

CAUSE NO. PR-2023-01015-A

TOWN OF LITTLE ELM, TEXAS,)	IN PROBATE COURT
)	NO. 1
Plaintiff,)	
)	
v.)	
)	OF
LAURA ELIZABETH KECK,)	
KATHERINE ROGERS NASH, and)	
MARY CAROLINE MIMS,)	
)	
Defendants.)	DENTON COUNTY, TEXAS

SETTLEMENT AGREEMENT

This Settlement Agreement ("**Agreement**") is entered into among Laura Elizabeth Keck, Joseph Adamson Nash, and Mary Caroline Mims (collectively, "**Landowners**") and the Town of Little Elm, Texas ("**Town**") (all of which are parties, or a successor in interest to a party, in the above-styled litigation), and all of which are collectively referred to as the "**Parties**."

I.

RECITALS

1. On July 25, 2023, the Town filed Plaintiff Town of Little Elm's Original Petition for Condemnation ("**Petition**") to acquire fee simple right-of-way to approximately 2.656 acres (115,695 square feet) (hereinafter referred to as the "**Right-of-Way Strip**") from approximately 24.5758 acres of vacant land located at the southwest corner of US Highway 380 and Ryan Spiritas Parkway, in the Town of Little Elm, Denton County, Texas ("**Parent Tract**"). A true and correct copy of the Petition is attached hereto as ***Exhibit 1*** and incorporated herein for all purposes. The legal description of the Right-of-Way Strip is attached as Exhibit A to the Petition.

2. The condemnation proceeding was filed against Laura Elizabeth Keck, Katherine Rogers Nash, and Mary Caroline Mims as the owners of the Parent Tract. The interests of Katherine Rogers Nash in the Parent Tract became vested in her husband, Joseph Adamson Nash, upon her untimely passing on October 14, 2023 pursuant to a Transfer on Death Deed executed by Katherine Rogers Nash on June 30, 2023, and recorded in the Denton County Real Property Records on July 18, 2023, as Instrument Number 75752, a true and correct copy of which is attached hereto as ***Exhibit 2*** and incorporated herein for all purposes.

3. The Parties have reached a settlement which will allow for the conveyance of the Right-of-Way Strip by the Landowners to the Town without the necessity of a special commissioners hearing in this proceeding and which will allow the Town to dismiss the condemnation proceeding.

SETTLEMENT AGREEMENT

4. To avoid the costs and uncertainty of the condemnation proceeding, Parties desire to settle, fully and finally, all claims between them that were asserted, or could have been asserted, in the condemnation proceeding, and the Parties desire to enter into the terms of this Agreement to bring a mutually beneficial resolution to matter in dispute.

5. In consideration of the mutual promises, releases, and covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows.

II.

TERMS OF SETTLEMENT

A. Settlement Funds

The Town shall pay to Landowners a sum of One Million, Six-Hundred and Nineteen Thousand, Seven Hundred and Thirty and 00/100 Dollars (\$1,619,730) (the "Settlement Funds"). The Settlement Funds shall be paid by wire transfer to Dawson & Sodd, PLLC Trust Account by not later than midnight on December 10, 2023, Central Standard Time. The Town shall have no obligation to pay the Settlement Funds under this Agreement unless and until the Town has received a fully executed version of the Deed Without Warranty attached hereto as *Exhibit 3*.

B. Deed Without Warranty

Landowners agree to execute the Deed Without Warranty attached hereto as *Exhibit 3* in a manner that will allow for the recording of the Deed Without Warranty in the Denton County Real Property Records. The Town agrees that it will hold the executed Deed Without Warranty in escrow and will not record it until the Settlement Funds have been both wired and received by Landowners as set forth herein. Execution and delivery of the Deed Without Warranty to the Town in a form suitable for filing in the Denton County Real Property Records shall be a condition to the Town's obligation to pay the Settlement Funds described in Part II(A), above.

C. Development Issues

In conjunction with the development of properties adjacent to the Parent Tract, the Town agrees to undertake, construct and complete at its sole cost and expense, without the contribution of any additional land or funds by Landowners, the recommended infrastructure improvements and development considerations described, depicted, and set forth as *item 1* ("Extension of water mains to Keck Tract"), *item 2* ("Extension of sanitary sewer to the Keck Tract"), and *item 3* ("Access from adjacent roadways") in the November 30, 2022, letter with exhibits from David J. Bond, P.E. to Tyler Milton, a true and correct copy of which is attached hereto as *Exhibit 4* and incorporated herein for all purposes. The improvements to be constructed by the Town described in the preceding sentence are collectively referred to as the "Infrastructure Improvements". The Town shall cause the Infrastructure Improvements to be completed diligently in a good and workmanlike manner, with the timing of such construction to commence upon the earlier of (i) the commencement of development activities on any of the properties adjacent to the Parent Tract or (ii) the commencement of development activities on the Parent Tract. Promptly following completion of the Infrastructure Improvements, the Town shall return the portions of the Parent

SETTLEMENT AGREEMENT

Tract and surrounding property affected by such construction to substantially the same condition, including grade and compaction, as it was prior to the commencement of construction, subject to the Town's rights with respect to the Right of Way Strip.

D. Dismissal of Litigation. Within two (2) business days after the payment of the Settlement Funds (as more particularly described in Part II(A), above), the Town agrees to file the appropriate court filings to dismiss the condemnation proceeding. If required by the court, the Parties agree to join in any filings to dismiss and resolve the pending condemnation proceeding.

E. Release of Lis Pendens. Upon the dismissal of the condemnation proceeding, the Town will file with the Real Property Records of Denton County documentation to release the Lis Pendens recorded against the Parent Tract.

F. Covenant Not to Sue. In the event the condemnation proceeding is dismissed, the Parties agree and covenant not to sue or prosecute the other parties to this Agreement on any claims or for any damages arising out of or related to claims that were brought, or could have been brought, in the condemnation proceeding except for any claims that arise out of the failure to perform the acts, terms, promises, covenants and obligations contained in this Agreement.

G. Expenses, Costs and Attorneys' Fees. The Parties agree that each shall satisfy and/or resolve all expenses, costs, and attorneys' fees incurred by that party arising out of the condemnation proceeding, including attorneys' fees and court costs, and that no party shall be responsible for any expenses, costs, or attorneys' fees incurred by another. In the event any party files suit or complaint in order to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection with the enforcement suit or complaint.

III.

MUTUAL RELEASE OF CLAIMS

Upon the dismissal with prejudice of the condemnation proceeding, each of the Parties, on behalf of themselves, their heirs, successors, assigns, insurers, partners, officials, officers, agents, employees, and attorneys, hereby release, remise, acquit, and forever discharge all other Parties, the Town Council members, affiliates, successors, assigns, officials, officers, agents, employees, and attorneys, in each of their individual, corporate and governmental capacities, from all claims, demands and causes of action and/or proposed claims, demands and causes of action which have been, or could have been alleged, in regard to the condemnation proceeding except for any claims that may arise out of the failure of any party to perform an acts, terms, promises, covenants or obligations contained within this Agreement.

IV.

ADDITIONAL REPRESENTATIONS AND TERMS

A. Agreement Executory. The Parties understand and agree that this Agreement shall be executory and conditioned upon the performance of the acts, terms, promises and obligations set forth herein, unless otherwise agreed to in writing by the Parties.

B. Assignment. Neither this Agreement, nor any of the attendant rights, duties, or obligations may be assigned by any Party without the prior written consent of the other Parties, which consent shall not unreasonably be withheld.

C. Sole Owner of Claims. The Parties state and warrant that they are the sole owners of any claims that have been asserted by them or may have been asserted by them and that such claims have not been assigned, encumbered, transferred, pledged or otherwise in any manner whatsoever sold or transferred, either by written instrument or otherwise, to any attorney, agent or other person or entity.

D. Terms Contractual. It is expressly understood and agreed that the terms hereof are contractual and not merely recitals, and that the agreements herein contained and the consideration transferred are to compromise disputed claims, to avoid litigation and buy peace, and that no payments made or releases or other consideration given shall be construed as an admission of liability or wrongdoing and all such liability is expressly denied.

E. No Additional Consideration. The Parties acknowledge that no other consideration has been or shall be furnished or paid in connection with this Agreement other than as stated in this Agreement.

F. No Admission of Liability. By entering into this Agreement, the Parties do not admit any liability.

G. Joint Preparation of Settlement Agreement. Prior to the execution of this Agreement, the Parties have had an opportunity to consult with independent counsel of their choice in negotiating this Agreement, and this Agreement is the result of negotiations between the Parties. The Parties further acknowledge that all necessary signatories to this Agreement have participated in the preparation of this Agreement and each of the documents related to the settlement, and it is understood that no provision hereof or contained in said documents shall be construed against any of the Parties by virtue of the activities of said Parties or by their attorneys in the preparation and execution thereof.

H. Consideration. This Agreement is executed by the Parties without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

I. Authority to Execute. The individuals executing this Agreement on behalf of the respective Parties represent to each other and to others that: (i) all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears; (ii) there are no other parties or entities

SETTLEMENT AGREEMENT

required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement; and (iii) each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

J. Applicable Law and Venue. The Parties agree that this Agreement shall be governed by, interpreted, and constructed in accordance with the laws of the State of Texas. The Parties further agree that Denton County, Texas, shall be the mandatory and exclusive venue for any dispute arising out of or related to this Agreement.

K. Entire Agreement. This Agreement sets forth the entire and sole agreement and understanding between the Parties as to the subject matter hereof and merges and supersedes all prior discussions, agreements, and understandings of any kind and nature between them, none of which were relied on by the Parties in deciding to execute this Agreement. Each party is relying on his, her, or its own judgment and each has been represented by or had the opportunity to be represented by his, her, or its own legal counsel in this matter. The Parties acknowledge that each understands each and every term in this Agreement as well as the legal consequences of the Agreement.

L. Modification of Agreement. It is expressly understood and agreed that this Agreement may not be altered, amended, waived, modified, or otherwise changed in any respect or particular whatsoever, except in writing, which must be signed by the Settlement Parties. The Parties further acknowledge and agree they shall make no claims at any time or place that this Agreement has been orally supplemented, modified, or altered in any respect whatsoever.

M. Counterparts. This Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument, and any of the Parties may execute this Agreement by signing any such counterpart.

N. No Waiver. No waiver by the Parties of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition, or covenant contained herein.

O. No Chapter 245 Permit. This Agreement shall not constitute a "permit" as defined in Chapter 245, Texas Local Government Code. **THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date appearing next to each Party's signature and this Agreement shall be effective on the date the last signature has been signed upon this Agreement, subject to the terms and conditions of this Agreement.

LAURA ELIZABETH KECK

By: Laura Elizabeth Keck

Date: November 17, 2023

JOSEPH ADAMSON NASH

By: _____

Date: _____

MARY CAROLINE MIMS

By: _____

Date: _____

TOWN OF LITTLE ELM, TEXAS

By: _____
Matt Mueller, Town Manager

Date: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date appearing next to each Party's signature and this Agreement shall be effective on the date the last signature has been signed upon this Agreement, subject to the terms and conditions of this Agreement.

LAURA ELIZABETH KECK

By: _____

Date: _____

JOSEPH ADAMSON NASH

By: Joseph A Nash

Date: NOV 16 2023

MARY CAROLINE MIMS

By: _____

Date: _____

TOWN OF LITTLE ELM, TEXAS

By: _____

Matt Mueller, Town Manager

Date: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date appearing next to each Party's signature and this Agreement shall be effective on the date the last signature has been signed upon this Agreement, subject to the terms and conditions of this Agreement.

LAURA ELIZABETH KECK

By: _____

Date: _____

JOSEPH ADAMSON NASH

By: _____

Date: _____

MARY CAROLINE MIMS

By: Mary Caroline Mims

Date: 11/15/2023

TOWN OF LITTLE ELM, TEXAS

By: _____
Matt Mueller, Town Manager

Date: _____

STATE OF Ga §
COUNTY OF Fulton §

This instrument was acknowledged before me on the 17 day of November, 2023, by
Laura Elizabeth Keck.



Kelli E. Michie
Notary Public, State of Ga
Notary's name (printed): Kelli E. Michie
Notary's commission expires: 05/18/2027

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2023, by
Joseph Adamson Nash.

Notary Public, State of _____
Notary's name (printed): _____
Notary's commission expires: _____

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2023, by
Mary Caroline Mims

Notary Public, State of _____
Notary's name (printed): _____
Notary's commission expires: _____

SETTLEMENT AGREEMENT

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2023, by
Laura Elizabeth Keck.

Notary Public, State of _____

Notary's name (printed): _____

Notary's commission expires: _____

STATE OF GA §
COUNTY OF DeKalb §

This instrument was acknowledged before me on the 16th day of November, 2023, by
Joseph Adamson Nash



Notary Public, State of GA

Notary's name (printed): Centoya McConnehead

Notary's commission expires: 3/11/24

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2023, by
Mary Caroline Mims

Notary Public, State of _____

Notary's name (printed): _____

Notary's commission expires: _____

SETTLEMENT AGREEMENT

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2023, by
Laura Elizabeth Keck.

Notary Public, State of _____

Notary's name (printed): _____

Notary's commission expires: _____

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2023, by
Joseph Adamson Nash.

Notary Public, State of _____

Notary's name (printed): _____

Notary's commission expires: _____

STATE OF Georgia §
COUNTY OF Cobb §

This instrument was acknowledged before me on the 15th day of November, 2023, by
Mary Caroline Mims



[Signature]
Notary Public, State of Georgia

Notary's name (printed): Eric Hodgson

Notary's commission expires: 11-29-2025

SETTLEMENT AGREEMENT

STATE OF TEXAS

§

§

COUNTY OF DENTON

§

This instrument was acknowledged before me on the ____ day of _____, 2023, by Mr. Matt Mueller, Town Manager, on behalf of the Town of Little Elm, Texas.

Notary Public, State of Texas

Notary's name (printed): _____

Notary's commission expires: _____

Exhibit 1

Plaintiff Town of Little Elm's Original Petition for Condemnation

SETTLEMENT AGREEMENT

PR-2023-01015-A
CAUSE NO. _____

TOWN OF LITTLE ELM, TEXAS,)	IN PROBATE COURT
)	NO. _____
Plaintiff,)	
)	
v.)	
)	OF
LAURA ELIZABETH KECK,)	
KATHERINE ROGERS NASH, and)	
MARY CAROLINE MIMS,)	
)	
Defendants.)	DENTON COUNTY, TEXAS

**PLAINTIFF TOWN OF LITTLE ELM'S ORIGINAL
PETITION FOR CONDEMNATION**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Town of Little Elm, Texas ("Town"), a home-rule municipality organized under the Constitution of the State of Texas, brings this action and files this petition ("Petition") for condemnation of the property rights and interests described herein, and shows that the owners of said land, and their addresses, are as follows:

**Laura Elizabeth Keck;
Katherine Rogers Nash; and
Mary Caroline Mims.**

**All may be served by and through their attorney
Mr. B. Tyler Milton
Dawson & Sodd, PLLC
8333 Douglas Avenue, Suite 380
Dallas, Texas 75225**

I.

Per TEX. R. CIV. P. 190.1, it is intended that discovery, if any, will be conducted under Level 2.

II.

This condemnation proceeding involves the acquisition of fee simple right-of-way from approximately 24.5758 acres of vacant land located at the southwest corner of US Highway 380 and Ryan Spiritas Parkway, in the Town of Little Elm, Denton County, Texas ("Parent Tract"). The specific interest to be acquired by the Town from the Parent Tract is as follows:

Right-of-Way Strip: Fee simple title to approximately **2.656 acres (115,695 square feet)**, as described by metes and bounds and graphically portrayed in *Exhibit A* attached hereto and incorporated by reference as if set forth herein.

III.

Laura Elizabeth Keck, Katherine Rogers Nash, and Mary Caroline Mims (hereinafter collectively referred to as the "Land Owners"), are individuals that own the Parent Tract from which the Right-of-Way Strip is to be acquired.

IV.

Pursuant to the Home-Rule Charter of the Town of Little Elm, Section 251.001 *et seq.* of the Texas Local Government Code, and Section 21.001 *et seq.* of the Texas Property Code, the Town is authorized to exercise its power of eminent domain for the purpose, among others, of acquiring property necessary for providing roadway improvements to serve the Town, either within or without the corporate limits of the Town, or for any other public use the governing body of the Town considers advisable and that is allowed by law.

V.

Acting under and by virtue of the laws of the State of Texas, the Town, in Resolution No. 0418202301, passed and approved on April 18, 2023, determined that public necessity

and public use required the acquisition by the Town of the Right-of-Way Strip described in Part II of this Petition, above, for the Town's 2931 Right-of-Way Project ("Project").

VI.

Specifically, it is necessary for the Town to acquire the Right-of-Way Strip in fee simple from the Land Owners for the Project. The Town has determined that the Right-of-Way Strip is suitable for use for such purpose, and that it is necessary to acquire fee simple title and rights to the land and improvements, if any, in the Right-of-Way Strip. The Town intends to use the interests condemned in the Right-of-Way Strip for such public purpose and as part of the Town's roadway system.

VII.

The Town is entitled to condemn the Right-of-Way Strip for the purpose of the Project, and asks that the same be condemned for such purpose; provided, however, there is excluded from the estate to be condemned all sub-surface mineral rights including, but not necessarily limited to, the oil, gas and sulphur which can be removed from beneath the Parent Tract, without any right whatever remaining to the owners of such oil, gas and sulphur of ingress to or from the surface of said land, for the purpose of exploring, developing, drilling or mining of the same.

VIII.

The Right-of-Way Strip will not prohibit the Land Owners from access their remaining property or the road system.

IX.

The Town and the Land Owners have been unable to agree on the value of the Right-of-Way Strip to be condemned or the damages, if any, occasioned by the acquisition of the

Right-of-Way Strip and improvements, if any. The Town, through agents authorized by the Town Council, offered to purchase the Right-of-Way Strip from the Land Owners. The bona fide offer was extended but not accepted by the Land Owners. As a result, the parties could not and cannot agree, and they have therefore failed to agree upon the damages and compensation that should be paid to the Land Owners by reason of the appropriation of the Right-of-Way Strip.

X.

The Town, through its duly authorized agent, has provided the Land Owners with a copy of the landowner's bill of rights statement in accordance with Texas Property Code Section 21.0112.

XI.

The Town, through its duly authorized agent, made a bona fide offer to acquire the Right-of-Way Strip from the Land Owners voluntarily as provided by Texas Property Code Section 21.0113.

XII.

The Town has authorized the Town Attorney, or his duly appointed agent, to file the appropriate and necessary condemnation proceedings so that Right-of-Way Strip could be appropriated and vested in the Town for the purpose of the Project.

XIII.

The Town has complied with all prerequisites mandated by the Chapter 21 of the Texas Property Code, and Subchapter B of Chapter 2206 of the Texas Government Code (also known as the "Truth in Condemnation Procedures Act") prior to the filing of this lawsuit.

XIV.

The Right-of-Way Strip that the Town has determined to be necessary for the public use stated herein is owned, or claims to be owned, by the Land Owners. The Town, by diligent search, found that the above-named persons own, or claim to own, the Parent Tract from which the Right-of-Way Strip is being acquired; however, should it be disclosed that other parties own or claim some interest in the Parent Tract from which the Right-of-Way Strip is being acquired; the Town reserves the right to amend these proceedings by including such persons and making them parties in this condemnation suit.

WHEREFORE, the Town of Little Elm, Texas, prays that this court:

- (1) Appoint three disinterested free holders as Special Commissioners to assess the compensation due the owner and file their decision as provided by law;
- (2) Award the Town a final judgment or decree of condemnation vesting in the Town the following:
 - Fee simple title to the Right-of-Way Strip, except as above provided as to oil, gas and sulphur; and all limitations and restrictions on the estate to be condemned as are described in the Petition;
- (3) Provide for a writ of possession;
- (4) Provide for costs of suit; and
- (5) Provide for such other and further relief, general and special, at law or in equity, to which the Town may show itself to be entitled.

Respectfully submitted,

BROWN & HOFMEISTER, L.L.P.

740 East Campbell Road

Suite 800

Richardson, Texas 75081

(214) 747-6100

(214) 747-6111 (FAX)

rbrown@bhlaw.net

By: /s/ Robert F. Brown

Robert F. Brown

Texas Bar Number 01364725

**ATTORNEYS FOR PLAINTIFF TOWN OF
LITTLE ELM, TEXAS**

COPY OF THE PETITION

Pursuant to Texas Property Code Section 21.012(c), the undersigned hereby certifies that a copy of this document was served via certified mail, return receipt requested, upon the owners of the property:

**Laura Elizabeth Keck;
Katherine Rogers Nash; and
Mary Caroline Mims**

**All may be served by and through their attorney
Mr. B. Tyler Milton
Dawson & Sodd, PLLC
8333 Douglas Avenue, Suite 380
Dallas, Texas 75225**

/s/ Robert F. Brown

Robert F. Brown

LEGAL DESCRIPTION

BEING that certain tract of land situated in the Marsella Jones Survey, Abstract Number 662, in the Town of Little Elm, Denton County, Texas, and being part of that certain tract of land described in deed to Mary Caroline Mims, Katherine Ann Nash, and Laura Eliza Elizabeth Keck recorded in Volume 4262, Page 877, of the Real Property Records of Denton County, Texas (RPRDCT), and being more particularly described by metes and bounds as follows:

BEGINNING at 5/8-inch iron rod with blue plastic cap stamped "BCG 10194538" set on the southerly right-of-way line of U.S. Highway No. 380 (variable width right-of-way), and being located at the most southerly southeast corner of that certain tract of land described as Parcel 25 in Judgement Deed to the State of Texas recorded in Document Number 2021-227713, RPRDCT, and also being the most southerly southwest corner of that certain tract of land described as Parcel 28 in Judgement Deed to the State of Texas recorded in Document Number 2022-148109, RPRDCT;

THENCE South 01°49'47" West, with a west line of that certain tract of land described in deed to Spiritas Ranch Enterprises recorded in Volume 833, Page 38, RPRDCT, a distance of 363.07 feet to a 5/8-inch iron rod with blue plastic cap stamped "BCG 10194538" set for corner at the location where a 3/8-inch iron rod was previously found;

THENCE North 88°28'06" West, with a north line of said Spiritas Ranch Enterprises tract recorded in Volume 833, Page 38, RPRDCT, a distance of 1398.25 feet to a 5/8-inch iron rod with blue plastic cap stamped "BCG 10194538" set for corner, from which a 3/8-inch iron rod found at a northwest corner of said Spiritas Ranch Enterprises tract bears North 88°28'06" West, a distance of 621.33 feet, said set iron rod being the beginning of a non-tangent curve to the left;

THENCE over and across said Mary Caroline Mims, Katherine Ann Nash, and Laura Eliza Elizabeth Keck tract, the following courses to 5/8-inch iron rods with blue plastic cap stamped "BCG 10194538" set for corner:

North 77°03'04" East, a distance of 36.00 feet, and the beginning of a tangent curve to the right;

With said curve which has a central angle of 14°43'31", a radius of 1450.00 feet, a chord which bears North 84°24'49" East, a chord distance of 371.63 feet, and for an arc distance of 372.66 feet;

South 88°13'25" East, a distance of 793.66 feet;

North 46°46'35" East, a distance of 42.43 feet;

And North 01°46'35" East, a distance of 434.52 feet, said iron rod being located on said southerly right-of-way line of U.S. Highway No. 380 according to said Parcel 25;

THENCE South 19°06'38" East, with said southerly right-of-way line of U.S. Highway No. 380 according to Parcel 25, a distance of 185.85 feet to the POINT OF BEGINNING, containing an area of 2.656 acres of land.



Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Stacey Shelby on behalf of Robert Brown

Bar No. 03164725

sshelby@bhlaw.net

Envelope ID: 77878842

Filing Code Description: Petition

Filing Description: Plaintiff Town of Little Elm's Original Petition for Condemnation

Status as of 7/26/2023 8:23 AM CST

Associated Case Party: Town of Little Elm, Texas

Name	BarNumber	Email	TimestampSubmitted	Status
Robert Brown		rbrown@bhlaw.net	7/25/2023 5:10:45 PM	SENT

Associated Case Party: LauraElizabethKeck

Name	BarNumber	Email	TimestampSubmitted	Status
Benjamin Milton	24049465	tyler@dawsonsodd.com	7/25/2023 5:10:45 PM	SENT

Exhibit 2

Transfer on Death Deed



VG-202-2023-75752

**Denton County
Juli Luke
County Clerk**

Instrument Number: 75752

Real Property Recordings

DEED

Recorded On: July 18, 2023 11:37 AM

Number of Pages: 8

" Examined and Charged as Follows: "

Total Recording: \$54.00

******* 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: 75752
Receipt Number: 20230718000329
Recorded Date/Time: July 18, 2023 11:37 AM
User: Marlene F
Station: Station 6

Record and Return To:

LAURA KECK
15175 BIRMINGHAM HIGHWAY
ALPHARETTA GA 30004



**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**

Transfer on Death Deed

IMPORTANT NOTICE TO PROPERTY OWNER: Carefully read all instructions for this form. It is always best to talk to a lawyer before using this form. For privacy reasons, do not put your social security number or driver's license number on this form. Do not file these instructions.

REQUIRED:

- **Must Sign and Date Transfer on Death Deed In Front of A Notary.**
 - **Must Record Transfer on Death Deed Before Your Death:** You must record (*file*) this deed before your death with the county clerk where the property is located or it will not be effective.
1. Property Owner(s) (Transferors) Making this Deed. Enter your first, middle (if any), and last name here, along with your mailing address. If more than one person owns the property, all owners must list this information.

Katherine Rogers Nash

Property Owner's Printed Name

Second Owner's Printed Name (If Applicable)

Mailing Address:

1386 Noel Drive, NE

Address 1

Mailing Address:

Address 1

Address 2

Brookhaven GA 30319

City

State

Zip

Address 2

City

State

Zip

2. Legal Description of the Property. The legal description is not the mailing or physical address of the property. The legal description is listed on the deed to the property, which you should have gotten when you became an owner. This information may also be available at the county clerk's office in the county where the property is located. Do NOT use the legal description listed on your property tax bill because it may be incorrect. IT IS VERY IMPORTANT THAT THIS INFORMATION IS CORRECT. If you are not absolutely sure, talk to a lawyer.

Transfer on Death Deed

BEING all that certain lot, tract, or parcel of land situated in the M. Jones Survey Abstract Number 662 in Denton County, Texas, being all that certain tract of land conveyed by deed from Weldon Wayne Rogers and Helena Fuller Rogers to Mary Carolyn Mims et al recorded in Volume 4262, Page 877, Real Property Records, Denton County, Texas and being more particularly described as follows:

BEGINNING at a highway right-of-way disk found for corner in the south line of United States Highway Number 380, a public roadway having a variable width right-of-way, said point being the northeast corner of that certain "Tract 1" of land conveyed by deed from Highway 380 Corp. to Trail Dust Steak Houses, Inc. recorded in Volume 972, Page 884, Deed Records, Denton County, Texas;

THENCE S 79° 09' 13" E, 1177.77 feet with said south line of said U. S. Highway to an iron rod set for corner;

THENCE S 79° 46' 07" E, 99.83 feet with said south line of said U. S. Highway to a right-of-way disk found for corner;

THENCE S 79° 46' 07" E, 100.00 feet with said south line of said U. S. Highway to an iron rod set for corner;

THENCE S 80° 59' 54" E, 100.00 feet with said south line of said U. S. Highway to an iron rod set for corner;

THENCE S 43° 45' 46" E, 103.67 feet with said south line of said U. S. Highway to a fence for corner, said point being the northwest corner of that certain tract of land conveyed by deed from Walter E. Peterson and Dorothy Smith Rogers to Spiritas Ranch Enterprises recorded in Volume 1022, Page 393, Deed Records, Denton County, Texas;

THENCE S 02° 20' 12" W, 547.62 feet with the west line of said Spiritas Ranch tract to an iron rod found for corner in the north line of that certain tract of land conveyed by deed from J. Ray Pace, Jr. and Marjorie G. Pace to Spiritas Ranch Enterprises recorded in Volume 833, Page 38, Deed Records, Denton County, Texas;

Transfer on Death Deed

THENCE N 87° 56' 01" W, 1549.97 feet with said north line of said Spiritas Ranch tract to a fence post for corner, said point being the southeast corner of said Trail Dust Steak Houses tract;

THENCE N 02° 39' 29" E, 86.53 feet with the east line of said Trail Dust tract to an iron rod found for corner;

THENCE N 03° 18' 08" E, 753.73 feet with said east line of said Trail Dust tract to the **PLACE OF BEGINNING** and containing 25.560 acres of land, more or less.

Print legal description of the property.

3. Address of the Property (if any): *This is the physical address of the property. Include county.*

Address	City	County	State	Zip Code
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Transfer on Death Deed

4. Primary and Alternate Beneficiaries. **MUST CHECK AND COMPLETE A, B, OR C (Check ONE and ONLY ONE):**

- A "beneficiary" is the person who you want to own the property when you die.
- Section A: Fill out this section if you are married, and you and your spouse own the property together, and you want your spouse to own the property when you die.
- Section B: Fill out this section if you are married and you own the property by yourself – your spouse doesn't own any part of it – and you want your spouse to own the property when you die.
- Section C: Fill out this section in all other situations. See #4 in the detailed instructions to this form.

☐ **A. Both Spouses Own the Property and Want to Leave to Surviving Spouse:** Fill out this section if you are married, and you and your spouse own the property together, and you want your spouse to own the property when you die. Both spouses must sign the transfer on death deed.

- 1) Primary Beneficiary is Surviving Spouse: The owners of this property are married to each other and are both signing this deed. If one of us dies and the other is living, the living spouse will be the sole owner of the property.
- 2) Alternate Beneficiary or Beneficiaries: Enter the first, middle (if any), and last name of each person you want to get the property when both you and your spouse have died. This person(s) will be named the "beneficiary(ies)." You may list more than two beneficiaries by attaching a page with their name and mailing address.

When we are both deceased, we want the following person(s) to own our property. This person(s) may or may not be our child, descendant, or a member of our family. If more than one alternate beneficiary is listed, they will own the property in equal shares.

Alternate Beneficiary
Print Name

Mailing Address:

Address 1

Address 2

City State Zip

Second Alternate Beneficiary (Optional)
Print Name

Mailing Address:

Address 1

Address 2

City State Zip

Transfer on Death Deed

- ☐ **B. Only One Spouse Owns the Property:** Fill out this section if you are married and you own all or part of the property by yourself – your spouse doesn't own any part of it – and you want your spouse to own the property when you die.

1) **Primary Beneficiary:** I designate my spouse as the primary beneficiary if I die before my spouse:

Joseph Adamson Nash
Spouse's Printed Name

Mailing Address:

1386 Noel Drive, NE
Address 1

Brookhaven GA 30319
Address 2
City State Zip

2) **Alternate Beneficiary or Beneficiaries:** Enter the first, middle (if any), and last name of each person you want to get the property if your spouse dies before you. You may list more than two alternate beneficiaries by attaching a page with their name and mailing address.

If my spouse dies before me, I want the following person(s) to own my property when I die. This person(s) may or may not be my child, descendant, or a member of my family. If more than one alternate beneficiary is listed, they will own the property in equal shares:

Alternate Beneficiary
Print Name

Mailing Address:

Address 1

Address 2

City State Zip

Second Alternate Beneficiary (Optional)
Print Name

Mailing Address:

Address 1

Address 2

City State Zip

Transfer on Death Deed

- ☐ **C. Other:** Fill out this section if neither section A or B apply to you, including if you are married and you do not want your share of the property to go to your spouse.

- 1) **Primary Beneficiary:** Enter the first, middle (if any), and last name of each person you want to get the property when you die. This person or people will be named the "beneficiary". You may list more than two primary beneficiaries by attaching a page with their name and mailing address.

I want the following person(s) to own my property. This person(s) may or may not be my child, descendant, or a member of my family. If more than one primary beneficiary is listed, they will own the property in equal shares:

Primary Beneficiary
Print Name

Mailing Address:

Address 1

Address 2

City State Zip

Second Primary Beneficiary (Optional)
Print Name

Mailing Address:

Address 1

Address 2

City State Zip

- 2) **Alternate Beneficiary or Beneficiaries:** Enter the first, middle (if any), and last name of each person you want to get the property if all primary beneficiaries die before you. You may list more than two alternate beneficiaries by attaching a page with their name and mailing address.

If the primary beneficiary or beneficiaries die before me, I want the following person(s) to own my property. If more than one alternate beneficiary is listed, they will own the property in equal shares:

Alternate Beneficiary
Print Name
Mailing Address:

Address 1

Address 2

City State Zip

Second Alternate Beneficiary (Optional)
Print Name
Mailing Address:

Address 1

Address 2

City State Zip

Transfer on Death Deed

5. Transfer on Death

At my death, I convey to (give) the primary beneficiary or beneficiaries my interest in the property to have and hold forever. If all my primary beneficiaries die before I do, I grant and convey to (give) any listed alternate beneficiary or beneficiaries, my interest in the property to have and hold forever. If no primary or alternate beneficiary is alive when I die, this deed is canceled and has no force and effect, as if it had never been executed.


6. Signature of Property Owner(s) Making this Deed: Do not sign or date below until you are in front of a notary public.

Kathy Nash
Owner's Signature

Second Owner's Signature (If Applicable)

June 30, 2023
Date

Date

FOR NOTARY TO COMPLETE Acknowledgement		
STATE OF <u>GA</u>		
COUNTY OF <u>Denton Gwinnett</u>		
This instrument was acknowledged before me on the <u>30</u> day of <u>June</u> , 20 <u>23</u> , by		
<u>KATHY NASH</u>		
		<u>Crystal Jennings</u> Notary Public's Signature

After recording, please return to:

KATHERINE NASH

Owner's Name

Owner's Mailing Address:

1386 NOEL DRIVE NE
Address 1

Address 2
BROOKHAVEN, GA 30004
City State Zip

Exhibit 3

Deed Without Warranty

DEED WITHOUT WARRANT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF DENTON §

For the consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of all of which is hereby acknowledged and confessed, LAURA ELIZABETH KECK, JOSEPH ADAMSON NASH, and MARY CAROLINE MIMS (hereinafter referred to collectively as "Grantors") do hereby GRANT, SELL, AND CONVEY unto the TOWN OF LITTLE ELM, TEXAS, a home-rule municipality ("Grantee"), that certain tract or parcel of land situated in Denton County, Texas, said tract or parcel being more particularly described in *Exhibit A* attached hereto and incorporated herein by reference (the "Land"), provided, however, there is excluded from the estate to be condemned all Reserved Minerals (hereinafter defined) as provided below.

THIS CONVEYANCE IS EXPRESSLY MADE AND ACCEPTED SUBJECT TO any and all easements, restrictions, mineral reservations and other matters affecting the Land, whether evidenced by instruments of record in Denton County, Texas, or elsewhere, disclosed by any survey of the Land or any part thereof or otherwise visible upon inspection of the Land (collectively, the **“Permitted Exceptions”**).

TO HAVE AND TO HOLD the Land, together with all and singular the rights and appurtenances thereto in anywise belonging to Grantors, unto Grantee and Grantee's heirs, legal representatives, successors and assigns forever (subject to the Permitted Exceptions), without express or implied warranty, and all warranties that might arise by common law and the warranties in §5.023 of the Texas Property Code (or its successor) are excluded.

GRANTEE ACKNOWLEDGES AND AGREES THAT THE LAND IS SOLD, CONVEYED, TRANSFERRED AND ASSIGNED ON AN "AS IS, WHERE IS" BASIS "WITH ALL FAULTS" AND WITHOUT WARRANTY OF TITLE AND THAT, GRANTORS MAKE NO REPRESENTATIONS OR WARRANTIES, TERMS, CONDITIONS, UNDERSTANDINGS OR COLLATERAL AGREEMENTS OF ANY NATURE OR KIND, EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE, CONCERNING THE LAND OR THE CONDITION, DESCRIPTION, QUALITY, USEFULNESS, QUANTITY OR ANY OTHER THING AFFECTING OR RELATING TO THE LAND, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE ALSO HEREBY EXPRESSLY DISCLAIMED. GRANTEE FURTHER ACKNOWLEDGES THAT GRANTORS HAVE MADE NO AGREEMENT OR PROMISE TO REPAIR OR IMPROVE ANY OF THE LAND BEING SOLD TO GRANTEE, AND THAT GRANTEE TAKES ALL SUCH LAND IN THE CONDITION

**EXISTING ON THE DATE HEREOF "AS IS, WHERE IS" AND "WITH ALL FAULTS"
AND WITHOUT WARRANTY OF TITLE.**

Grantors hereby reserve all of Grantors' interest (if any) in and to all of the following (collectively, the **"Reserved Minerals"**): all oil, gas and other minerals and all hydrocarbon substances of every nature, in, on, and under and that may be produced from the Land. Grantors hereby expressly release and waive, on behalf of themselves and their respective successors and assigns in title to the Reserved Minerals, all rights of ingress and egress to enter upon the surface of the Land for purposes of exploring for, developing, drilling, producing, transporting, mining, treating, storing or any other purposes incident to the development or production of the Reserved Minerals. However, nothing herein contained shall ever be construed to prevent Grantors, and their respective successors and assigns, from developing or producing any of the Reserved Minerals by pooling, by directional drilling under the Land from well sites located on tracts other than the Land, or otherwise so long as Grantors avoid physically entering upon the surface of the Land.

When the context requires, singular nouns and pronouns include the plural.

(Signatures to Follow)

IN WITNESS WHEREOF, the Grantors have caused this Deed Without Warranty to be
EXECUTED and EFFECTIVE on this the _____ day of _____, 2023.

GRANTORS:

LAURA ELIZABETH KECK

By: _____

Date: _____

JOSEPH ADAMSON NASH

By: _____

Date: _____

MARY CAROLINE MIMS

By: _____

Date: _____

GRANTEE:

TOWN OF LITTLE ELM, TEXAS

By: _____

Matt Mueller, Town Manager

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2023, by
Laura Elizabeth Keck.

Notary Public, State of _____

Notary's name (printed): _____

Notary's commission expires: _____

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2023, by
Joseph Adamson Nash.

Notary Public, State of _____

Notary's name (printed): _____

Notary's commission expires: _____

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2023, by
Mary Caroline Mims

Notary Public, State of _____

Notary's name (printed): _____

Notary's commission expires: _____

Grantee accepts this Deed Without Warranty and consents to its form and substance.

STATE OF TEXAS

§

§

COUNTY OF DENTON

§

This instrument was acknowledged before me on the ____ day of _____, 2023, by Mr. Matt Mueller, Town Manager, on behalf of the Town of Little Elm, Texas.

Notary Public, State of Texas

Notary's name (printed): _____

Notary's commission expires: _____

Exhibit A

Legal Description

LEGAL DESCRIPTION

BEING that certain tract of land situated in the Marsella Jones Survey, Abstract Number 662, in the Town of Little Elm, Denton County, Texas, and being part of that certain tract of land described in deed to Mary Caroline Mims, Katherine Ann Nash, and Laura Eliza Elizabeth Keck recorded in Volume 4262, Page 877, of the Real Property Records of Denton County, Texas (RPRDCT), and being more particularly described by metes and bounds as follows:

BEGINNING at 5/8-inch iron rod with blue plastic cap stamped "BCG 10194538" set on the southerly right-of-way line of U.S. Highway No. 380 (variable width right-of-way), and being located at the most southerly southeast corner of that certain tract of land described as Parcel 25 in Judgement Deed to the State of Texas recorded in Document Number 2021-227713, RPRDCT, and also being the most southerly southwest corner of that certain tract of land described as Parcel 28 in Judgement Deed to the State of Texas recorded in Document Number 2022-148109, RPRDCT;

THENCE South 01°49'47" West, with a west line of that certain tract of land described in deed to Spiritas Ranch Enterprises recorded in Volume 833, Page 38, RPRDCT, a distance of 363.07 feet to a 5/8-inch iron rod with blue plastic cap stamped "BCG 10194538" set for corner at the location where a 3/8-inch iron rod was previously found;

THENCE North 88°28'06" West, with a north line of said Spiritas Ranch Enterprises tract recorded in Volume 833, Page 38, RPRDCT, a distance of 1398.25 feet to a 5/8-inch iron rod with blue plastic cap stamped "BCG 10194538" set for corner, from which a 3/8-inch iron rod found at a northwest corner of said Spiritas Ranch Enterprises tract bears North 88°28'06" West, a distance of 621.33 feet, said set iron rod being the beginning of a non-tangent curve to the left;

THENCE over and across said Mary Caroline Mims, Katherine Ann Nash, and Laura Eliza Elizabeth Keck tract, the following courses to 5/8-inch iron rods with blue plastic cap stamped "BCG 10194538" set for corner:

North 77°03'04" East, a distance of 36.00 feet, and the beginning of a tangent curve to the right;

With said curve which has a central angle of 14°43'31", a radius of 1450.00 feet, a chord which bears North 84°24'49" East, a chord distance of 371.63 feet, and for an arc distance of 372.66 feet;

South 88°13'25" East, a distance of 793.66 feet;

North 46°46'35" East, a distance of 42.43 feet;

And North 01°46'35" East, a distance of 434.52 feet, said iron rod being located on said southerly right-of-way line of U.S. Highway No. 380 according to said Parcel 25;

THENCE South 19°06'38" East, with said southerly right-of-way line of U.S. Highway No. 380 according to Parcel 25, a distance of 185.85 feet to the POINT OF BEGINNING, containing an area of 2.656 acres of land.

Exhibit 4

November 30, 2022, letter from David J. Bond, P.E, to Tyler Milton

November 30, 2022

Mr. Tyler Milton
Dawson and Sodd, PLLC
8333 Douglas Avenue, Suite 380
Dallas, Texas 75225

Re: **Keck Tract ROW Acquisition Review**
Little Elm, Texas
SEI Job No. 22-256

Dear Mr. Milton:

Please accept this letter of review for the proposed Right-of-Way acquisitions associated with Ryan Spiritas Parkway and Spiritas Ranch Parkway located along the east and south sides respectively of the subject tract. The subject property (referred to herein as the "Keck Tract") of this review and investigation is a 24.5758 acre parcel of land according to the Denton County Central Appraisal District and is located along the south side of US Highway 380 at the southwest corner of FM 2931. This letter is based upon review of the Ryan Spiritas Parkway Construction Plans prepared by Barraza Consulting Group, LLC, and dated November 23, 2021, as well as the appraisal documents provided by your office for the two subject acquisition parcels.

The south leg of existing FM 2931 is known as Ryan Spiritas Parkway and is one of the proposed acquisition parcels. The future intersection of US 380 at Ryan Spiritas Parkway is signalized and it appears that sufficient ROW has already been acquired with TxDOT. The proposed Ryan Spiritas ROW acquisition appears to be for half of the ultimate 140' ROW section noted on the City of Little Elm's Thoroughfare Plan. Based on the proposed intersection alignment, only two right-in, right-out driveways will be allowed along this frontage. No left turn movements from northbound Ryan Spiritas Ranch Parkway will be allowed.

Spiritas Ranch Parkway runs along the south side of the Keck Tract and is an apparent proposed 4 lane divided 100 foot ROW. Further east of the Keck Tract, the alignment of Spiritas Ranch Parkway is shifted further south, apparently to avoid a overhead electric transmission tower and/or potential ROW acquisition from the neighboring HEB Grocery owned parcel to the west. It is not immediately evident upon review of the documents why Spiritas Ranch Parkway needs to meander further north onto the Keck Tract, rather than continuing to the east abutting the south line of the Keck Tract.

It is recommended that the Keck Tract request the following considerations from the adjacent developer:

1. Extension of water mains to the Keck Tract. The Barazza plans indicate 12" PVC water is brought to the southeast corner of Spiritas Ranch Parkway and Ryan Spiritas Parkway. This can easily be extended/stubbed to the Keck Tract with the initial utility construction which will avoid the need for future developers to bore underneath the roadway for the future connections. Accordingly, water is likely to be ultimately run along Spiritas Ranch Parkway, although those plans and documentation are not available at this time. An additional waterline stub at the mid point and southwest corner of the Keck tract are recommended.
2. Extension of Sanitary Sewer to the Keck Tract. The Barazza Plans do not indicate Sanitary Sewer service to serve the lots south of Spiritas Ranch Parkway, but it is recommended that the developer extend 8" PVC sanitary sewer to the Keck Tract along the south property line. There may be potential service availability and capacity issues to be worked out with Mustang Special Utility District that could prevent this extension from being utilized by future development on the Keck Tract, but a stub at this time would still be an appropriate request of the developer.
3. Access from adjacent roadways. Access to the subject roadways will ultimately be permitted by the Town of Little Elm. Absent any imminent development, no driveway cuts are requested at this time along either roadway. However, it is recommended that the median cut locations along Spiritas Ranch Parkway be designed and built with a eastbound left turn lane at each to allow for future access into the Keck Tract.

Thank you for the opportunity to be of service to you in this matter. Should you have any additional questions or concerns in this matter, please do not hesitate to reach out.

Regards,

Spiars Engineering, Inc.



David J. Bond, P.E.



**KECK TRACT IMPROVEMENT
EXHIBIT**
IN THE TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

