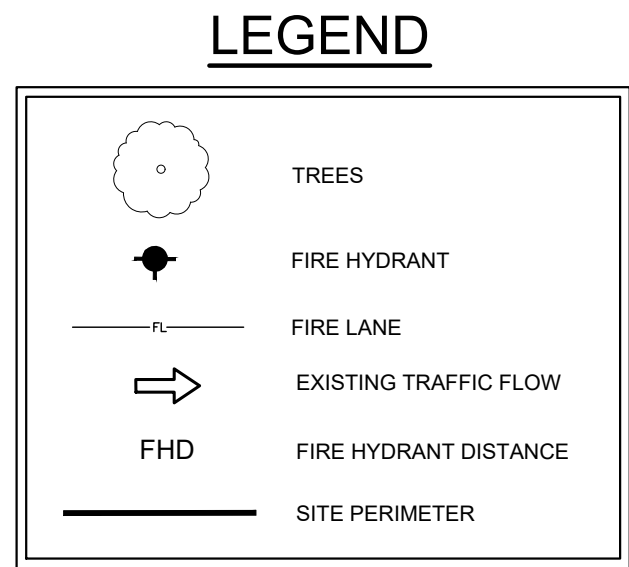
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BM #2:
SET X-CUT IN CONCRETE
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ELEV.=587.13

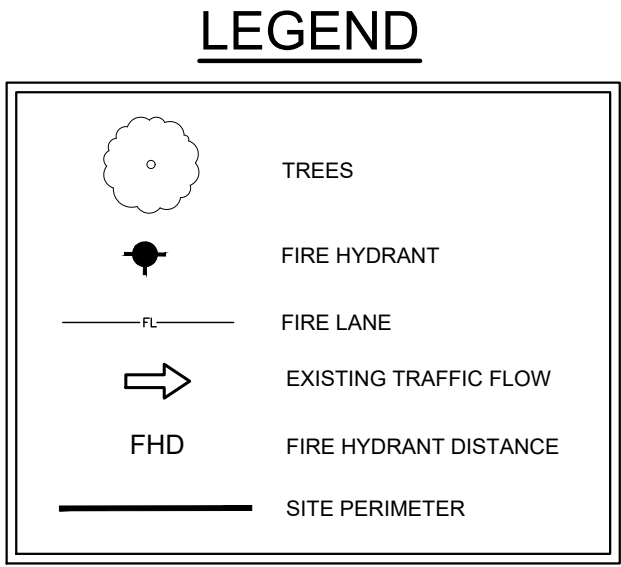
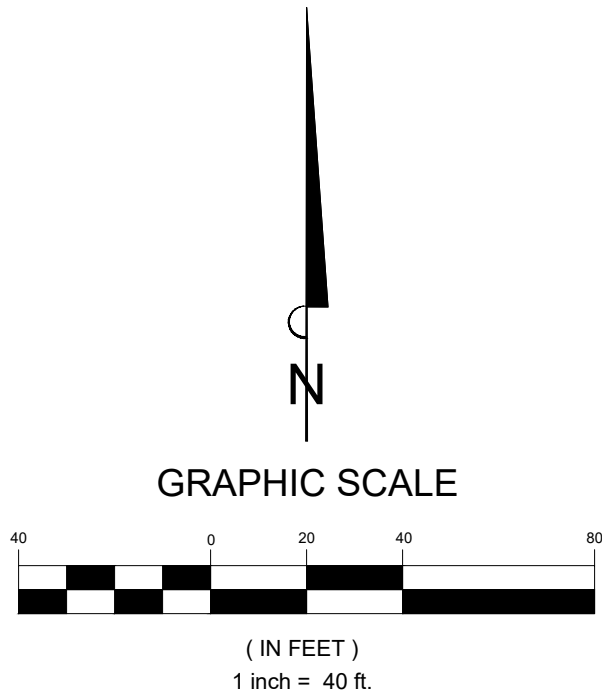
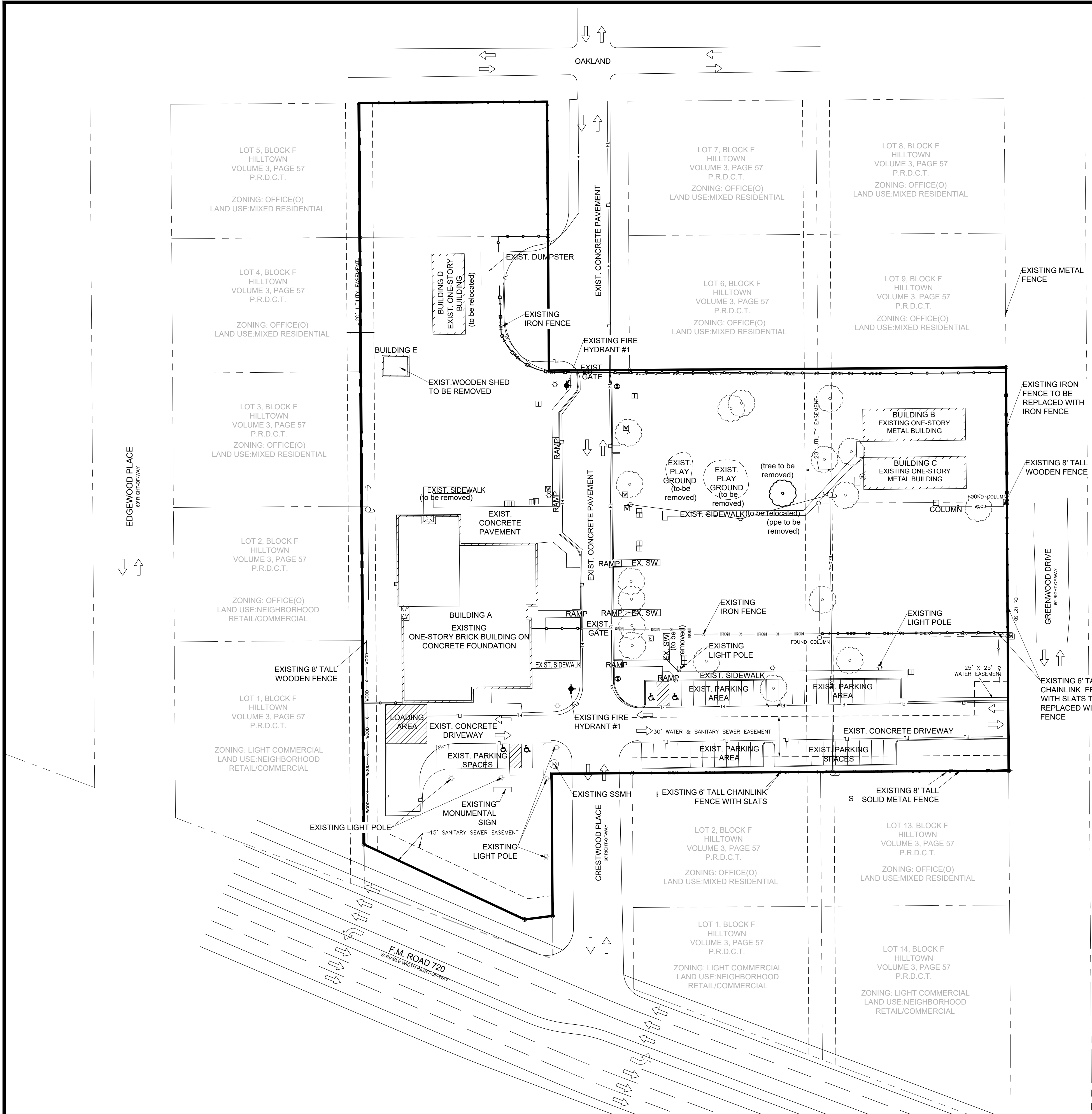


Know what's below.
Call before you dig.
(@ least 48 hours prior to digging)



D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS

File: B:\Clients\094 (Remtech Building Systems)\094-22-002 (NTCA - Little Elm)\Civil\Sheet Set\Site Phase Plans.dwg | Date Plotted: 2/29/2023 4:11 PM | Plotted By: rhini



SITE PLAN PHASE 2- RELOCATION AND DEMOLITION

LOT 1, BLOCK A - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 1, BLOCK B - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 11, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T.
LOT 6, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T

D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS

TEXAS EDUCATION CENTERS
LITTLE ELM CAMPUS
1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS
SITE PLAN PHASE 2
RELOCATION AND DEMOLITION

No.	Date	Revision Description

PROJECT NO.: 094-22-002

PRELIMINARY

FOR REVIEW ONLY

THESE DOCUMENTS ARE FOR REVIEW ONLY AND NOT INTENDED FOR CONSTRUCTION, BIDDING, OR PERMITTING. THEY HAVE BEEN PREPARED BY OR UNDER THE SUPERVISION OF:

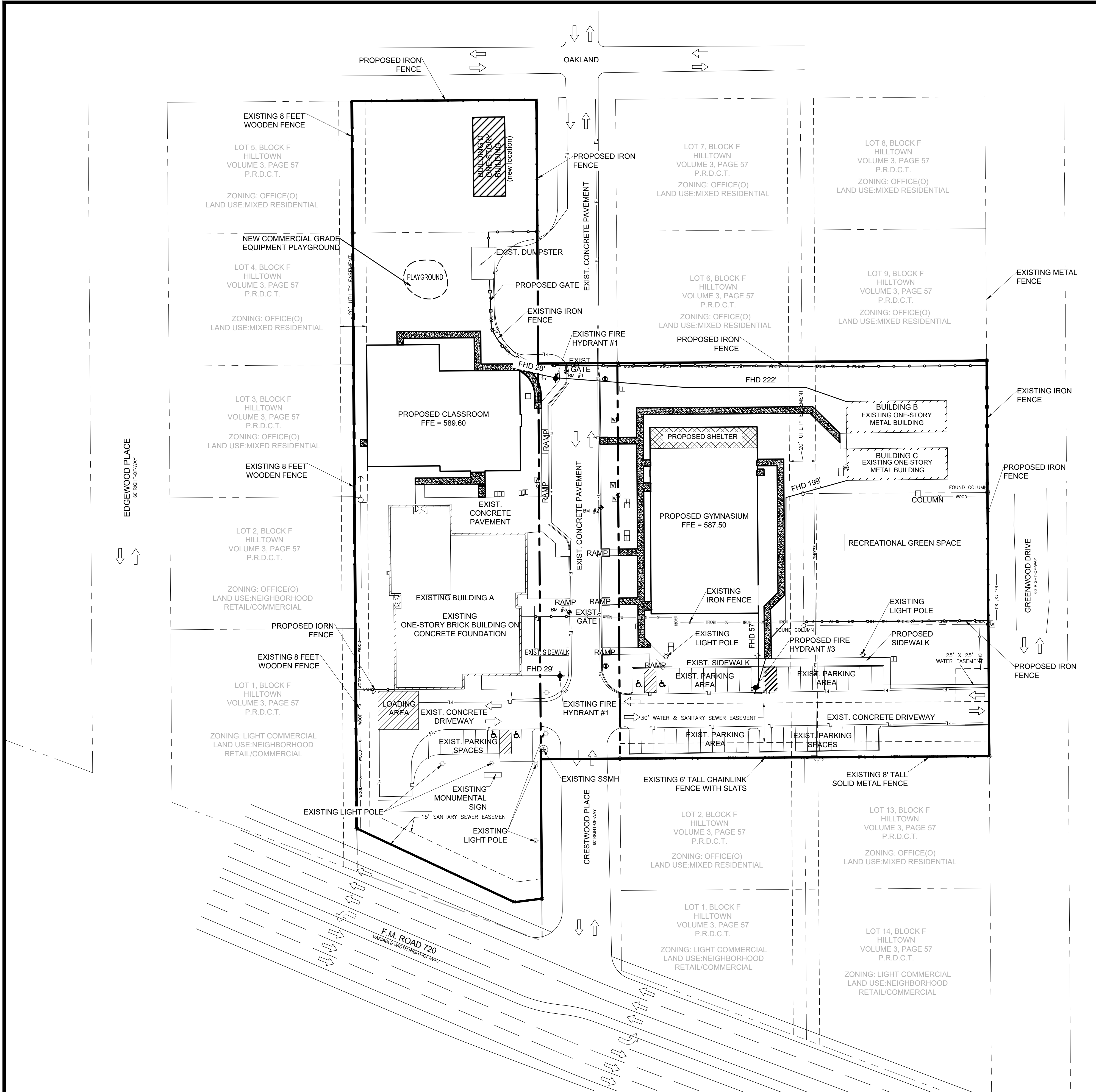
Engineer: HECTOR J. SOTELO, P.E.

P.E. No.: 104800 Date: FEB 09, 2023

SHEET NUMBER

CS-2

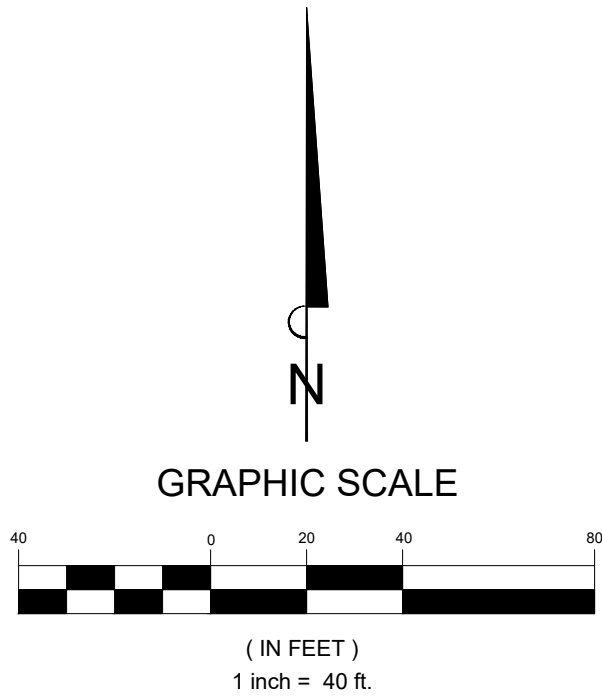
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SITE PLAN PHASE 3- PROPOSED CONDITION

LOT 1, BLOCK A - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 1, BLOCK B - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 11, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T.
LOT 6, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T

D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS



LEGEND

	FIRE HYDRANT
	FIRE LANE
	EXISTING TRAFFIC FLOW
	FIRE HYDRANT DISTANCE
	SITE PERIMETER

TEXAS EDUCATION CENTERS

LITTLE ELM CAMPUS

1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS

SITE PLAN PHASE 3
PROPOSED CONDITIONS

No.	Date	Revision Description

PROJECT NO.: 094-22-002

PRELIMINARY

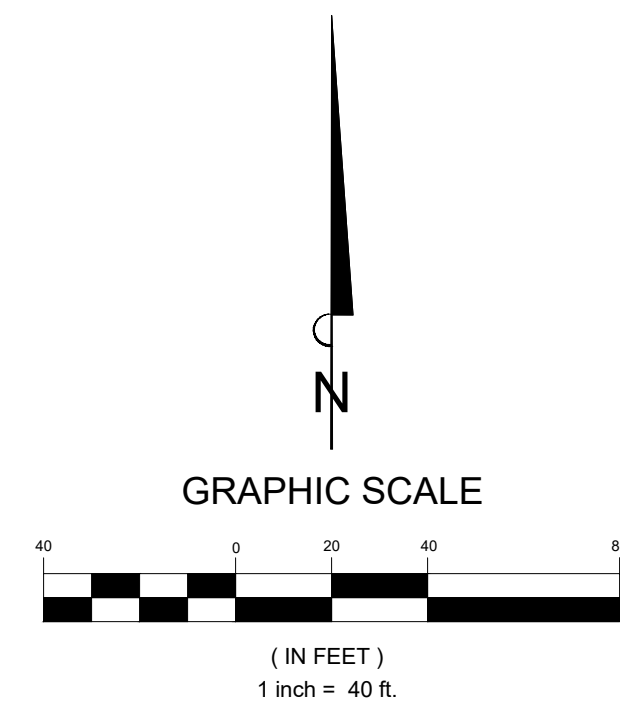
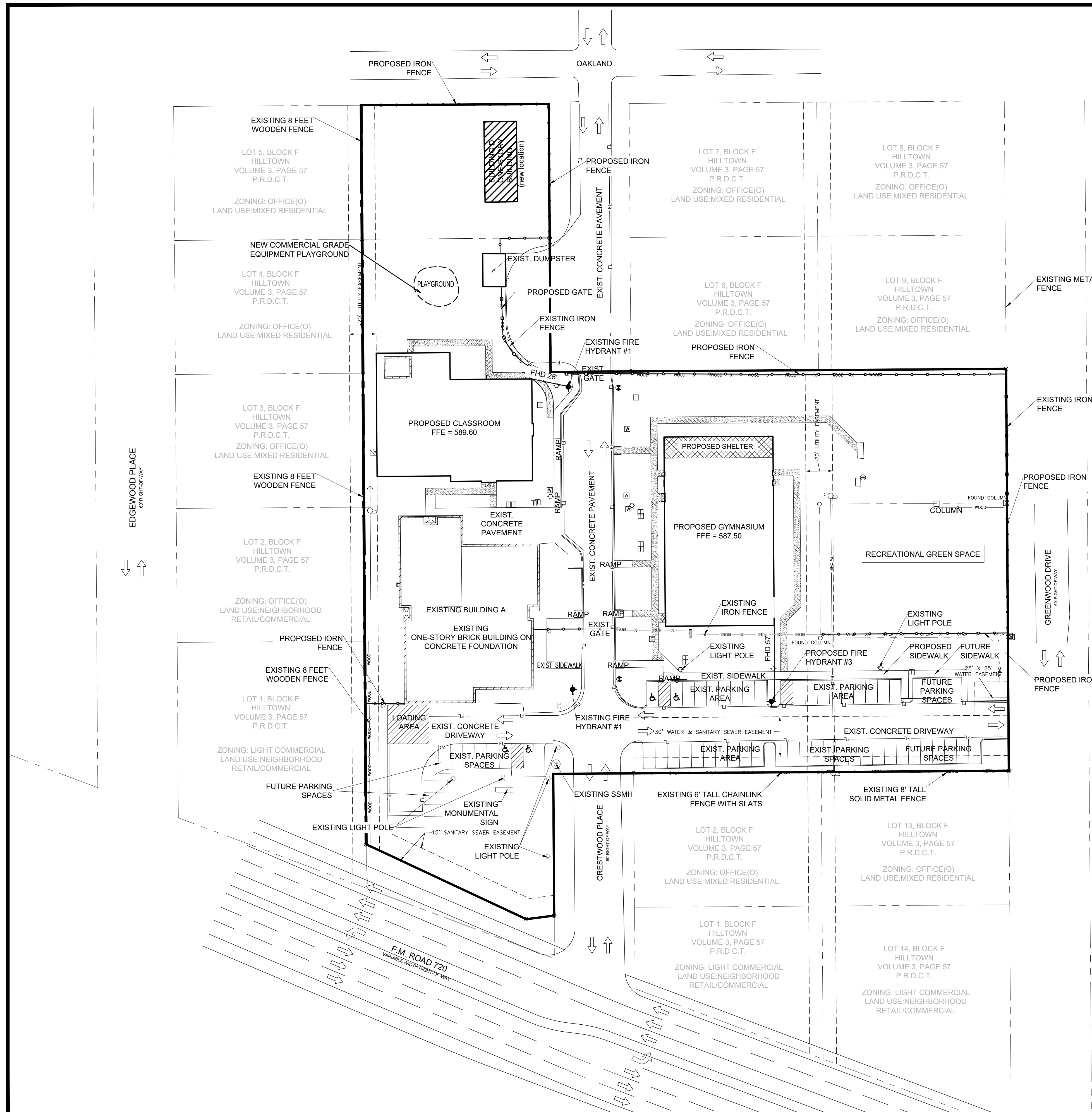
FOR REVIEW ONLY

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Engineer: HECTOR J. SOTELO, P.E.
P.E. No.: 104800 Date: FEB 09, 2023

SHEET NUMBER

CS-3



LEGEND

	FIRE HYDRANT
	FIRE LANE
	EXISTING TRAFFIC FLOW
FHD	FIRE HYDRANT DISTANCE
LP	EXISTING TREES TO REMAIN
	SITE PERIMETER

SITE PLAN PHASE 4- ULTIMATE CONDITION

LOT 1, BLOCK A - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
 LOT 1, BLOCK B - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
 LOT 11, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T.
 LOT 6, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T

D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS

TEXAS EDUCATION CENTERS

LITTLE ELM CAMPUS

OAK GROVE PARKWAY
LITTLE ELM, TEXAS

SITE PLAN PHASE 4

[illegible]

PROJECT NO: 094-22-002		
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PREPARED BY OR UNDER THE
SUPERVISION OF:

Engineer HECTOR J. SOTELO, P.E.
P.E. No. 104800 Date FEB 09, 2023

SHEET NUMBER

CS-4

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PARKING SUMMARY TABLE 1 (ULTIMATE CONDITION)	
EXISTING ZONING	OFFICE (O)
LOT COVERAGE	3.83 ACRES
PARKING	
° REQUIRED 1 PER CLASSROOM	23 SPACES
° REQUIRED GYM (1 PER 4 SEATS) (150 SEATS/ 4)	38 SPACES
TOTAL REQUIRED	61 SPACES
EXISTING	61 SPACES
FUTURE	61 SPACES
° HANDICAPPED PARKING	
HC PARKING REQUIRED	3 SPACES
HC PARKING PROVIDED (INCLUDED)	4 SPACES

SITE DATA SUMMARY TABLE 2 (ULTIMATE CONDITION)						
BUILDING ID	CONDITION	BUILDING USE	LAND USE	SIZE IN S.F.	NO OF CLASSROOM	NO OF ASSEMBLY SEATS
BUILDING A	EXISTING	CLASSROOM/ CAFETERIA/ASSEMBLY	COMMERCIAL	9,714	5	141 **
BUILDING B	EXISTING	CLASSROOM TO BE REMOVED	MIXED RESIDENTIAL	1,832	N/A *	N/A
BUILDING C	EXISTING	CLASSROOM TO BE REMOVED	MIXED RESIDENTIAL	1,831	N/A *	N/A
BUILDING D	EXISTING	MAINTENANCE	MIXED RESIDENTIAL	1,454	N/A	N/A
BUILDING F	PROPOSED	CLASSROOM BUILDING	NEIGHBORHOOD RETAIL/COMMERCIAL	12,321	14	N/A
BUILDING G	PROPOSED	CLASSROOM/ GYM	MIXED RESIDENTIAL	11,482	4	150 **
TOTAL				38,634	23	291

NOTES

1. * CLASSROOMS WILL BE REMOVED IN ULTIMATE PHASE

2. ** PARKING REQUIREMENT FOR CLASSROOM AND GYMNASIUM IS CONSIDERED ONE USE AT A TIME

LOT & BLOCK DATA SUMMARY TABLE 3	
LOT	SIZE (ACRES)
LOT 1, BLOCK A	1.60
LOT 1, BLOCK B	1.55
LOT 11, BLOCK F	0.35
LOT 6, BLOCK F	0.32
TOTAL	3.83

SITE PLAN PHASE 4- SITE DATA TABLES

LOT 1, BLOCK A - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 1, BLOCK B - TEXAS EDUCATION CENTERS LITTLE ELM CAMPUS
LOT 11, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T.
LOT 6, BLOCK F - HILLTOWN VOLUME 3, PAGE 57 P.R.D.C.T

D. CULE SURVEY
ABSTRACT NO.226
TOWN OF LITTLE ELM, TEXAS

TEXAS EDUCATION CENTERS
LITTLE ELM CAMPUS
1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS

SITE DATA TABLES

No.	Date	Revision Description
PROJECT NO.: 094-22-002		

PRELIMINARY

FOR REVIEW ONLY

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Engineer HECTOR J. SOTELO, P.E.

P.E. No. 104800 Date FEB 09, 2023

SHEET NUMBER

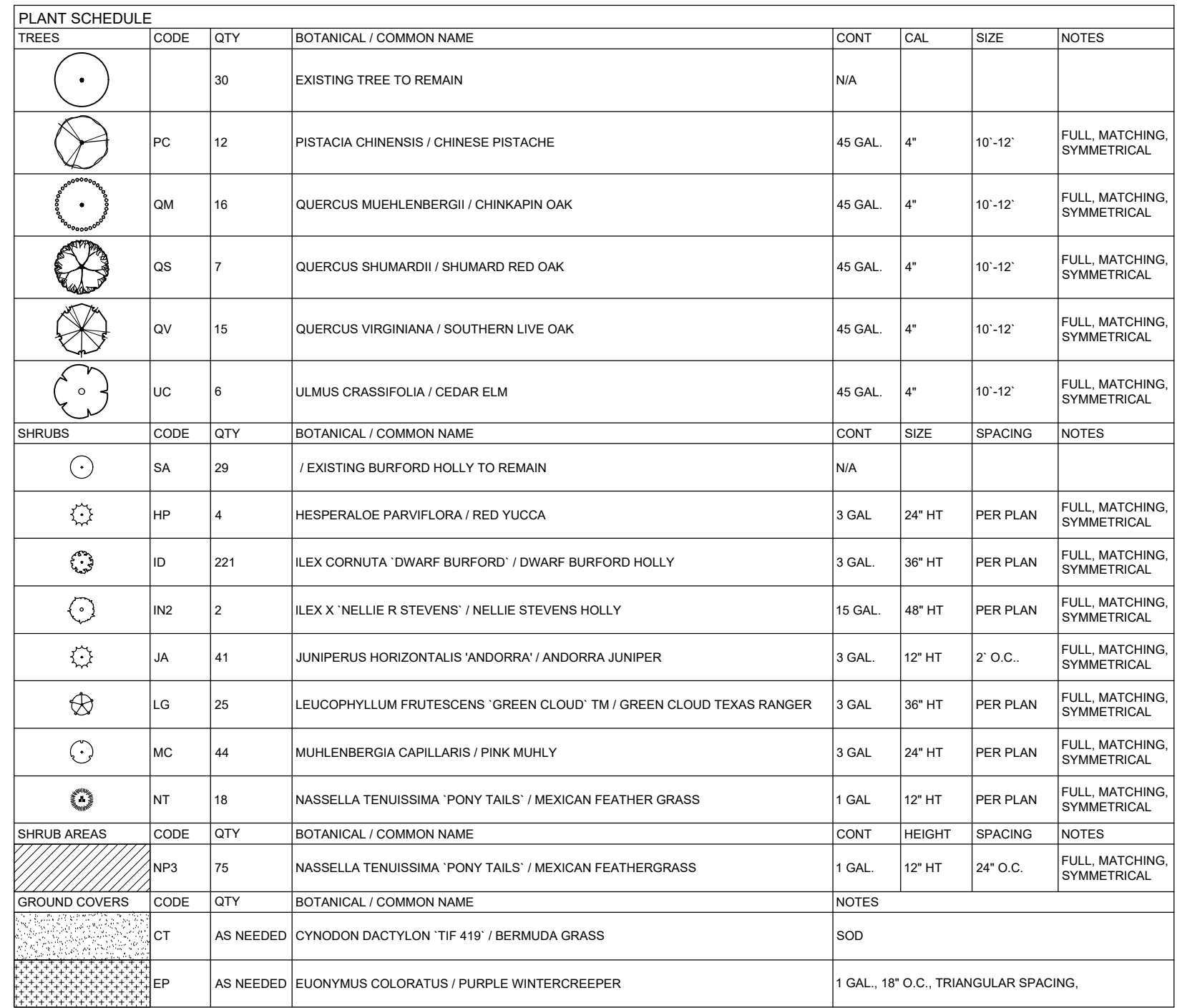
CS-5

EB

BANNISTER

ENGINEERING

240 North Mitchell Road | Mansfield, TX 76063 | 817.842.2094 | 817.842.2095 fax
REGISTRATION # F-10599 (TEXAS)



- CONTRACTOR TO REMOVE AND REPAIR EXISTING IRRIGATION SYSTEM DAMAGED DUE TO CONSTRUCTION.
- CONTRACTOR TO INSTALL AND MODIFY EXISTING IRRIGATION SYSTEM AS NEED INCLUDING ADDING NEW ZONES, BUBBLERS, SPRAY HEADS, DRIP IRRIGATION AND CONFIRMING EXISTING CONTROLLER CAN HANDLE ADDITIONAL ZONES IF NEEDED AND REPLACE IF NEEDED.



Know what's below.
Call before you dig.
 (@ least 48 hours prior to digging)

BENCHMARKS

BM #1:
SET X-CUT IN CONCRETE
N:7110619.551
E:2437359.562
ELEV.=587.14'

BM #2:
SET X-CUT IN CONCRETE
N:7110516.674
E:2437385.936
ELEV.=587.13'



SHEET NUMBER

L-1.0

TEXAS EDUCATION CENTERS

LITTLE ELM CAMPUS

LITTLE ELM, TEXAS

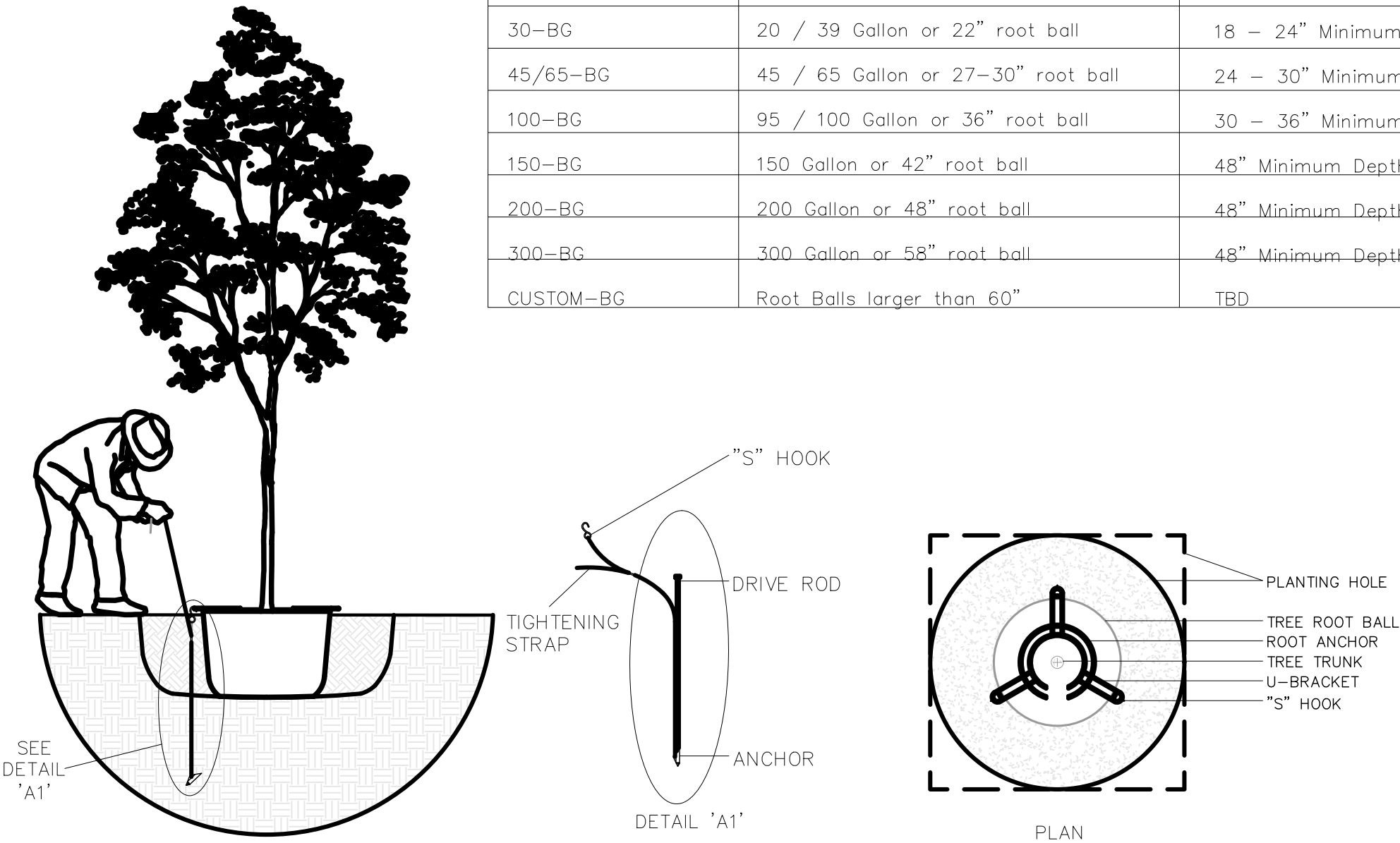
LANDSCAPE PLAN

PROJECT NO.: 094-22-002

GENERAL NOTES :

1. Locate all utilities prior to digging. Contractor shall be responsible for all damage incurred by his/her work.
2. Contractor shall advise the Owner and Landscape Architect of any condition found on site which prohibits installation as shown on these plans.
3. If a discrepancy between drawings and plant schedule is found, the drawings shall take precedent over the plant schedule.
4. Plant material shall comply with all sizing and grading standards of the latest edition of 'American Standard for Nursery Stock.'
5. Contractor shall stake out tree locations and bed configuration for approval by Owner prior to installation.
6. Substitutions shall not be made without prior written authorization from the Owner or Landscape Architect.
7. All disturbed areas not indicated as planting beds shall be sodded or seeded by Contractor to provide an established turf area.
8. Contractor shall remove reasonable amount of stones, dead roots, detritus and other undesirable material from existing soil.
9. If rocks are encountered, remove to a depth of 3" and add 3" of friable fertile topsoil to all sodded areas. Contractor to ensure that site is graded according to the Engineer's grading plan.
10. Lawn areas shall have 3" minimum friable topsoil and be treated with fertilizer applied at a rate of 20 pounds per 1,000 square feet.
11. Soil preparation for planting beds shall be as follows:
 - 3" of organic compost
 - 20 pounds of organic fertilizer / 1,000 sf of bed area
 - Till bed to a depth of 6" to 8"
 - Check soil acidity. Soil acidity should range from 5.0 to 7.0 pH. Regulate if necessary.
12. All plant beds shall be top dressed with a minimum 3" of Native Hardwood Mulch.
13. Provide steel edge between all plant beds and lawn areas unless indicated differently on plans.
14. Tree planting pits shall be cleared of undesirable material and backfilled with prepared top soil. Place 1" of compost and 3" of shredded hardwood mulch on top of root ball.
15. The Contractor will be held liable for any damage caused to trees due to improper staking methods, including absence of staking throughout the warranty period.
16. Trees shall be planted at least 2.5 feet from any right-of-way line, curb, walk or fire hydrant, and outside all utility easements.
17. Trees shall be planted at least 8 feet from any public utility line where possible. In the event this is not possible, Contractor shall install a root barrier, per the detail(s) noted on this sheet.
18. Trees overhanging walks and parking areas shall have a clear trunk height of 7 feet from finish surface grade.
19. Contractor shall warranty plant material to remain alive and healthy for a period of one year after the final acceptance. All plant material shall be maintained in a healthy condition in accordance with the season. Dead, damaged or destroyed plant material shall be replaced in kind within thirty days. Warranty shall not include damage for loss of plant material due to natural causes, acts of vandalism or negligence on the part of the owner.
20. Landscape areas shall be kept free of trash, litter and weeds.
21. An automatic irrigation system shall be provided to maintain all landscape areas. Overspray on streets is prohibited.
22. Installing contractor to maintain landscaping for 30 days from owner occupancy to establish plants and grass, mowing and trimming to be included.
23. All areas disturbed by construction shall be fine graded and re-established by sod. These areas shall be irrigated and maintained until permanent stand of grass is achieved with a minimum of 70% coverage. This is to include all areas to the back of curb around the property.
24. Any hardwood mulched beds on site shall have permeable weed mat installed prior to plant material and mulch being installed.
25. All bedding areas with ground cover (Asian Jasmine, Wintercreeper, etc.) shall be top dressed with hardwood mulch until ground cover has covered area completely.
26. Any switch gear devices, electrical transformers, telephone pedestals, and hvac units located on the property are to be screened. If these devices have been altered from the most recent plans, the contractor is to verify placement of these utilities and contact Landscape Architect for plant material specifications and placement.
27. Landscape contractor shall not place topsoil or mulch above brick ledge of the building and shall not block weep holes on the building.
28. If the grades on site at the time the landscape contractor is set to begin work does not allow the brick ledge and weep holes to remain uncovered, it is the landscape contractor's responsibility to notify the owner or general contractor immediately.
29. Landscaping Maintenance: The property owner, tenant or agent, shall be responsible for the maintenance of all required landscaping in a healthy, neat, orderly and live-growing condition at all times. This shall include mowing, edging, pruning, fertilizing, irrigation, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such materials not a part of the landscaping. Plant materials that die shall be replaced with plant materials of similar variety and size.

ROOT ANCHOR ITEM#	ROOT BALL & CONTAINER SIZE	ANCHOR INSTALLATION DEPTH	QUANTITY & ANCHOR SIZE
15-BG	10 / 15 Gallon or 17" root ball	12 - 18" Minimum Depth	3 - V68 Anchors
30-BG	20 / 39 Gallon or 22" root ball	18 - 24" Minimum Depth	3 - V68 Anchors
45/65-BG	45 / 65 Gallon or 27-30" root ball	24 - 30" Minimum Depth	3 - V68 Anchors
100-BG	95 / 100 Gallon or 36" root ball	30 - 36" Minimum Depth	3 - V68 Anchors
150-BG	150 Gallon or 42" root ball	48" Minimum Depth	3 - V68 Anchors
200-BG	200 Gallon or 48" root ball	48" Minimum Depth	3 - V88 Anchors
300-BG	300 Gallon or 58" root ball	48" Minimum Depth	3 - V88 Anchors
CUSTOM-BG	Root Balls larger than 60"	TBD	

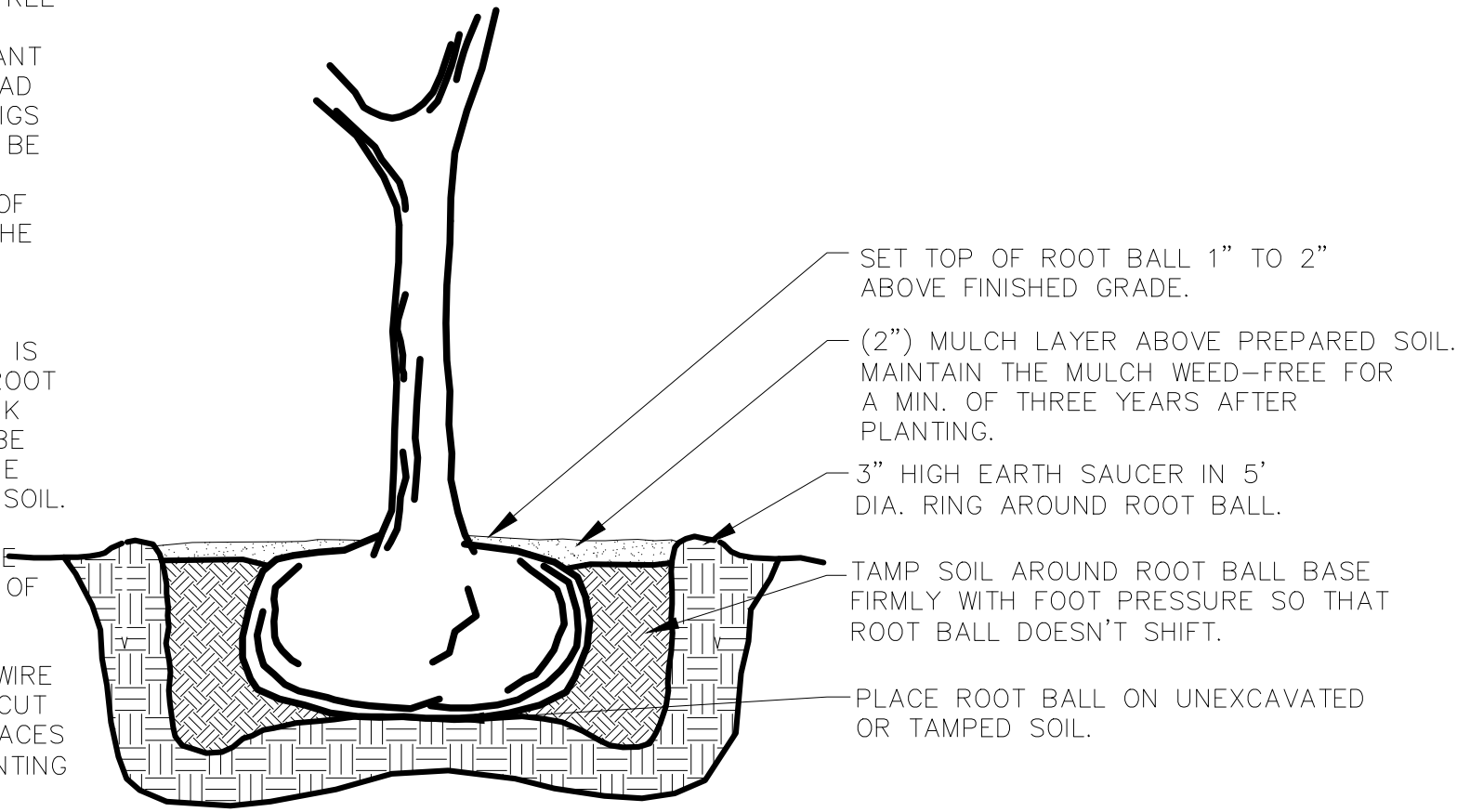


A TREE STAKING DETAIL

NOT TO SCALE

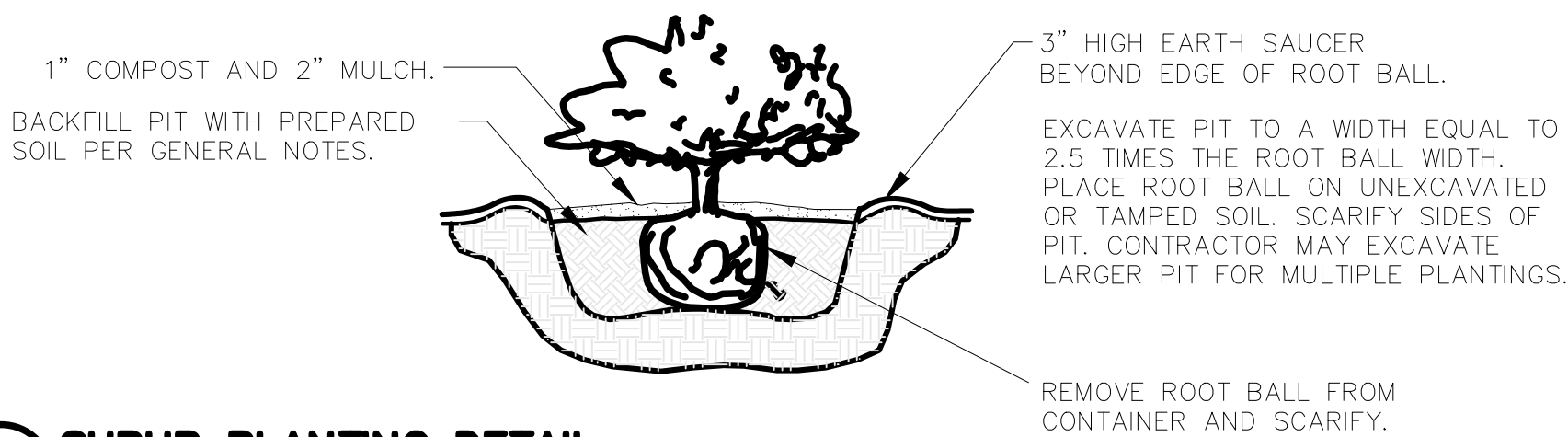
NOTES:

1. DO NOT HEAVILY PRUNE THE TREE AT PLANTING. PRUNE ONLY CROSSOVER LIMBS, CO-DOMINANT LEADERS, AND BROKEN OR DEAD BRANCHES. SOME INTERIOR TWIGS AND LATERAL BRANCHES MAY BE PRUNED; HOWEVER, DO NOT REMOVE THE TERMINAL BUDS OF BRANCHES THAT EXTEND TO THE EDGE OF THE CROWN.
2. EACH TREE MUST BE PLANTED SUCH THAT THE TRUNK FLARE IS VISIBLE AT THE TOP OF THE ROOT BALL. TREES WHERE THE TRUNK FLARE IS NOT VISIBLE SHALL BE REJECTED. DO NOT COVER THE TOP OF THE ROOT BALL WITH SOIL.
3. REMOVE ALL TWINE, ROPE, WIRE AND BURLAP FROM TOP HALF OF ROOT BALL.
4. IF PLANT IS SHIPPED WITH A WIRE BASKET AROUND ROOT BALL, CUT THE WIRE BASKET IN FOUR PLACES AND FOLD DOWN 8" INTO PLANTING HOLE.



B TREE PLANTING DETAIL

NOT TO SCALE



C SHRUB PLANTING DETAIL

NOT TO SCALE



BENCHMARKS

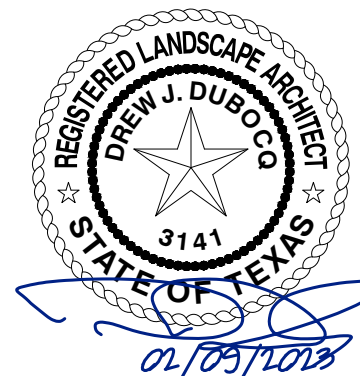
BM #1: SET X-CUT IN CONCRETE N:7110619.551 E:2437359.562 ELEV.=587.14'	BM #2: SET X-CUT IN CONCRETE N:7110516.674 E:2437385.936 ELEV.=587.13'
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TEXAS EDUCATION CENTERS
LITTLE ELM CAMPUS
1851 OAK GROVE PARKWAY
LITTLE ELM, TEXAS

LANDSCAPE NOTES

No.	Date	Revision	Description

PROJECT NO.: 094-22-002



SHEET NUMBER

L-1.1

BANNISTER
ENGINEERING
240 North Mitchell Road | Mansfield, TX 76063 | 817.842.2094 | 817.842.2095 fax
REGISTRATION # F-10599 (TEXAS)

Building A



Architectural elevation drawing of a building facade. The drawing shows a long, low structure with a flat roof. The facade is composed of several materials: split face concrete block, brick, and cast stone. There are two sets of double windows and a set of double doors. The roof features HVAC rooftop units and a downspout. The drawing includes various dimension lines and labels for materials and features.

Labels and dimensions include:

- DOWNSPOUT
- HVAC ROOFTOP UNITS
- SPLIT FACE CONCRETE BLOCK
- BRICK
- (6) CAST STONE LINTELS
- AWNINGS
- TOP OF PARAPET 13'-5 3/4" ±
- 13'-0 3/4" ± (TYPICAL)
- FINISHED FLOOR 0'-5" ±
- GRADE LEVEL 0'-0"
- GRADE VARIES - REFER TO SITE PLAN BY CIVIL ENGINEER
- 116'-0"
- CAST STONE SILLS (TYPICAL)
- WINDOWS AS SPECIFIED
- DOORS AS SPECIFIED

Architectural elevation drawing of a building facade. The drawing shows a long, low structure with a brown brick upper section and a light yellow lower section. The roofline is indicated by a horizontal line with a height of 13'-0 3/4" ± (TYPICAL) from the finished floor. The finished floor is at 0'-5" ± and the grade level is at 0'-0". The building features several windows and a door. Labels include: TOP OF PARAPET 13'-0 3/4" ±, FINISHED FLOOR 0'-5" ±, GRADE LEVEL 0'-0", SPLIT FACE CONCRETE BLOCK, BRICK, HVAC ROOFTOP UNITS, DOWNSPOUTS, DOOR AS SPECIFIED, WINDOWS AS SPECIFIED, CAST STONE SILLS (TYPICAL), and GRADE VARIES - REFER TO SITE PLAN BY CIVIL ENGINEER 96'-0". The drawing is a cross-section showing the internal structure and materials.

Architectural elevation drawing of a building facade. The drawing shows a long, low structure with a brick upper section and a split face concrete block lower section. Key features include:

- HVAC Rooftop Units:** Two units are shown on the roof, with downspouts extending from them.
- Brick:** The upper portion of the facade is brick.
- Downspouts:** Vertical pipes extending from the roofline.
- (8) Metal Awnings to Match Existing:** Awnings are shown above the windows.
- Split Face Concrete Block:** The lower portion of the facade is made of split face concrete blocks.
- Windows:** Several windows are shown, with notes indicating "WINDOWS AS SPECIFIED" and "CAST STONE SILLS (TYPICAL)".
- Dimensions:**
 - Overall height: 13'-0 3/4" (TYPICAL)
 - Overall width: 96'-0"
 - Top of parapet: 13'-5 3/4" ±
 - Finished floor: 0'-5" ±
 - Grade level: 0'-0"
 - Grade varies - refer to site plan by civil engineer
- Other Notes:**
 - GRADE VARIES - REFER TO SITE PLAN BY CIVIL ENGINEER
 - TOP OF PARAPET 13'-5 3/4" ±
 - FINISHED FLOOR 0'-5" ±
 - GRADE LEVEL 0'-0"

Classroom Building East Elevation		
Material	SF	Percentage
Brick	672.9	54.1
Split Face Concrete Block	429.9	34.6
Windows	128	10.3
Doors	0	0
Cast Stone Lintels and Sills	12	1
Total	1242.8	100

Architectural elevation drawing of a building facade. The drawing shows a long, low structure with a flat roof. The facade is composed of several materials: split face concrete block, brick, and cast stone sills. There are two sets of double doors and several pairs of windows. The roof features HVAC rooftop units and a parapet cap. The drawing includes various callouts and dimensions:

- AWNINGS
- HVAC ROOFTOP UNITS
- SPLIT FACE CONCRETE BLOCK
- BRICK
- PARAPET CAP
- DOWNSPOUT
- TOP OF PARAPET 13'-5 3/4" ±
- 13'-0 3/4" ± (TYPICAL)
- FINISHED FLOOR 0'-5" ±
- GRADE LEVEL 0'-0"
- 5" ±
- DOORS AS SPECIFIED
- WINDOWS AS SPECIFIED
- CAST STONE SILLS (TYPICAL)
- 116'-0"
- GRADE VARIES - REFER TO SITE PLAN BY CIVIL ENGINEER

0 2 4 8 16
Graphic Scale (feet)

Site plan for Lot 1, Block A, Texas Education Centers Little Elm Campus. The plan shows a 'NEW CLASSROOM' building with a Future FFE of 588.60, a 'FUTURE GYMNASIUM' building with a Future FFE of 587.50, and a 'FUTURE CLASSROOM' building with a Future FFE of 588.60. The plan also shows a 'FUTURE CLASSROOM' building with a Future FFE of 588.60. The plan includes dimensions, setbacks, and a north arrow.

0 40 80
Graphic Scale (feet)

ARCHITECT:
ANTHONY W. MOTTLA ARCHITECTS
308 E. MARVIN AVENUE
WAXAHACHIE, TX 75165
972-923-2269

PLAN REVISIONS

MARK	ANS
------	-----

NOTICE

RAMTECH
Building Systems, Inc.
1402 U.S. HWY. 287 SOUTH
MANSFIELD, TEXAS 76063

NORTH TEXAS COLLEGIATE ACADEMY
96'-0" x 116'-0" CLASSROOM BUILDING
LOCATION:
LITTLE ELM, TEXAS

DOMESTIC

PROJECT NUMBER:	220702
DATE:	01-19-2

DRAWN BY:	NM
SHEET NO.	

SHEET NO.

A2

A-1017.2