



**WORKSHOP & REGULAR MEETING
OF THE TOWN COUNCIL**

Tuesday, December 19, 2023

6:00 PM

Little Elm Town Hall

100 W Eldorado Parkway, Little Elm, TX 75068

1. **Call to Order Council Workshop at 6:00 p.m.**
 - A. Discuss an **Overview of Short-Term Rentals.**
 - B. Present an **Update on Pedestrian Safety Measures for Highway U.S. 380.**
2. **Roll Call/Call to Order Regular Town Council Immediately Following Council Workshop.**
 - 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 - C. Items to be Withdrawn from Consent Agenda.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.

3. **Presentations.**

A. Present **Certificates of Recognition to Zero Debt College Project Students Who Have Been Awarded the White House Presidential Service Award.**

B. Recognition of the **19U 2005 Little Elm Fusion for Winning the Tournament of Champions.**

C. Present **Town Manager Challenge Coin.**

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.

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.

A. Consider Action to Approve the **Minutes from the December 5, 2023, Regular Town Council Meeting.**

- B. Consider Action to Approve **Ordinance No. 1743 Amending Article IV, "Senior Center and Community Recreation Center," of Chapter 74, "Parks and Recreation," of the Code of Ordinances of the Town of Little Elm, by Amending Section 74-62, "Community Recreation Center Fees", and Section 74-63, "Facility and Community Room Reservation Rates"; Providing for a Repealer Clause; Providing a Savings Clause; Providing a Severability Clause, and Providing an Effective Date.**
 - C. Consider Action to Approve the **Canine Ownership Transfer Agreement for the Retirement of Little Elm Police Department Canine Otto.**
 - D. Consider Action to Approve a **Five-Year Agreement for Flock Safety License Plate Recognition Cameras.**
 - E. Consider Action to Approve the **Final Acceptance of the FM 423 Green Ribbon Landscaping Improvement Project and Release Retainage Funds in the amount of \$64,715.58.**
 - F. Consider Action to Approve **Amendment #1 to a Professional Services Agreement with Cobb-Fendley & Associates regarding Development Plan Review Services for Fiscal Year 2023-2024 in an estimated amount of \$100,000.**
6. **Regular Items.**
- A. Present, Discuss, and Consider Action to Approve the **2024 Strategic Plan.**
 - B. Consider Action to Approve an **Interlocal Agreement for Fire Protection Services between the Town of Little Elm and Denton County Fresh Water Supply Districts 8-A, 8-B, 11-A, 11-B, and 11-C.**
 - C. Consider Action to Approve an **Interlocal Agreement for Fire Protection Services between the Town of Little Elm and Elm Ridge Water Control and Improvement District of Denton County.**
7. **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.

8. **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.
- 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.

9. **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 15th day of December 2023 before 5:00 p.m.



Date: 12/19/2023
Agenda Item #: 1. A.
Department: Development Services
Strategic Goal: Provide a safe and welcoming environment for Little Elm residents and visitors
Staff Contact: Town Council

AGENDA ITEM:

Discuss an **Overview of Short-Term Rentals.**

DESCRIPTION:

Council Member Neil Blais requested this item be placed on the agenda for staff to give an overview of our short-term rental ordinance.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 12/19/2023
Agenda Item #: 1. B.
Department: Administrative Services
Strategic Goal: Provide a safe and welcoming environment for Little Elm residents and visitors
Staff Contact: Matt Mueller, Town Manager

AGENDA ITEM:

Present an **Update on Pedestrian Safety Measures for Highway U.S. 380.**

DESCRIPTION:

Since the last discussion of pedestrian safety measures on Highway U.S. 380 near Braswell High School, staff has sent letters to Denton ISD and TxDOT. Staff has received a response from TxDOT and will discuss it with Town Council.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 12/19/2023
Agenda Item #: 3. A.
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 **Certificates of Recognition to Zero Debt College Project Students Who Have Been Awarded the White House Presidential Service Award.**

DESCRIPTION:

Mayor Cornelious will present students from Little Elm certificates of recognition for earning the Presidential Service Award.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 12/19/2023
Agenda Item #: 3. B.
Department: Administrative Services
Strategic Goal: Ensure strong relationship within the community and region
Staff Contact: Town Council

AGENDA ITEM:

Recognition of the **19U 2005 Little Elm Fusion for Winning the Tournament of Champions.**

DESCRIPTION:

The Mayor will recognize the 19U 2005 Little Elm Fusion soccer team for winning the state-wide Tournament of Champions.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 12/19/2023
Agenda Item #: 3. C.
Department: Administrative Services
Strategic Goal: Ensure strong relationship within the community and region
Staff Contact: Matt Mueller, Town Manager

AGENDA ITEM:

Present **Town Manager Challenge Coin.**

DESCRIPTION:

The Town Manager will present a challenge coin.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Information only, no action required.



Date: 12/19/2023
Agenda Item #: 5. 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 December 5, 2023, Regular Town Council Meeting.**

DESCRIPTION:

The minutes from the December 5, 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 - December 5, 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 DECEMBER 5, 2023 - 6:00 p.m.

Present: Mayor Curtis J. Cornelious; Council Member Neil Blais; Mayor Pro Tem Jamell T. Johnson; Council Member Tony Singh; Council Member Lisa G. Norman; Council Member Michel Hambrick

Absent: Council Member Andrew Evans

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; Shea Rodgers, Chief Information Officer

1. Roll Call/Call to Order Regular Town Council Meeting.

Meeting was called to order at 6:01 p.m.

A. Invocation.

Council Member Neil Blais gave the invocation.

B. Pledge to Flags.

C. Items to be Withdrawn from Consent Agenda.

Assistant Town Manager Joe Florentino requested items 4P, 4Y, and 4Z be withdrawn from the consent agenda.

Director of Administrative Services Caitlan Biggs clarified the amount on the final acceptance of Woodrow Circle to be \$4,475 greater than the amount listed on the agenda due to staff oversight of an invoice.

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.

Council Member Evans requested an excused absence for his attendance at the annual Union Park HOA meeting.

- 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.

Managing Director of Business Development & Tourism Drew Bailey introduced Kaitlyn Randolph with Special Events.

Town Manager Matt Mueller recapped the weekends' Christmas festivities.

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

None.

2. **Presentations.**

- A. Recognition of **Evelyn Kelly, Mayor for the Day.**

Mayor Cornelious presented the certificate of recognition and challenge coin to Evelyn Kelly.

- B. Presentation of **Donation to the Little Elm Library from the Little Elm Rotary Club.**

The Little Elm Rotary Club presented the books.

- C. Present a **Proclamation Declaring December 2023 as Christian Heritage Month.**

The Mayor presented the proclamation.

- D. Present a **Proclamation Recognizing the Alpha Kappa Alpha Sorority Incorporated Omega Alpha Omega Chapter.**

The Mayor presented the proclamation.

- E. Present a **Life-Saving Award to Officer Joseph Nunez and Detective Benjamin Wollet.**

Police Chief Rodney Harrison and Assistant Police Chief Mandy Biter presented the life-saving award.

- F. Present **Police Chief Recognition.**

Police Chief Rodney Harrison and Assistant Police Chief Mandy Biter presented a recognition plaque.

- G. Present a **Life-Saving Award to Members of the Little Elm Fire Department.**

Fire Chief Paul Rust presented the life-saving award.

- H. Present **Town Manager Challenge Coin.**

This item was pushed to the December 19, 2023 meeting.

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.

Rob Adams, 1120 Sea Pines Dr, Savannah, TX, 76227, spoke on the proposed fire contracts for the 380 districts.

Greg Wilkerson, 724 Savannah Blvd, Aubrey, TX 76227, spoke on the proposed fire contracts with the water districts of Paloma Creek.

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.

Motion by Council Member Michel Hambrick, seconded by Mayor Pro Tem Jamell T. Johnson **to approve the Consent Agenda except for items 4P, 4Y, and 4Z.**

Vote: 6 - 0 - Unanimously

- A. Consider Action to Approve the **Minutes from the November 7, 2023, Regular Town Council Meeting.**
- B. Consider Action to Approve an **Update to the Purchasing and Procurement Card Policies.**

- C. Consider Action to Accept a **Grant from the Texas A&M Forest Service for a Fully Equipped Type 6 Fire Apparatus.**
- D. Consider Action to Approve the **Purchase of a 24-hour Book Vending Kiosk and Services for the Little Elm Library.**
- E. Consider Action to Approve **Resolution No. 1205202301 Approving an Amendment to the Town's Investment Policy; Authorized Broker/Dealers; Recording the Annual Review; and an Effective Date.**
- F. Consider Action to Approve **Ordinance No. 1740 Amending the FY 2022-2023 Annual Budget in accordance with Existing Statutory Requirements; Appropriating the Various Amounts herein; Repealing all Prior Ordinances and Actions in Conflict herewith; and Providing for an Effective Date.**
- G. Consider Action to Approve an **Amendment to an Interlocal Cooperation Agreement between Denton County and the Town of Little Elm for a Portion of the Design, Construction and Right-of-Way for Ryan Spiritas Parkway.**
- H. Consider Action to Approve **Resolution No. 1205202302 Finding that CoServ Gas, LTD.'s Statement of Intent to Increase Rates within the Town should be Denied; Finding that the Town's Reasonable Rate Case Expenses shall be Reimbursed by the Company; Finding that the Meeting which this Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of this Resolution to the Company and the Town's Legal Counsel.**
- I. Consider Action to Approve **Appointments to the Veterans Committee.**
- J. Consider Action to **Ratify the City Affidavits Opting Out of the PFAS Class Actions Relative to 3M and DuPont, and to Take All Other Actions Incident and Related Thereto.**
- K. Consider Action to Approve **Ordinance No. 1739 Amending the Code of Ordinances by Amending Chapter 2, Article II, Updating the Records Management Program; Providing a Repealing Clause; Providing a Severability Clause; and Providing an Effective Date.**
- L. Consider Action to Approve **Design Contract Amendment #2 to Pacheco-Koch Consulting Engineers, Inc. for the Hill Lane Improvement Project.**
- M. Consider Action to Approve an **Annual Interlocal Cooperative Agreement for Fire Protection Services with Denton County for Unincorporated Areas Around Town Limits.**
- N. Consider Action to Approve an **Annual Interlocal Cooperative Agreement for EMS/ambulance services with Denton County for Unincorporated Areas Around Town Limits.**
- O. Consider Action to Accept a **Grant Award from the Office of Community Oriented Policing Services for a De-Escalation Grant in the amount of \$92,588.**
- P. Consider Action to Approve an **Agreement for Fireworks to be sold on the Limited Purpose Annexation (LPA) Property for the purpose of Collecting Sales Tax during the Season of December 20, 2023 - January 1, 2024.**

- Q. Consider Action to Award a **Professional Services Contract to Geotex Engineering to Perform Materials Testing Services for the Cottonwood Park Phase 1 Project.**
 - R. Consider Action to Approve a **Development Agreement Associated with the Lakefront Residential Overlay District, between the Town of Little Elm and Gurpreet Singh & Sukhnandan Kaur, Property Owners of 222 East Park Drive.**
 - S. Consider Action to Approve **Ordinance No. 1738 Amending the FY 2023-2024 Annual Budget in accordance with Existing Statutory Requirements; Appropriating the Various Amounts Herein; Repealing all prior Ordinances and Actions in Conflict Herewith; and Providing for an Effective Date.**
 - T. Consider Action to Approve an **Interlocal Agreement between Denton County and the Town of Little Elm for the Purpose of Providing Engineering, Right-of-Way Acquisition, Utility Relocation, Inspections, and Construction of Hill Lane.**
 - U. Consider Action to **Ratify the Settlement Agreement for Condemnation Cases between the Town of Little Elm and BKDK, LP, Dogwood Timber, Inc. 401K Plan 251, and David Kirk for the Acquisition of Real Property and Water and Sewer Line Easement Necessary for the Construction of the French Settlement Road Improvement Project in the amount of \$60,000.**
 - V. Consider Action to Approve a **Property Purchase Contract for Lot 5 Block A, Southside Acres, Little Elm, Texas, in the amount of \$207,000.**
 - W. Consider Action to Approve the **Final Acceptance of the Woodrow Circle Improvement Project (Contract #2023-05).**
 - X. Consider Action to Approve a **Settlement Agreement for the Condemnation Lawsuit between the Town of Little Elm and Laura Elizabeth Keck, Joseph Adamson Nash, and Mary Caroline Mims for 2.656 Acres of Right-of-Way Necessary for the Construction of Ryan Spiritas Parkway in the amount of \$1,619,730.**
 - Y. Consider Action to Approve an **Interlocal Agreement for Fire Protection Services between the Town of Little Elm and Denton County Fresh Water Supply Districts 8-A, 8-B, 11-A, 11-B, and 11-C.**
 - Z. Consider Action to Approve an **Interlocal Agreement for Fire Protection Services between the Town of Little Elm and Elm Ridge Water Control and Improvement District of Denton County.**
5. **Regular Items.**
- A. Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1742 Regarding a Request to Rezone Approximately 35 Acres of Land, Currently Zoned as Planned Development Based on Light Commercial and Multifamily District Standards Through Ordinance No. 1589, as Amended by Ordinance No. 1713, Generally Located on the Northwest Corner of US Highway 380 and FM 2931, within Little Elm's Town Limits, in Order to Amend the Existing Concept Plan to Provide for Modifications to the Internal Site Layout.**

Open Public Hearing:

Receive Public Comments:
Close Public Hearing:
Take Action on Ordinance No. 1742:

Managing Director of Planning Olga Chernomorets presented an overview of the item in the attached presentation.

Open Public Hearing: 6:48 p.m.
Receive Public Comments: None
Close Public Hearing: 6:49 p.m.

Motion by Council Member Neil Blais, seconded by Council Member Tony Singh **to approve Ordinance No. 1742 with the added language attached post Planning & Zoning Commission.**

Vote: 6 - 0 - Unanimously

- B. Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1741 Regarding a Request to Rezone Approximately Five Acres of Land, Currently Zoned as Planned Development, Based on Light Commercial Standards, Through Ordinance No. 1477, Generally Located 300 Feet East of the Intersection of Old Highway 24 and Oak Grove Parkway, within Little Elm's Town Limits, in Order to Amend the Permitted Uses Within the Planned Development District.**

Open Public Hearing:
Receive Public Comments:
Close Public Hearing:
Take Action on Ordinance No. 1741:

Managing Director of Planning Olga Chernomorets gave an overview of the item in the attached presentation. The applicant also provided a presentation that he gave to Planning & Zoning.

Open Public Hearing: 7:10 p.m.
Receive Public Comments: None
Close Public Hearing: 7:11 p.m.

Motion by Mayor Pro Tem Jamell T. Johnson, seconded by Council Member Michel Hambrick **to approve Ordinance No. 1741 with staff recommendations.**

Vote: 6 - 0 - Unanimously

- C. Present, Discuss, and Consider Action on a **Development Agreement between the Town of Little Elm and Lakeside Shops and Business Park LLC.**

Motion by Council Member Neil Blais, seconded by Council Member Lisa G. Norman **to approve the development agreement.**

Vote: 6 - 0 - Unanimously

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.

Council convened into Executive Session at 7:14 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.
- 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.

Council reconvened into Open Session at 8:38 p.m.

Motion by Mayor Pro Tem Jamell T. Johnson, seconded by Council Member Michel Hambrick ***to table items 4Y and 4Z to the December 19, 2023, meeting and direct the Town Attorney to contact Aubrey's City Attorney.***

Vote: 6 - 0 - Unanimously

8. Adjourn.

Meeting adjourned at 8:39 p.m.

Respectfully,

Caitlan Biggs
Town Secretary

Passed and Approved this 19th day of December 2023.



Date: 12/19/2023
Agenda Item #: 5. B.
Department: Community Services
Strategic Goal: Maximize community recreation and leisure activities
Staff Contact: Chad Hyde, Director of Community Services

AGENDA ITEM:

Consider Action to Approve **Ordinance No. 1743 Amending Article IV, "Senior Center and Community Recreation Center," of Chapter 74, "Parks and Recreation," of the Code of Ordinances of the Town of Little Elm, by Amending Section 74-62, "Community Recreation Center Fees", and Section 74-63, "Facility and Community Room Reservation Rates"; Providing for a Repealer Clause; Providing a Savings Clause; Providing a Severability Clause, and Providing an Effective Date.**

DESCRIPTION:

Staff is requesting the removal of fees related to The Rec™, The Cove™, the boat ramp, tent camping, and facility rentals due to the ever-changing economy and the need for membership and rental fees to fluctuate. Removing the fees from the ordinance will empower the Community Services Director to set reasonable fees related to the market for these memberships and rentals.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Ordinance No. 1743

**TOWN OF LITTLE ELM, TEXAS
ORDINANCE NO. 1743**

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING ARTICLE IV, "SENIOR CENTER AND COMMUNITY RECREATION CENTER," OF CHAPTER 74, "PARKS AND RECREATION," OF THE CODE OF ORDINANCES OF THE TOWN OF LITTLE ELM, BY AMENDING SECTION 74-62, "COMMUNITY RECREATION CENTER FEES" AND SECTION 74-63, "FACILITY AND COMMUNITY ROOM RESERVATION RATES"; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 74, Article IV, of the Town's Code of Ordinances ("Code") addresses the Town's Senior Center and Community Recreation Center; and

WHEREAS, Code Section 74-62, "Community recreation center fees," and Code Section 74-63, (Facility and community room reservation rates," sets forth, among other matters, various fees; and

WHEREAS, the Town Council has determined that such fees should be periodically revised to address the various factors that Town staff utilizes in setting such fees, which fees are intended to recover, at least in part, the costs to the Town of providing the services and facilities for which the various memberships and fees are assessed; and

WHEREAS, the Town Council has determined that the Town's Community Services Director is best qualified to determine if any of the fees currently set forth in Code Sections 74-62 and 74-63 should be revised from time to time to achieve the Town's objectives in setting such fees; and

WHEREAS, the Town Council has determined that the fees currently set forth in Code Sections 74-62 and 74-63 should be repealed, and that the Town's Community Services Director be expressly delegated the power and responsibility to set such fees as are reasonable and consistent with the Town's objectives in setting such fees.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL 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

A. That the Town of Little Elm Code of Ordinances, Chapter 74, “Parks and Recreation”, Article IV, “Senior Center and Community Recreation Center,” Section 74-62, “Community recreation center fees,” is hereby amended by deleting Section 74-62 (c) – (i), and replacing those sections with the following new Section 74-62 (c):

- (c) The Town’s Community Services Director shall be empowered to set reasonable membership and user fees for community center recreation fees and related fees.

B. That the Town of Little Elm Code of Ordinances, Chapter 74, “Parks and Recreation”, Article IV, “Senior Center and Community Recreation Center,” Section 74-63, “Facility and community room reservation rates,” is hereby amended by deleting Section 74-63 (a) – (c), and replacing those sections with the following new Section 74-63 (a):

- (a) The Town’s Community Services Director shall be empowered to set reasonable facility and community room reservation rates and related fees.

SECTION 3

CUMULATIVE REPEALER

That this ordinance shall be cumulative of all other ordinances and shall not repeal any of the provisions of such ordinances except for those instances where there are direct conflicts with the provisions of this ordinance. Ordinances or parts thereof in force at the time this ordinance shall take effect and that are inconsistent with this ordinance are hereby repealed to the extent that they are inconsistent with this ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such ordinance on the date of adoption of this ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the ordinance shall remain in full force and effect.

SECTION 4

SEVERABILITY CLAUSE

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole. Town Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 5

EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS, on this the 19th day of December, 2023.

Curtis J. Cornelious, Mayor

ATTEST:

Caitlan Biggs, Town Secretary



Date: 12/19/2023
Agenda Item #: 5. C.
Department: Police
Strategic Goal: Maintain operational integrity and viability
Staff Contact: Rodney Harrison, Police Chief

AGENDA ITEM:

Consider Action to Approve the **Canine Ownership Transfer Agreement for the Retirement of Little Elm Police Department Canine Otto.**

DESCRIPTION:

Canine Otto has been with the Town of Little Elm since 2020 and has served the community for three years. Following his years of dedicated service, the Little Elm Police Department, in conjunction with Otto's handler, has determined to retire Otto from service. His handler, Officer Eric Thomas, desires to assume ownership and take possession of Otto. This transfer agreement will allow for Officer Thomas to assume ownership of Otto.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Canine Ownership Transfer Agreement

TOWN OF LITTLE ELM CANINE OWNERSHIP TRANSFER AGREEMENT

THIS AGREEMENT is made and entered into this 31st day of December, 2023, by and between the TOWN OF LITTLE ELM (the "Town"), acting on behalf of the LITTLE ELM POLICE DEPARTMENT ("LEPD") (collectively "Town") and Eric Thomas, an Officer and Canine Handler for the LEPD (hereinafter "Handler").

RECITALS

- A. Canine Otto has been with the LEPD since 2020. Otto has served the citizens of the Town of Little Elm for three (3) years.
- B. Following his years of dedicated service, the LEPD, in conjunction with consultation of Otto's handler, have made the determination that Otto is surplus to the needs of LEPD and to retire Otto from service as a law enforcement canine due to his age.
- C. Handler desires to assume ownership and take possession of Otto and formerly served as the handler for Otto.
- D. Handler wishes to maintain ownership of Otto and the Town wishes to divest itself of both ownership and vicarious or direct liability for Otto.

COVENANTS AND AGREEMENTS

NOW THEREFORE, in consideration of the foregoing recitals and the mutual terms, promises and undertakings set forth herein, the signatories to this Agreement voluntarily agree as

follows:

1. The Town does hereby agree to relinquish all right, title and ownership interest in LEPD Canine Otto whatsoever, effective upon Handler's execution and return of this Agreement to the Town.
2. Handler does hereby agree to assume ownership of Otto "as is", and to assume any and all risks, including but not limited to, risk of injury or death to third persons, and to hold the Town and its elected officials, employees, agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of Otto is transferred pursuant to this Agreement. That date is hereby fixed by agreement by and among the parties hereto as being December 31, 2023.
3. Handler further agrees to assume all liability for risks and dangers relating to his ownership of Otto on or after the aforementioned date, and to indemnify and hold the Town harmless in the event that any legal or administrative action, whether by claim, demand or otherwise, is made by any person or entity as a consequence of or arising out of any event, act or disturbance involving the actions or conduct of the subject police dog on or after the date ownership is transferred. These hold harmless provisions shall extend to any direct or vicarious liability arising from any and all losses, liabilities, charges (including reasonable attorney fees and court costs), and any other expenses whatsoever which may arise in any manner after the new owner's assumption of ownership on the date identified herein.

4. Handler agrees to humanely care for Otto, including providing food, shelter, and regular and appropriate veterinary care, including medication, to properly provide for Otto's health.
5. Handler agrees to comply with all state and local laws applicable to keeping domestic animals.
6. Handler agrees to notify the Town in the event Handler is no longer able to humanely care for Otto. Upon receipt of notice or a finding that Handler is no longer able to humanely care for Otto, Otto shall revert to the possession of the Town.
7. Handler acknowledges that he has read and understood the foregoing Agreement and understands that it is contractual in nature and understands and agrees to each of its provisions.

NEW OWNER

LITTLE ELM POLICE DEPARTMENT

Eric Thomas, Handler

Rodney Harrison, Chief of Police

TOWN OF LITTLE ELM

Matt Mueller, Town Manager



Date: 12/19/2023
Agenda Item #: 5. D.
Department: Administrative Services
Strategic Goal: Provide a safe and welcoming environment for Little Elm residents and visitors
Staff Contact: Rodney Harrison, Police Chief

AGENDA ITEM:

Consider Action to Approve a **Five-Year Agreement for Flock Safety License Plate Recognition Cameras.**

DESCRIPTION:

This agreement will renew an existing contract with Flock Safety for an additional five years of License Plate Recognition Cameras in Little Elm Park and Paloma Creek. These cameras have been an integral part of aiding the Little Elm Police Department in investigations and patrol operations.

BUDGET IMPACT:

Funding is budgeted for this contract in the General Fund Operations Budget. the cost for year 1 is \$33,150 and the cost years 2-5 is \$32,500 annually, for a total of \$163,150.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Agreement - Flock Safety

Flock Safety + TX - Little Elm PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Jasmine Norton
jasmine.norton@flocksafety.com
2145425610

flock safety

Company Overview

At Flock Safety, technology unites law enforcement and the communities they serve to eliminate crime and shape a safer future, together. We created the first public safety operating system to enable neighborhoods, schools, businesses, and law enforcement to work together to collect visual, audio, and situational evidence across an entire city to solve and prevent crime.

Our connected platform, comprised of License Plate Recognition (LPR), live video, audio detection, and a suite of integrations (AVL, CAD & more), alerts law enforcement when an incident occurs and turns unbiased data into objective answers that increase case clearance, maximize resources, and reduce crime -- all without compromising transparency or human privacy.

Join thousands of agencies reducing crime with Flock Safety's public safety operating system

2000+	120	1B+	<60%*
communities with private-public partnerships	incident alerts / minute	1B+ vehicles detected / month	<60% local crime reduction in Flock cities

*According to a 2019 study conducted by Cobb County Police Department

Introduction

Layer Intelligence to Solve More Crime

The pathway to a safer future looks different for every community. As such, this proposal presents a combination of products that specifically addresses your public safety needs, geographical layout, sworn officer count, and budget. These components make up your custom public safety operating system, a connected device network and software platform designed to transform real-time data into a panoramic view of your jurisdiction and help you zero in on the leads that solve more cases, prevent future crimes, and foster trust in the communities you serve.

Software Platform

Flock Safety's out-of-box software platform collects and makes sense of visual, audio, and situational evidence across your entire network of devices.

Out-of-Box Software Features

<p>Simplified Search</p>	<p>Get a complete view of all activity tied to one vehicle in your network of privately and publicly owned cameras. The user-friendly search experience allows officers to filter hours of footage in seconds based on time, location, and detailed vehicle criteria using patented Vehicle Fingerprint™ technology. Search filters include:</p> <ul style="list-style-type: none"> ● Vehicle make ● Body type ● Color ● License plates <ul style="list-style-type: none"> ○ Partial tags ○ Missing tags ○ Temporary tags ○ State recognition ● Decals ● Bumper stickers ● Back racks ● Top racks
<p>National and Local Sharing</p>	<p>Access 1B+ additional plate reads each month without purchasing more cameras. Solve cross-jurisdiction crimes by opting into Flock Safety's sharing networks, including one-to-one, national, and statewide search networks. Users can also receive alerts from several external LPR databases:</p> <p style="text-align: center;"> <i>California SVS</i> <i>FDLE</i> <i>FL Expired Licenses</i> <i>FL Expired Tags</i> <i>FL Sanctioned Drivers</i> <i>FL Sex Offenders</i> <i>Georgia DOR</i> <i>IL SOS</i> <i>Illinois Leads</i> <i>NCIC</i> <i>NCMEC Amber Alert</i> <i>REJIS</i> <i>CCIC</i> <i>FBI</i> </p>
<p>Real-time Alerts</p>	<p>Receive SMS, email, and in-app notifications for custom Hot Lists, NCIC wanted lists, AMBER alerts, Silver alerts, Vehicle Fingerprint matches, and more.</p>
<p>Interactive ESRI Map</p>	<p>View your AVL, CAD, traffic, and LPR alerts alongside live on-scene video from a single interactive map for a birdseye view of activity in your jurisdiction.</p>
<p>Vehicle Location Analysis</p>	<p>Visualize sequential Hot List alerts and the direction of travel to guide officers to find suspect vehicles faster.</p>

Out-of-Box Software Features (Continued)

Transparency Portal	Establish community trust with a public-facing dashboard that shares policies, usage, and public safety outcomes related to your policing technology.
Insights Dashboard	Access at-a-glance reporting to easily prove ROI, discover crime and traffic patterns and prioritize changes to your public safety strategy by using data to determine the most significant impact.
Native MDT Application	Download FlockOS to your MDTs to ensure officers never miss a Hot List alert while out on patrol.
Hot List Attachments	Attach relevant information to Custom Hot List alerts. Give simple, digestible context to Dispatchers and Patrol Officers responding to Hot List alerts so they can act confidently and drive better outcomes. When you create a custom Hot List Alert, add case notes, photos, reports, and other relevant case information.
Single Sign On (SSO)	Increase your login speed and information security with Okta or Azure Single Sign On (SSO). Quickly access critical information you need to do your job by eliminating the need for password resets and steps in the log-in process.

License Plate Recognition

The Flock Safety Falcon® LPR camera uses Vehicle Fingerprint™ technology to transform hours of footage into actionable evidence, even when a license plate isn't visible, and sends Hot List alerts to law enforcement users when a suspect vehicle is detected. The Falcon has fixed and location-flexible deployment options with 30% more accurate reads than leading LPR.*

*Results from the 2019 side-by-side comparison test conducted by LA County Sheriff's Department

Flock Safety Falcon® LPR Camera	Flock Safety Falcon® Flex	Flock Safety Falcon® LR
<p>Fixed, infrastructure-free LPR camera designed for permanent placement.</p> <ul style="list-style-type: none"> √ 1 Standard LPR Camera √ Unlimited LTE data service + Flock OS platform licenses √ 1 DOT breakaway pole √ Dual solar panels √ Permitting, installation, and ongoing maintenance 	<p>Location-flexible LPR camera designed for fast, easy self-installation, which is ideal for your ever-changing investigative needs.</p> <ul style="list-style-type: none"> √ 1 LPR Camera √ Unlimited LTE data service + software licenses √ 1 portable mount with varying-sized band clamps √ 1 Charger for internal battery √ 1 hardshell carrying case 	<p>Long-range, high-speed LPR camera that captures license plates and Vehicle Fingerprint data for increasing investigative leads on high-volume roadways like highways and interstates.</p> <ul style="list-style-type: none"> √ 1 Long-Range LPR Camera √ Computing device in protective poly case √ AC Power √ Permitting, installation, and ongoing maintenance

Your Flock Safety Team

Flock Safety is more than a technology vendor; we are a partner in your mission to build a safer future. We work with thousands of law enforcement agencies across the US to build stronger, safer communities that celebrate the hard work of those who serve and protect. We don't disappear after contracts are signed; we pride ourselves on becoming an extension of your hard-working team as part of our subscription service.

Implementation	Meet with a Solutions Consultant (former LEO) to build a deployment plan based on your needs. Our Permitting Team and Installation Technicians will work to get your device network approved, installed, and activated.
User Training + Support	Your designated Customer Success Manager will help train your power users and ensure you maximize the platform, while our customer support team will assist with needs as they arise.
Maintenance	We proactively monitor the health of your device network. If we detect that a device is offline, a full-time technician will service your device for no extra charge. <i>Note: Ongoing maintenance does not apply to Falcon Flex devices.</i>
Public Relations	Government Affairs Get support educating your stakeholders, including city councils and other governing bodies. Media Relations Share crimes solved in the local media with the help of our Public Relations team.



EXHIBIT A
ORDER FORM

Customer: TX - Little Elm PD
Legal Entity Name: TX - Little Elm PD
Accounts Payable Email:
Address: 88 W Eldorado Pkwy Little Elm, Texas 75068

Initial Term: 60 Months
Renewal Term: 24 Months
Payment Terms: Net 30
Billing Frequency: Annual - First Year at Signing.
Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$32,500.00
Flock Safety Flock OS			
FlockOS™	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon®	Included	13	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	\$650.00	1	\$650.00

Subtotal Year 1:	\$33,150.00
Annual Recurring Subtotal:	\$32,500.00
Discounts:	\$32,500.00
Estimated Tax:	\$0.00
Contract Total:	\$163,150.00

Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "Renewal Term") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$33,150.00
Annual Recurring after Year 1	\$32,500.00
Contract Total	\$163,150.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	\$32,500.00
Flock Safety Add-ons	\$0.00
Flock Safety Professional Services	\$0.00

Product and Services Description

Flock Safety Platform Items	Product Description	Terms
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

FlockOS Features & Description

Package: Essentials

FlockOS Features	Description
Community Cameras (Full Access)	Access to all privately owned Flock devices within your jurisdiction that have been shared with you.
Unlimited Users	Unlimited users for FlockOS
State Network (LP Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the statewide Flock network.
Nationwide Network (LP Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the nationwide Flock network.
Direct Share - Surrounding Jurisdiction (Full Access)	Access to all Flock devices owned by law enforcement that have been directly shared with you. Have ability to search by vehicle fingerprint, receive hot list alerts, and view devices on the map.
Time & Location Based Search	Search full, partial, and temporary plates by time at particular device locations
License Plate Lookup	Look up specific license plate location history captured on Flock devices
Vehicle Fingerprint Search	Search footage using Vehicle Fingerprint™ technology. Access vehicle type, make, color, license plate state, missing / covered plates, and other unique features like bumper stickers, decals, and roof racks.
Flock Insights/Analytics page	Reporting tool to help administrators manage their LPR program with device performance data, user and network audits, plate read reports, hot list alert reports, event logs, and outcome reports.
ESRI Based Map Interface	Flock Safety's maps are powered by ESRI, which offers the ability for 3D visualization, viewing of floor plans, and layering of external GIS data, such as City infrastructure (i.e., public facilities, transit systems, utilities), Boundary mapping (i.e., precincts, county lines, beat maps), and Interior floor plans (i.e., hospitals, corporate campuses, universities)
Real-Time NCIC Alerts on Flock ALPR Cameras	Alert sent when a vehicle entered into the NCIC crime database passes by a Flock camera
Unlimited Custom Hot Lists	Ability to add a suspect's license plate to a custom list and get alerted when it passes by a Flock camera

By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms of Service located at <https://www.flocksafety.com/terms-and-conditions>

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: TX - Little Elm PD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PO Number: _____



Date: 12/19/2023
Agenda Item #: 5. E.
Department: Development Services
Strategic Goal: Promote and expand Little Elm's identity
Staff Contact: Wesley Brandon, Town Engineer

AGENDA ITEM:

Consider Action to Approve the **Final Acceptance of the FM 423 Green Ribbon Landscaping Improvement Project and Release Retainage Funds in the amount of \$64,715.58.**

DESCRIPTION:

In September 2021, Town Council approved a construction contract with Central North Construction, LLC for the installation of landscaping improvements along FM 423. The contractor has completed the installation of the landscaping improvements, and staff is working to complete the final closeout process.

The overall project limits extend along FM 423, beginning near Eldorado Parkway and ending at the northern Town limits near Logan Springs Drive. The project includes the installation of landscape plantings, irrigation, and other incidental improvements within the medians along the roadway. The construction contract for a second phase of the project was recently awarded, and construction is scheduled to begin in January 2024.

The project is funded through the Texas Department of Transportation (TxDOT) Green Ribbon Program, which provides funding and other assistance to install beautification improvements along state highways. TxDOT has provided oversight to ensure the project was completed in accordance with the program's requirements. They are currently assisting the Town with completing the project closeout process.

Approval of the final acceptance for the project will authorize staff to release the final retainage funds in the amount of \$64,715.58, or 5% of the final contract amount. The retainage funds will not be released until all final closeout documents required by the Town and TxDOT have been received and approved.

BUDGET IMPACT:

Funding for the project has been provided by TxDOT as a reimbursement to the Town as eligible expenses have occurred. Because the contract amount is lower than the eligible reimbursement amount of \$1,737,952.70, there are no direct construction-related costs to the Town.

\$	1,294,311.50	Final Contract Amount
\$	64,715.58	Retainage Due (5%)

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Retainage Pay Application

Project Layout

APPLICATION AND CERTIFICATE FOR PAYMENT

AIA DOCUMENT G702

5970 Lindsey Lane
 Allen, Texas 75002
 972-442-1997; (f) 972-442-2199
jhendrix@cncillc.org

VIA :

APPLICATION NO.: **8**
 PERIOD TO: **RETINAGE**

Distribution to:
 OWNER
 ARCHITECT
 CONTRACTOR

2022-21 Little Elm FM423 'Green Ribbon' Landscaping

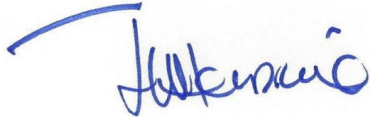
CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY			ADDITIONS	DEDUCTIONS
Change Orders approved in previous months by Owner				
TOTAL				
Approved this Month				
Number	Date Approved			
TOTALS				
Net change by Change Orders.				

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: **Central North Construction, LLC**

BY:




DATE:

12/8/2023

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	\$	1,294,311.50
2. Net change by Change Orders	\$	0.00
3. CONTRACT SUM TO DATE (Line 1+/-2)	\$	1,294,311.50
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	1,294,311.50
5. RETAINAGE:		
a. 5% of Completed Work (Column D + E on G703)	\$	0.00
b. % of Stored Material (Column F on G703)	\$	
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	\$	1,294,311.50
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	1,229,595.93
8. CURRENT PAYMENT DUE	\$	64,715.58
9. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6)	\$	0.00

State of: TEXAS County of: COLLIN
 Subscribed and sworn to before me this **8th** day of **December, 2023**

Notary Public:

Trittany White

My Commission expires: **04-26-2026**

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED: \$ _____

(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT:

By: _____ Date: _____

PAY APPLICATION SPREADSHEET

CENTRAL NORTH

CONSTRUCTION, LLC

LITTLE ELM FM-423 GREEN RIBBON PROJECT

Year: 2023
 Month: DECEMBER
 From: RETAINAGE

Pay Application No. 8

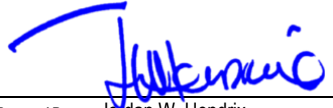
To: RETAINAGE

Item	Description	CONTRACT				WORK IN PLACE						
		Estimated Quantity	UM	Unit Price (\$)	Amount (\$)	PREVIOUS		THIS PERIOD		To Date		
						Actual Quantity	Amount (\$)	Actual Quantity	Amount (\$)	Actual Quantity	Amount (\$)	
	Prepare ROW	4.29	AC	\$ 10,000.00	\$ 42,900.00	4.29	\$ 42,900.00	\$ -	-	4.290	\$ 42,900.00	100%
	Special Excavation Work (Original) for bed prep areas	3459	CY	\$ 35.00	\$ 121,065.00	3,459.00	\$ 121,065.00	\$ -	-	3,459	\$ 121,065.00	100%
	Compost (6-in depth – shrubs / grasses)	3459	CY	\$ 42.00	\$ 145,278.00	3,459.00	\$ 145,278.00	\$ -	-	3,459.00	\$ 145,278.00	100%
	Vegetative watering	726	MG	\$ 5.00000	\$ 3,630.00	726.00	\$ 3,630.00	\$ -	-	726.00	\$ 3,630.00	100%
	Irrigation System	1	LS	\$ 315,634.00	\$ 315,634.00	1.00	\$ 315,634.00	\$ -	-	1.00	\$ 315,634.00	100%
	Mulch (3-in depth)	1730	CY	\$ 21.00	\$ 36,330.00	1,730.00	\$ 36,330.00	\$ -	-	1,730.00	\$ 36,330.00	100%
	Bed Prep (Shrubs/Grasses)	20754	SY	\$ 1.75	\$ 36,319.50	20,754.00	\$ 36,319.50	\$ -	-	20,754.00	\$ 36,319.50	100%
	Tree – Vitex (45 gal.)	33	EA	\$ 350.00	\$ 11,550.00	33.00	\$ 11,550.00	\$ -	-	33.00	\$ 11,550.00	100%
	Tree – Desert Willow (45 gal.)	12	EA	\$ 350.00	\$ 4,200.00	12.00	\$ 4,200.00	\$ -	-	12.00	\$ 4,200.00	100%
	Tree – Shantung Maple (65 gal.)	12	EA	\$ 650.00	\$ 7,800.00	12.00	\$ 7,800.00	\$ -	-	12.00	\$ 7,800.00	100%
	Tree – Bosque Elm (65 gal.)	51	EA	\$ 650.00	\$ 33,150.00	51.00	\$ 33,150.00	\$ -	-	51.00	\$ 33,150.00	100%
	Gulf Coast Muhly (1 gal.)	19733	EA	\$ 5.90	\$ 116,424.70	19,733.00	\$ 116,424.70	\$ -	-	19,733.00	\$ 116,424.70	100%
	Graham Sage (1 gal.)	17059	EA	\$ 5.90	\$ 100,648.10	17,059.00	\$ 100,648.10	\$ -	-	17,059.00	\$ 100,648.10	100%
	Blonde Ambition (1 gal.)	15328	EA	\$ 5.90	\$ 90,435.20	15,328.00	\$ 90,435.20	\$ -	-	15,328.00	\$ 90,435.20	100%
	Concrete Landscape Edge (12 in. width) (CL-A)	4800	LF	\$ 24.00	\$ 115,200.00	4,800.00	\$ 115,200.00	\$ -	-	4,800.00	\$ 115,200.00	100%
	Plant Maintenance	9	MO	\$ 1,800.00	\$ 16,200.00	9.00	\$ 16,200.00	\$ -	-	9.00	\$ 16,200.00	100%
	Irrigation System Maintenance	9	MO	\$ 750.00	\$ 6,750.00	9.00	\$ 6,750.00	\$ -	-	9.00	\$ 6,750.00	100%
	Mobilization	1	LS	\$ 53,000.00	\$ 53,000.00	1.00	\$ 53,000.00	\$ -	-	1	\$ 53,000.00	100%
	Barricades, signs and traffic handling	6	MO	\$ 1,800.00	\$ 10,800.00	6.00	\$ 10,800.00	\$ -	-	6	\$ 10,800.00	100%
	Biodegradable erosion control logs (8-in dia.) (Install)	1950	LF	\$ 1.00	\$ 1,950.00	1,950.00	\$ 1,950.00	\$ -	-	1,950	\$ 1,950.00	100%
	Biodegradable erosion control logs (8-in dia.) (Remove)	1950	LF	\$ 0.50	\$ 975.00	1,950.00	\$ 975.00	\$ -	-	1,950	\$ 975.00	100%
	SAND BAGS	888	LF	\$ 1.00	\$ 888.00	888.00	\$ 888.00	\$ -	-	888	\$ 888.00	100%
	Conduit (PVC) Sch 80 4-in (bore)	966	LF	\$ 24.00	\$ 23,184.00	966.00	\$ 23,184.00	\$ -	-	966	\$ 23,184.00	100%
	CHANGE ORDER #001 PLANT DELETION & ROCK REVISION											
	Gulf Coast Muhly (1 gal.)	(2,000)	EA	\$ 5.90	\$ (11,800.00)	(2,000.00)	\$ (11,800.00)	\$ -	-	(2,000)	\$ (11,800.00)	100%
	Graham Sage (1 gal.)	(2,000)	EA	\$ 5.90	\$ (11,800.00)	(2,000.00)	\$ (11,800.00)	\$ -	-	(2,000)	\$ (11,800.00)	100%
	Blonde Ambition (1 gal.)	(2,000)	EA	\$ 5.90	\$ (11,800.00)	(2,000.00)	\$ (11,800.00)	\$ -	-	(2,000)	\$ (11,800.00)	100%
	River Rock 2-4" Diameter 4" Depth	72	CY	\$ 168.75	\$ 12,150.00	72.00	\$ 12,150.00	\$ -	-	72	\$ 12,150.00	100%
	River Rock 4-6" Diameter 4" Depth	48	CY	\$ 200.00	\$ 9,600.00	48.00	\$ 9,600.00	\$ -	-	48	\$ 9,600.00	100%
	Filter Fabric	9,100	SF	\$ 1.50	\$ 13,650.00	9,100.00	\$ 13,650.00	\$ -	-	9,100	\$ 13,650.00	100%
					\$ 1,294,311.50		\$ 1,294,311.50		\$ -		\$ 1,294,311.50	100.0%

Original Contract Value..... \$ 1,294,311.50
 Changes To-Date..... \$ -
 Current Contract Value..... \$ 1,294,311.50

Total Amount Earned \$ 1,294,311.50
 Less Retainage 5% \$ -
 Net Amount Earned \$ 1,294,311.50

\$ - \$ 1,294,311.50
 \$ - \$ -
 \$ - \$ 1,294,311.50



Prepared By: Jordan W. Hendrix

AMOUNT DUE THIS PERIOD

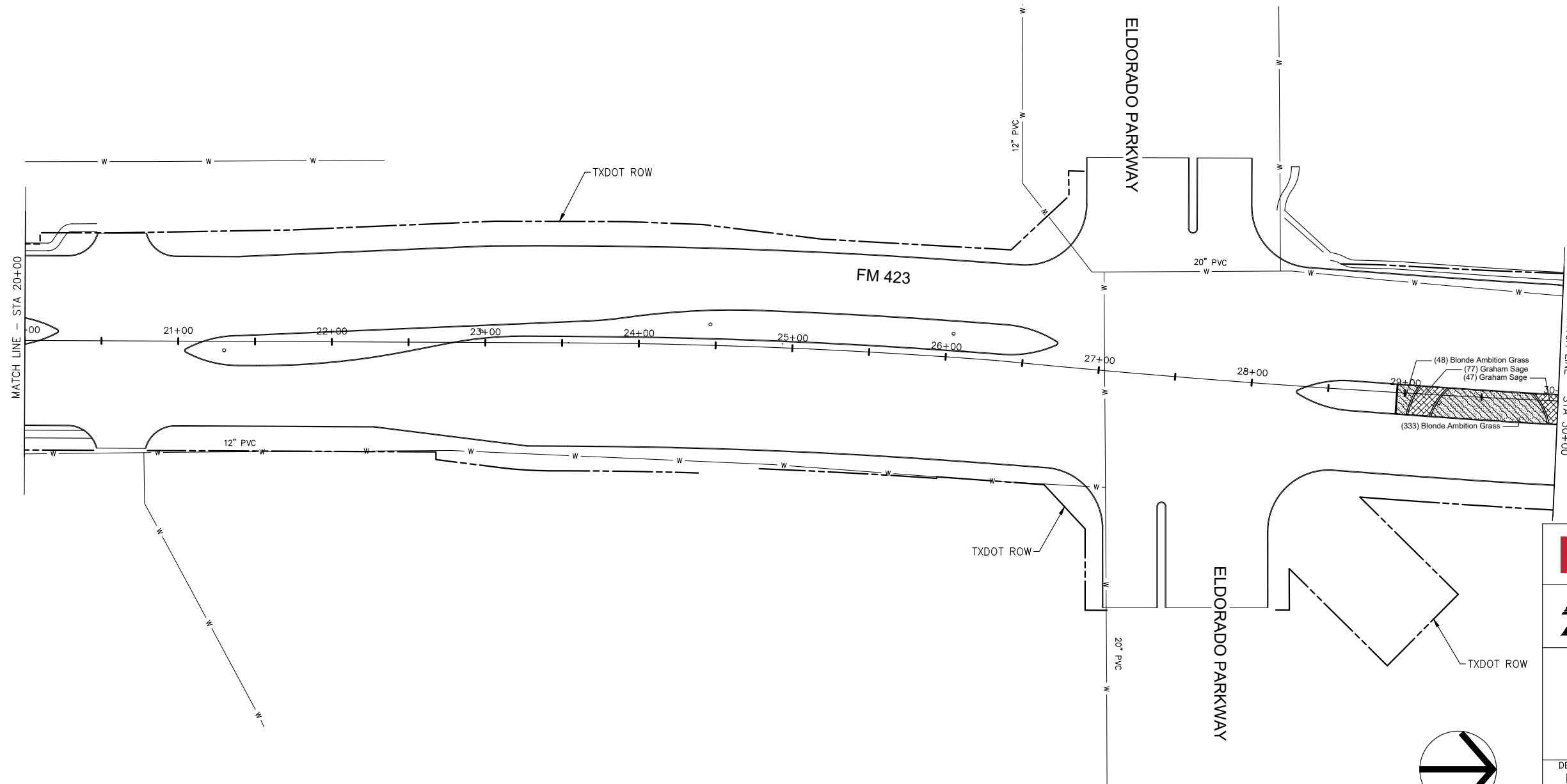
\$ 64,715.58

PLANTING NOTES

1. ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE TOWN OF LITTLE ELM STANDARDS.
2. ALL PLANTS SHALL BE NURSERY GROWN. REFER TO PLANT LIST FOR QUANTITIES AND SPECIFICATIONS.
3. ALL TREES SHALL BE APPROVED BY THE OWNER OR OWNER'S REPRESENTATIVE PRIOR TO PLANTING.
4. THE SITE SHALL BE FINE GRADED PRIOR TO ANY PLANT INSTALLATION. ANY AREAS DISTURBED BY PLANTING SHALL BE REGRADED AND SMOOTHED PRIOR TO GRASS PLANTING.
5. THE CONTRACTOR SHALL FLAG UNDERGROUND UTILITY LOCATIONS AND MAINTAIN THESE LOCATIONS UNTIL ALL TREE LOCATIONS ARE APPROVED, AND PLANT PITS EXCAVATED.
6. THE OWNER OR OWNER'S REPRESENTATIVE SHALL APPROVE ALL PLANT LOCATIONS PRIOR TO PLANTING.
7. NO TREE SUBSTITUTIONS, SPECIES OR SIZE, WILL BE ACCEPTED WITHOUT THE PRIOR APPROVAL OF THE OWNER OR OWNER'S REPRESENTATIVE.
8. ALL TREES SHALL BE PLANTED PER DETS. 1 & 2 ON PLANTING DETAIL SHEET
9. CONTRACTOR SHALL ESTABLISH GRASS ON ALL AREAS DISTURBED BY CONSTRUCTION.

EXISTING UTILITIES
 CONTRACTOR MUST VERIFY LOCATION OF ALL OVERHEAD AND UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION. CONTRACTOR SHALL COORDINATE WITH TOWN OFFICIALS AND UTILITY COMPANIES IN LOCATING UTILITIES. CONTRACTOR SHALL BE HELD RESPONSIBLE FOR LOSSES DUE TO DAMAGE TO UTILITIES. LOCATION FOR ALL UTILITIES SHOWN ON PLANS ARE APPROXIMATE. CONTRACTOR SHALL CALL DIG TESS, 1-800-DIG-TESS.

PLANT SCHEDULE MEDIAN C		
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	381	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	171	SALVIA MICROPHYLLA GRAHAM SAGE

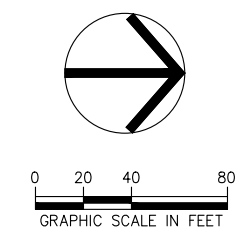


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LANDSCAPE LAYOUT 'C'
 STA. 20+00 TO STA. 30+00





DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		HIGHWAY NO.
ES	6	SEE TITLE SHEET		FM 423
GRAPHICS	STATE	DISTRICT	COUNTY	SHEET NO.
ES	TEXAS	DALLAS	DENTON	
CHECK	CONTROL	SECTION	JOB	
SF	1315	02	014	
CHECK				41
CW				

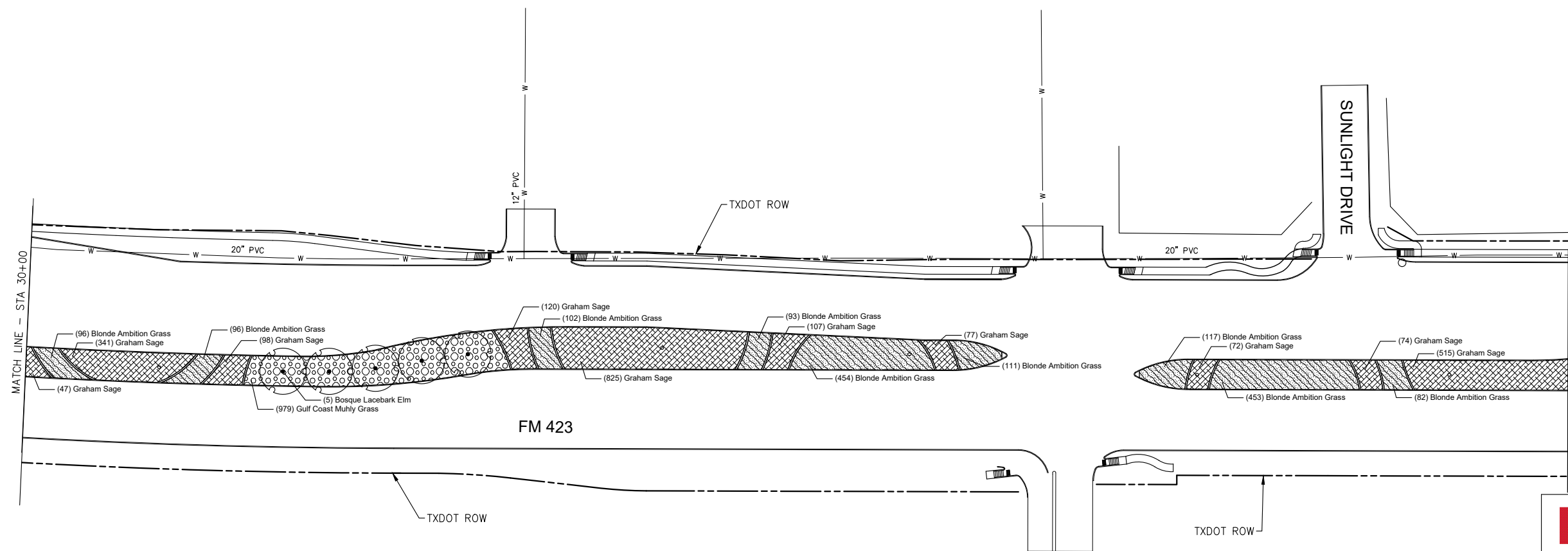


PLANTING NOTES

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2. ALL PLANTS SHALL BE NURSERY GROWN. REFER TO PLANT LIST FOR QUANTITIES AND SPECIFICATIONS.
3. ALL TREES SHALL BE APPROVED BY THE OWNER OR OWNER'S REPRESENTATIVE PRIOR TO PLANTING.
4. THE SITE SHALL BE FINE GRADED PRIOR TO ANY PLANT INSTALLATION. ANY AREAS DISTURBED BY PLANTING SHALL BE REGRADED AND SMOOTHED PRIOR TO GRASS PLANTING.
5. THE CONTRACTOR SHALL FLAG UNDERGROUND UTILITY LOCATIONS AND MAINTAIN THESE LOCATIONS UNTIL ALL TREE LOCATIONS ARE APPROVED, AND PLANT PITS EXCAVATED.
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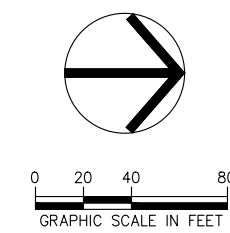
PLANT SCHEDULE MEDIAN D		
TREES	QTY	BOTANICAL / COMMON NAME
	5	ULMUS PARVIFOLIA 'UPMTF'™ BOSQUE LACEBARK ELM
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	1,604	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	979	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	2,276	SALVIA MICROPHYLLA GRAHAM SAGE



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LANDSCAPE LAYOUT 'D'
 STA. 30+00 TO STA. 40+00








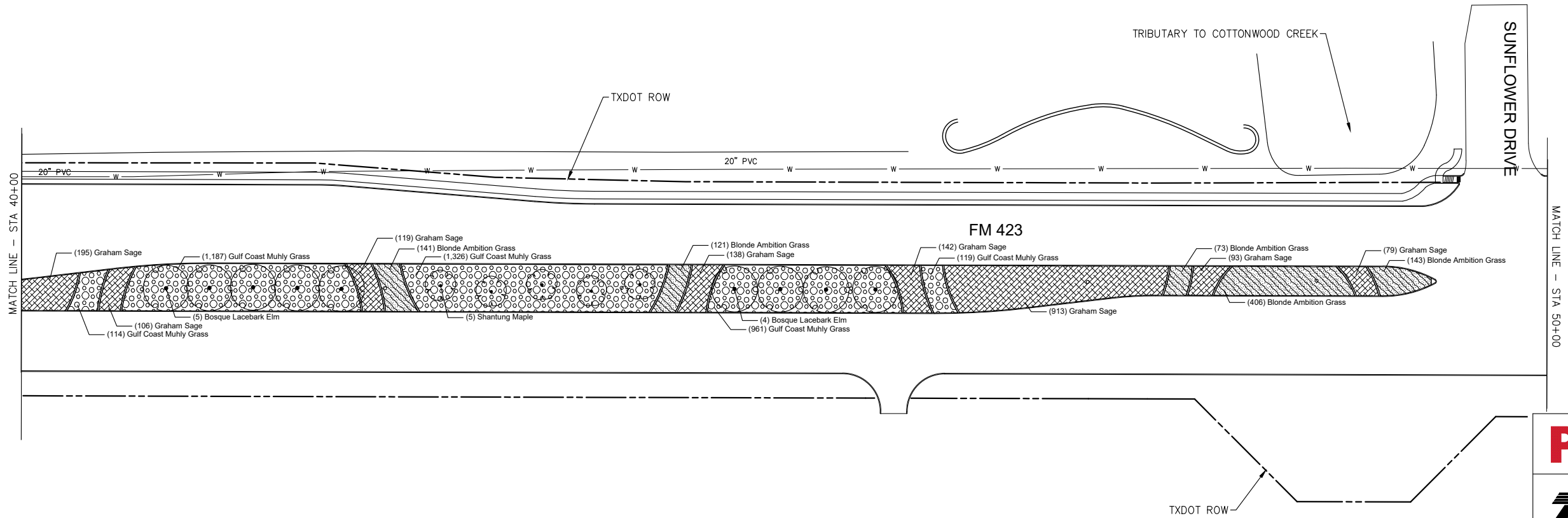
DESIGN	ES	FED. RD. DIV. NO.	6	FEDERAL AID PROJECT NO.	SEE TITLE SHEET	HIGHWAY NO.	FM 423
GRAPHICS	ES	STATE	TEXAS	DISTRICT	DALLAS	COUNTY	DENTON
CHECK	SF	CONTROL	SECTION	JOB	014		
CHECK	CW	1315	02				42

PLANTING NOTES

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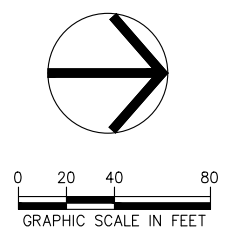
PLANT SCHEDULE MEDIAN E		
TREES	QTY	BOTANICAL / COMMON NAME
	5	ACER TRUNCATUM SHANTUNG MAPLE
	9	ULMUS PARVIFOLIA 'UPMTF' TM BOSQUE LACEBARK ELM
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	884	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	3,707	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	1,785	SALVIA MICROPHYLLA GRAHAM SAGE



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LANDSCAPE LAYOUT 'E'
 STA. 40+00 TO STA. 50+00



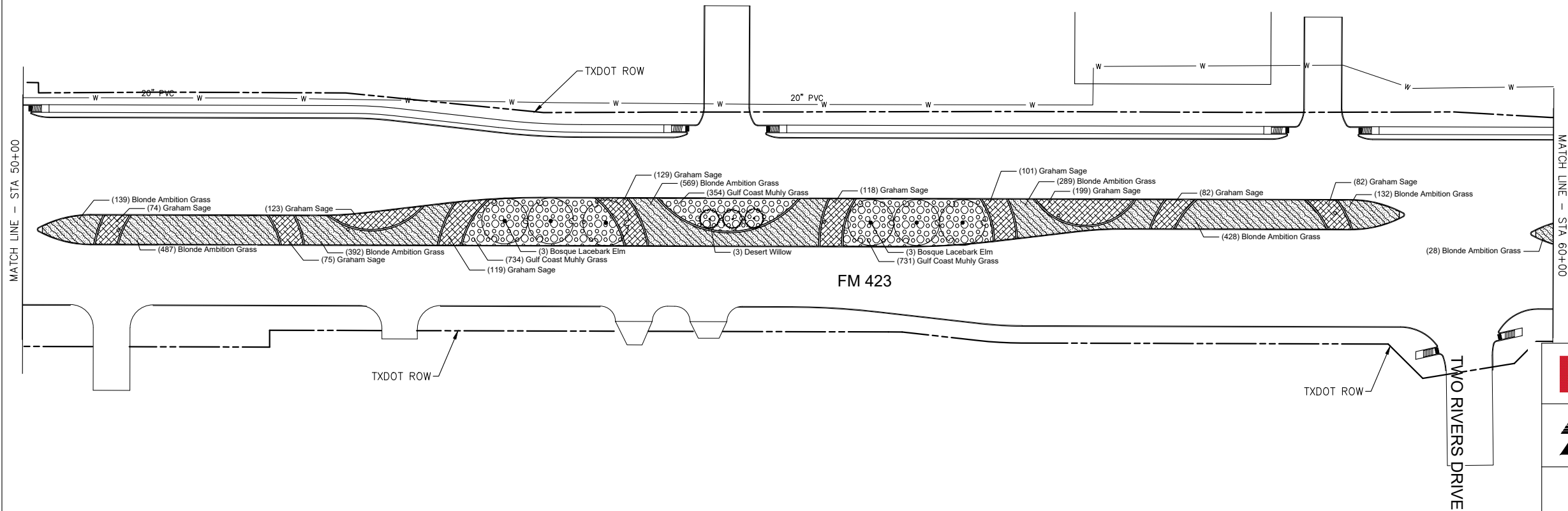
DESIGN ES	FED. RD. DIV. NO. 6	FEDERAL AID PROJECT NO. SEE TITLE SHEET		HIGHWAY NO. FM 423
GRAPHICS ES	STATE	DISTRICT	COUNTY	SHEET NO.
CHECK SF	TEXAS	DALLAS	DENTON	43
CHECK CW	CONTROL	SECTION	JOB	
	1315	02	014	

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PLANT SCHEDULE MEDIAN F		
TREES	QTY	BOTANICAL / COMMON NAME
	3	CHILOPSIS LINEARIS 'ART'S SEEDLESS' DESERT WILLOW MULTI-TRUNK
	6	ULMUS PARVIFOLIA 'UPMTF' TM BOSQUE LACEBARK ELM
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	2,464	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	1,819	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	1,102	SALVIA MICROPHYLLA GRAHAM SAGE



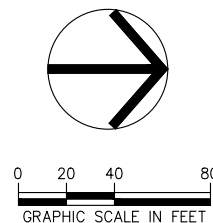
FM 423

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LANDSCAPE LAYOUT 'F'
 STA. 50+00 TO STA. 60+00





DESIGN ES	FED. RD. DIV. NO. 6	FEDERAL AID PROJECT NO. SEE TITLE SHEET		HIGHWAY NO. FM 423
GRAPHICS ES	STATE	DISTRICT TEXAS	COUNTY DALLAS	SHEET NO. 44
CHECK SF	CONTROL	SECTION 02	JOB 014	
CHECK CW	1315			

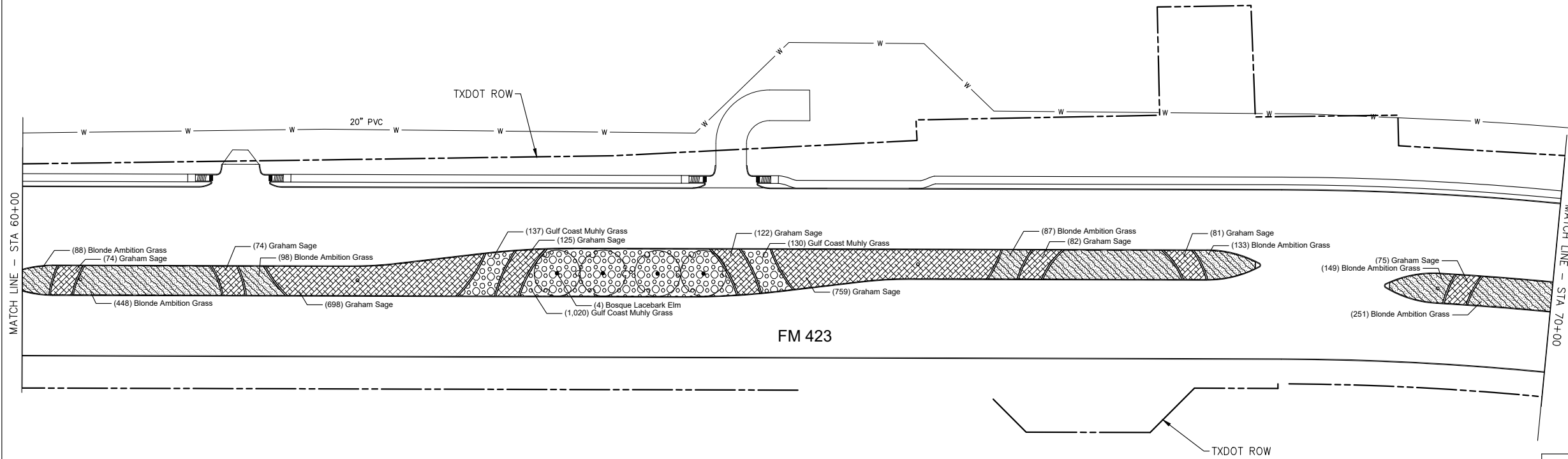


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PLANT SCHEDULE MEDIAN G		
TREES	QTY	BOTANICAL / COMMON NAME
	4	ULMUS PARVIFOLIA 'UPMTF'™ BOSQUE LACEBARK ELM
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	1,646	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	1,287	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	2,090	SALVIA MICROPHYLLA GRAHAM SAGE

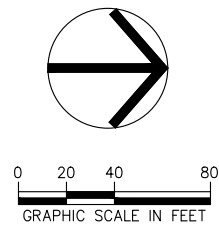


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LANDSCAPE LAYOUT 'G'
 STA. 60+00 TO STA. 70+00


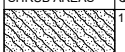

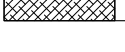
DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		HIGHWAY NO.
ES	6	SEE TITLE SHEET		FM 423
GRAPHICS	STATE	DISTRICT	COUNTY	SHEET NO.
ES	TEXAS	DALLAS	DENTON	
CHECK	CONTROL	SECTION	JOB	45
SF	1315	02	014	
CHECK				
CW				

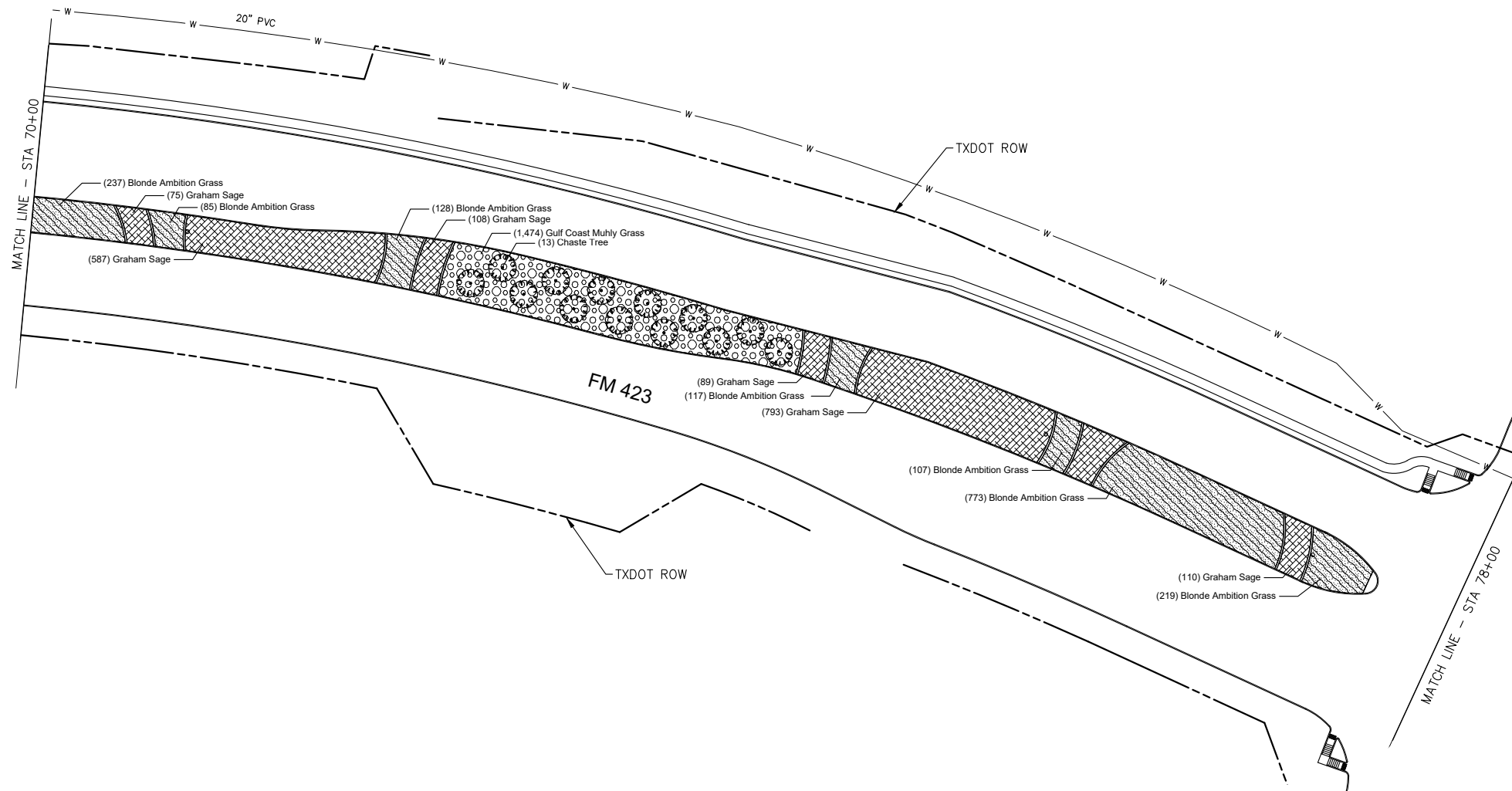


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PLANT SCHEDULE MEDIAN H		
TREES	QTY	BOTANICAL / COMMON NAME
	13	VITEX AGNUS-CASTUS 'SHOAL CREEK' CHASTE TREE MULTI-TRUNK
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	1,666	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	1,474	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	1,898	SALVIA MICROPHYLLA GRAHAM SAGE

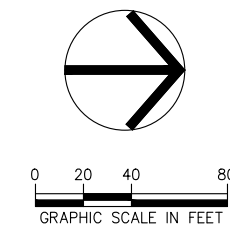


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LANDSCAPE LAYOUT 'H'
 STA. 70+00 TO STA. 78+00





DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		HIGHWAY NO.
ES	6	SEE TITLE SHEET		FM 423
GRAPHICS	STATE	DISTRICT	COUNTY	SHEET NO.
ES	TEXAS	DALLAS	DENTON	46
CHECK	CONTROL	SECTION	JOB	
SF	1315	02	014	
CHECK				
CW				

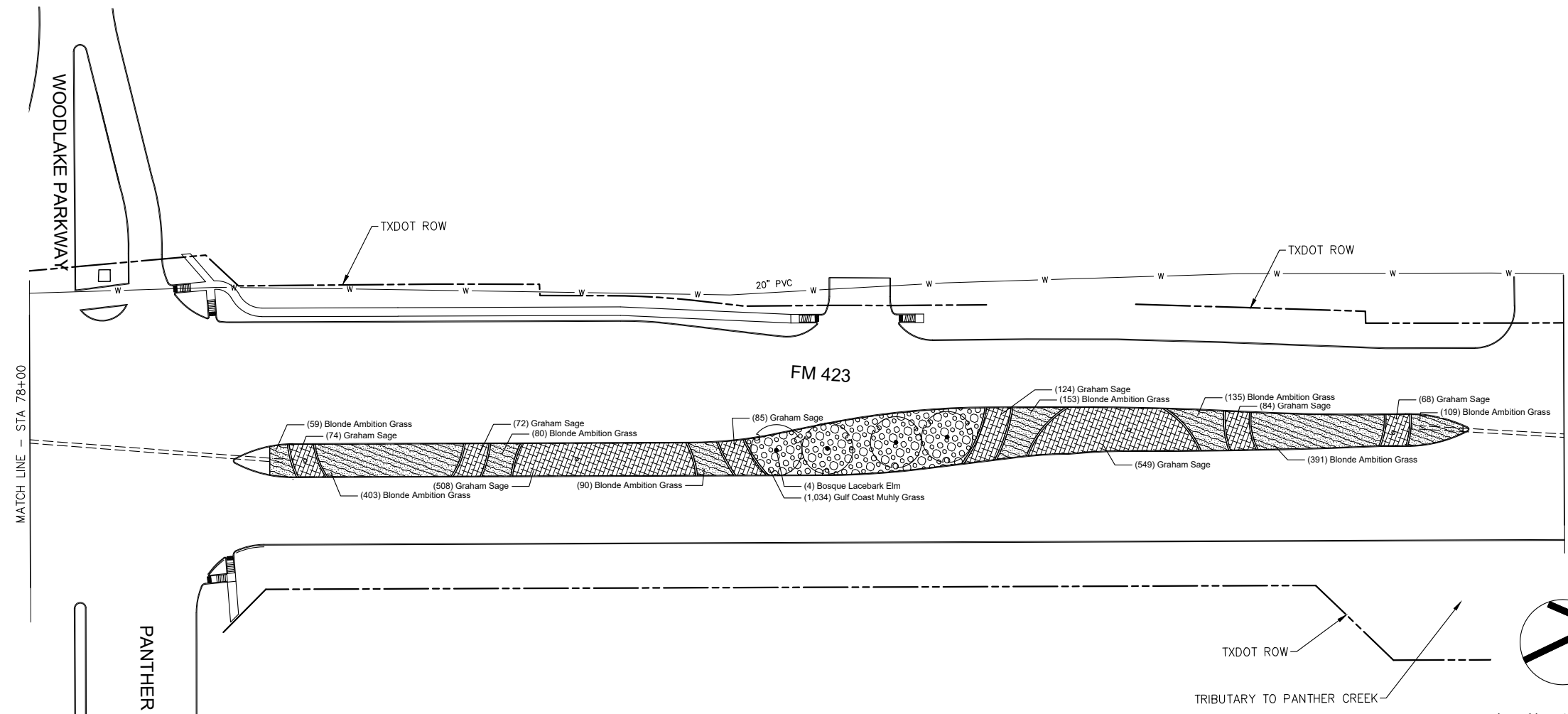


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PLANT SCHEDULE MEDIAN I		
TREES	QTY	BOTANICAL / COMMON NAME
	4	ULMUS PARVIFOLIA 'UPMTF'™ BOSQUE LACEBARK ELM
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	1,420	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	1,034	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	1,564	SALVIA MICROPHYLLA GRAHAM SAGE

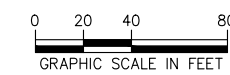


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LANDSCAPE LAYOUT '1'
 STA. 78+00 TO STA. 87+00






DESIGN	ES	FED. RD. DIV. NO.	6	FEDERAL AID PROJECT NO.	SEE TITLE SHEET	HIGHWAY NO.	FM 423	
GRAPHICS	ES	STATE	TEXAS	DISTRICT	DALLAS	COUNTY	DENTON	
CHECK	SF	CONTROL		SECTION		JOB		
CHECK	CW		1315		02		014	
							SHEET NO.	47

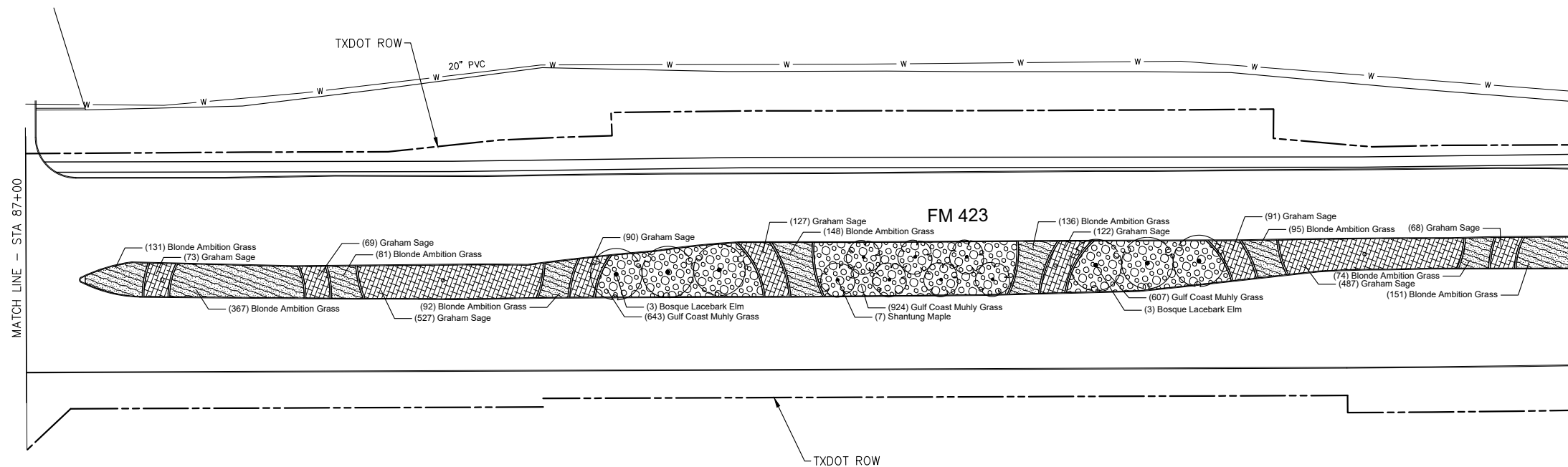


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PLANT SCHEDULE MEDIAN J		
TREES	QTY	BOTANICAL / COMMON NAME
	7	ACER TRUNCATUM SHANTUNG MAPLE
	6	ULMUS PARVIFOLIA 'UPMTF'™ BOSQUE LACEBARK ELM
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	1,275	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	2,174	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	1,654	SALVIA MICROPHYLLA GRAHAM SAGE

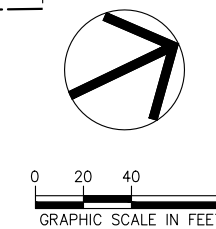


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LANDSCAPE LAYOUT 'J'
 STA. 87+00 TO STA. 96+00

DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		HIGHWAY NO.
ES	6	SEE TITLE SHEET		FM 423
GRAPHICS	STATE	DISTRICT	COUNTY	SHEET NO.
ES	TEXAS	DALLAS	DENTON	48
CHECK	CONTROL	SECTION	JOB	
SF	1315	02	014	
CW				








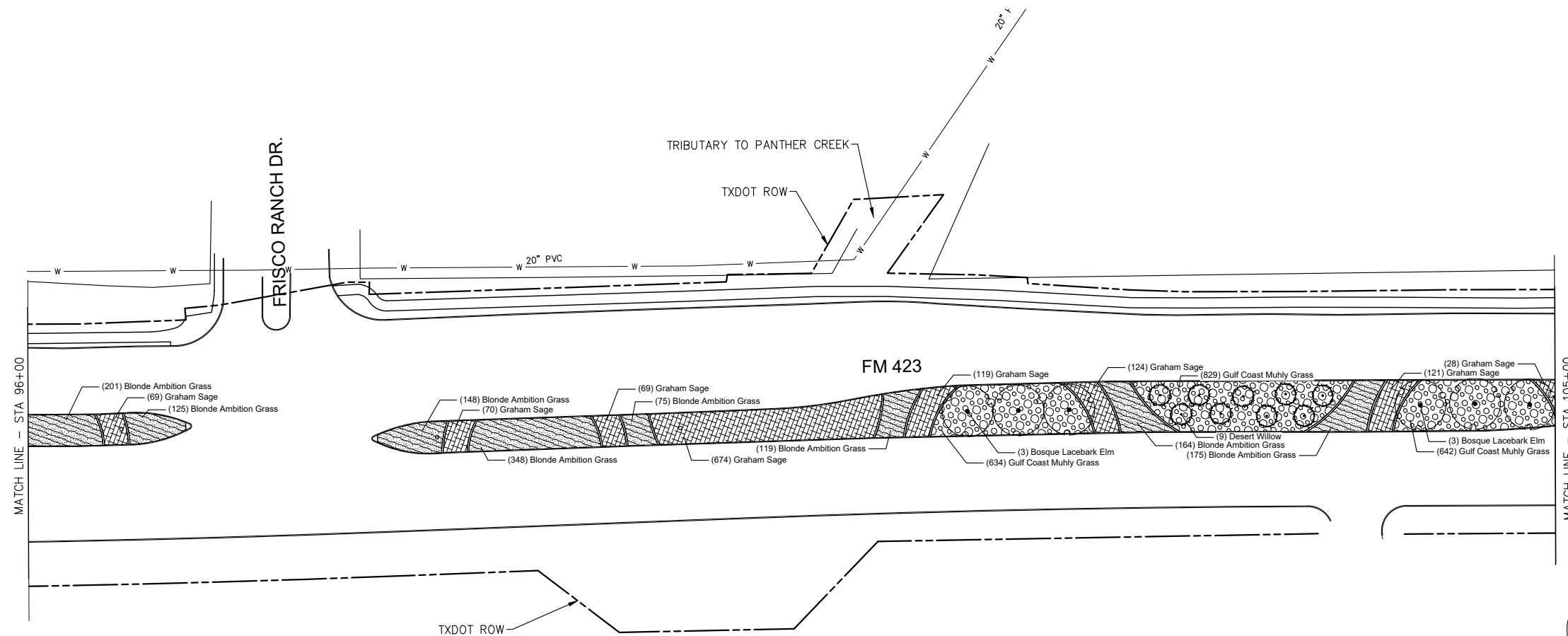
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PLANT SCHEDULE MEDIAN K

TREES	QTY	BOTANICAL / COMMON NAME
	9	CHILOPSIS LINEARIS 'ART'S SEEDLESS' DESERT WILLOW MUTLI-TRUNK
	6	ULMUS PARVIFOLIA 'UPMTF'™ TM BOSQUE LACEBARK ELM
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	1,355	BOUPELLOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	2,105	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	1,274	SALVIA MICROPHYLLA GRAHAM SAGE

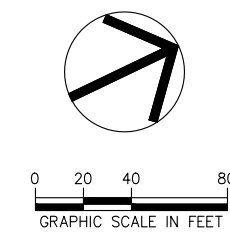


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LANDSCAPE LAYOUT 'K'
 STA. 96+00 TO STA. 105+00





DESIGN ES	FED. RD. DIV. NO. 6	FEDERAL AID PROJECT NO. SEE TITLE SHEET		HIGHWAY NO. FM 423
GRAPHICS ES	STATE	DISTRICT	COUNTY	SHEET NO.
CHECK SF	TEXAS	DALLAS	DENTON	49
CHECK CW	CONTROL	SECTION	JOB	
	1315	02	014	

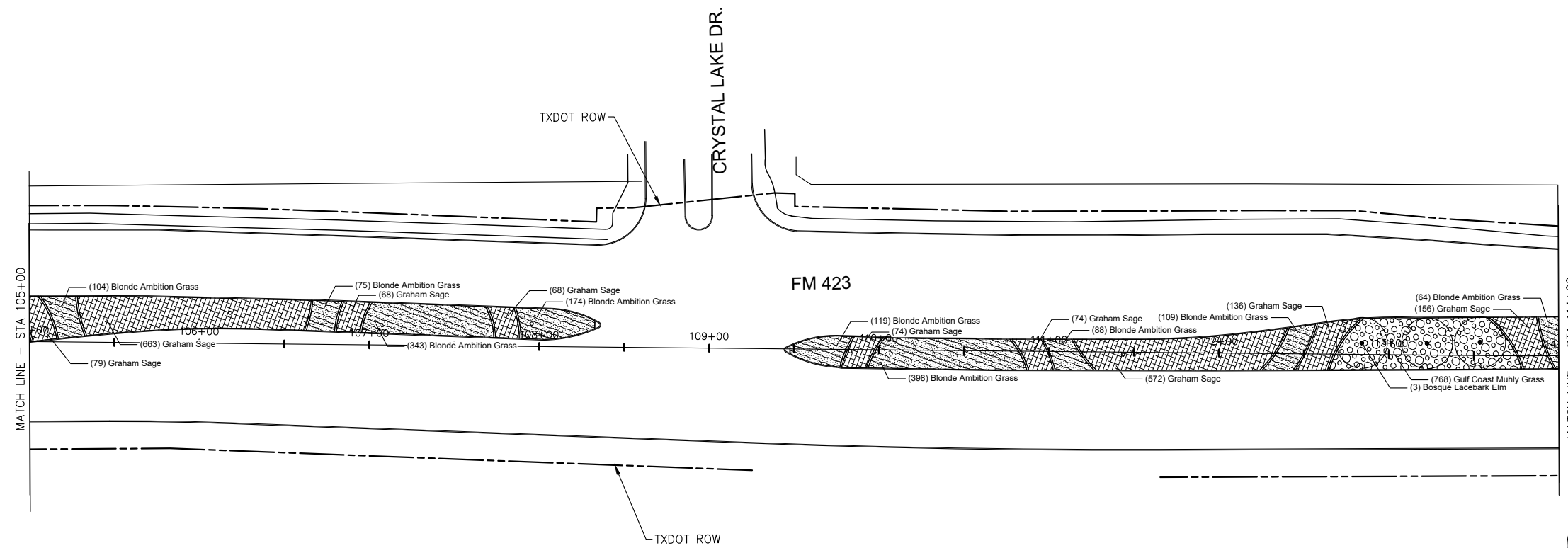


PLANTING NOTES

1. ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE TOWN OF LITTLE ELM STANDARDS.
2. ALL PLANTS SHALL BE NURSERY GROWN. REFER TO PLANT LIST FOR QUANTITIES AND SPECIFICATIONS.
3. ALL TREES SHALL BE APPROVED BY THE OWNER OR OWNER'S REPRESENTATIVE PRIOR TO PLANTING.
4. THE SITE SHALL BE FINE GRADED PRIOR TO ANY PLANT INSTALLATION. ANY AREAS DISTURBED BY PLANTING SHALL BE REGRADED AND SMOOTHED PRIOR TO GRASS PLANTING.
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PLANT SCHEDULE MEDIAN L		
TREES	QTY	BOTANICAL / COMMON NAME
	3	ULMUS PARVIFOLIA 'UPMFT'™ BOSQUE LACEBARK ELM
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	1,528	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	768	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	1,890	SALVIA MICROPHYLLA GRAHAM SAGE

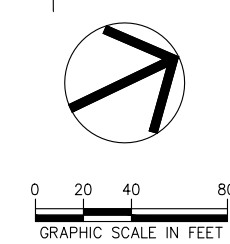


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LANDSCAPE LAYOUT 'L'
 STA. 105+00 TO STA. 114+00

DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		HIGHWAY NO.
ES	6	SEE TITLE SHEET		FM 423
GRAPHICS	STATE	DISTRICT	COUNTY	SHEET NO.
ES	TEXAS	DALLAS	DENTON	50
CHECK	CONTROL	SECTION	JOB	
SF	1315	02	014	
CW				








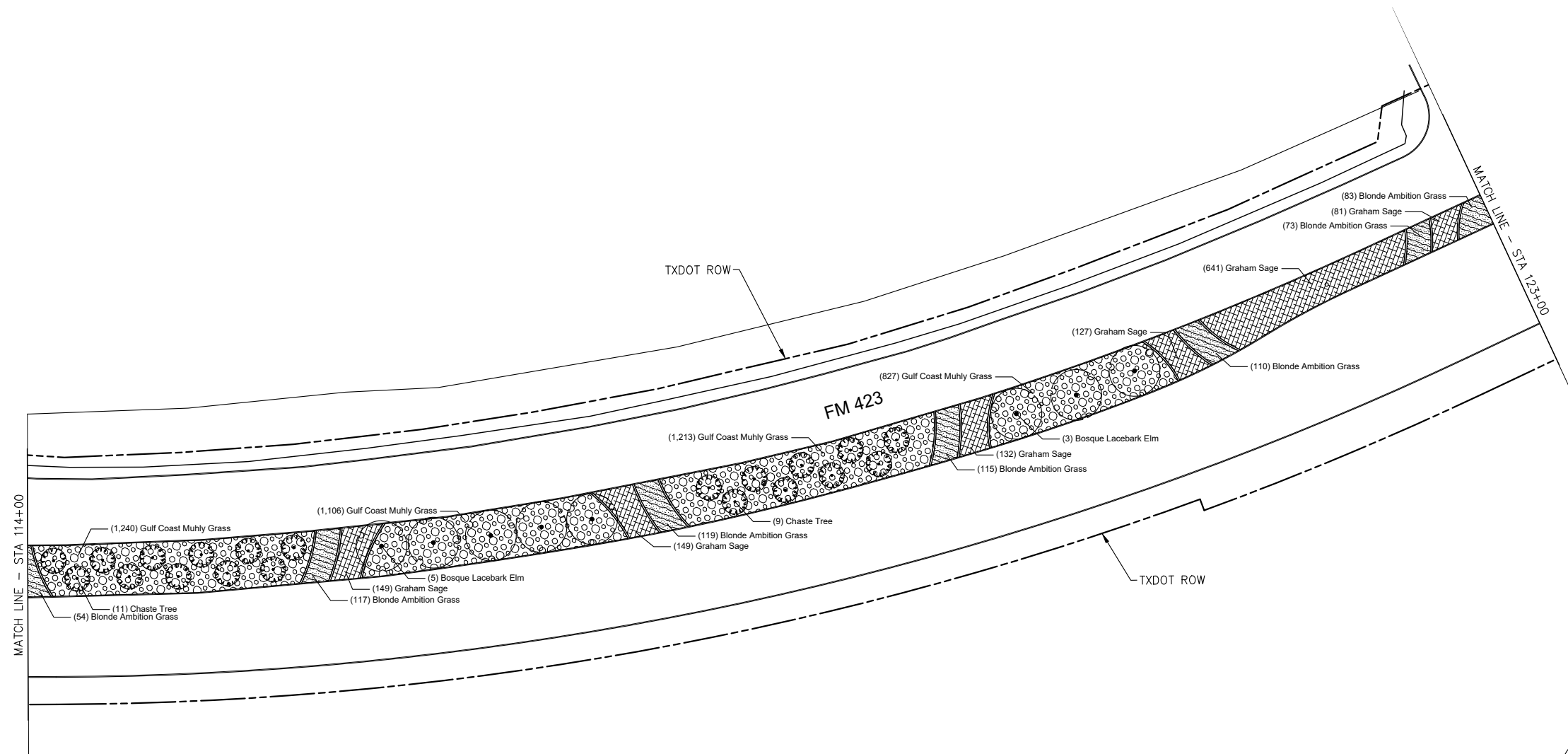
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PLANT SCHEDULE MEDIAN M

TREES	QTY	BOTANICAL / COMMON NAME
	8	ULMUS PARVIFOLIA 'UPMTF'™ BOSQUE LACEBARK ELM
	20	VITEX AGNUS-CASTUS 'SHOAL CREEK' CHASTE TREE MULTI-TRUNK
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	671	BOUTELOUA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	4,386	MUHLENBERGIA CAPILLARIS 'GULF COAST' GULF COAST MUHLY GRASS
	1,279	SALVIA MICROPHYLLA GRAHAM SAGE

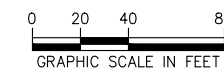
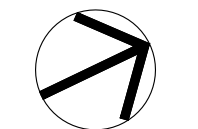


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LANDSCAPE LAYOUT 'M'
 STA. 114+00 TO STA. 123+00



DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		HIGHWAY NO.
ES	6	SEE TITLE SHEET		FM 423
GRAPHICS	STATE	DISTRICT	COUNTY	SHEET NO.
ES	TEXAS	DALLAS	DENTON	51
CHECK	CONTROL	SECTION	JOB	
SF	1315	02	014	
CHECK				
CW				

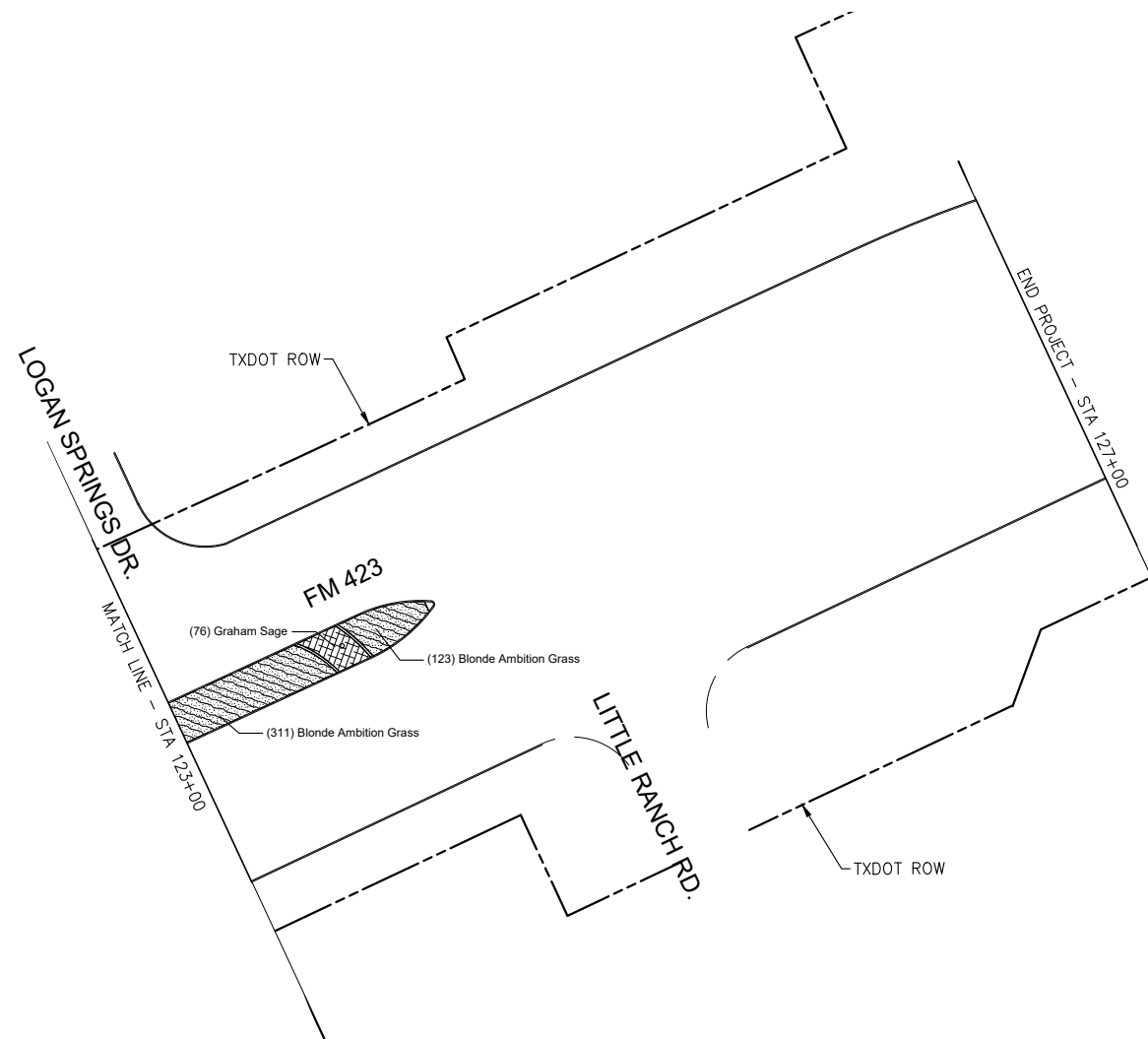


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PLANT SCHEDULE MEDIAN N		
SHRUB AREAS	QTY	BOTANICAL / COMMON NAME
	434	BOUPELALIA GRACILIS 'BLONDE AMBITION' BLONDE AMBITION GRASS
	76	SALVIA MICROPHYLLA GRAHAM SAGE

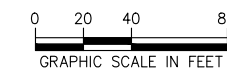
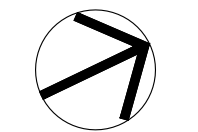


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LANDSCAPE LAYOUT 'N'
 STA. 123+00 TO STA. 127+00

DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.		HIGHWAY NO.
ES	6	SEE TITLE SHEET		FM 423
GRAPHICS	STATE	DISTRICT	COUNTY	SHEET NO.
ES	TEXAS	DALLAS	DENTON	52
CHECK	CONTROL	SECTION	JOB	
SF	1315	02	014	
CHECK	CW			





Date: 12/19/2023
Agenda Item #: 5. F.
Department: Development Services
Strategic Goal: Ensure excellence in public services while keeping up with the growth in the community
Staff Contact: Wesley Brandon, Town Engineer

AGENDA ITEM:

Consider Action to Approve **Amendment #1 to a Professional Services Agreement with Cobb-Fendley & Associates regarding Development Plan Review Services for Fiscal Year 2023-2024 in an estimated amount of \$100,000.**

DESCRIPTION:

In October 2023, a professional services agreement (PSA) was executed with Cobb-Fendley & Associates to provide plan review services related to new development applications for the 2023-2024 fiscal year. These services have ensured that project applications are thoroughly reviewed and meet the processing timelines established by the Development Services Department and the Texas Local Government Code.

As of October 2023, approximately 189 new development projects have been reviewed, and most of the costs have been passed through to each applicant. This proposed amendment would provide the estimated additional funding needed to cover the anticipated number of development projects for the 2023-2024 fiscal year.

BUDGET IMPACT:

The original contract provided \$50,000 in initial funding, and staff is seeking approval to add an additional \$100,000 in funding to the contract. The proposed total contract amount is \$150,000 and is based on the hourly rates listed in the attached rate schedule. Funding for these services is allocated in the General Fund account for engineering professional services.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Proposed Amendment
Professional Services Agreement

Amendment No. 1
Town of Little Elm, Texas
Standard Professional Services Agreement

This Agreement is made by and between the Town of Little Elm, Texas, a Texas home-rule municipality (hereinafter referred to as the "Owner") and Cobb, Fendley & Associates, Inc., (hereinafter referred to as the "Consultant") for Development Plan Reviews, (hereinafter referred to as the "Project"). In consideration of the premises, covenants and mutual promises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the Consultant hereby agree as follows:

ARTICLE I: CONTRACT & CONTRACT DOCUMENTS

1.1 THE CONTRACT

The Contract between the Owner and the Consultant, of which this Agreement is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last Party to execute it.

1.2. THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, the Solicitation, Requirements and Instructions to Bidders/Proposers, the Specifications, terms and conditions, Attachments, Maps, Drawings, Scope of Service, Time Line, all Change Orders issued hereafter, any other amendments hereto executed by the parties hereafter, together with the following (if any):

Documents not enumerated in this Paragraph 1.2.1 are not Contract Documents and do not form part of this Agreement.

ARTICLE 2: RECITALS

- 2.1 The Town desires to have the Consultant develop the program and provide necessary services to develop the same ("PROJECT"); and
- 2.2 The Consultant has the knowledge, ability and expertise to provide such services; and
- 2.3 The Town desires to engage the services of Consultant, as an independent Consultant and not as an employee, to provide services as set forth herein.

ARTICLE 3: TERM / TERMINATION

3.1 TERM

The term of this Agreement shall begin on the date of its execution by all Parties. This Agreement shall continue until Consultant completes the services required herein to the satisfaction of the Town, unless sooner terminated as provided herein.

3.2 TERMINATION

This Agreement may be suspended or terminated by either Party with or without cause at any time by giving written notice to the other Party. In the event suspension or termination is without cause, payment to the Consultant, in accordance with the terms of this Agreement, will be made on the basis of services reasonably determined by Town to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to Town.

In the event that the Town requires a modification of this Agreement with Consultant, and in the event the Parties fail to agree upon a modification of this Agreement, the Parties shall have the option of terminating this Agreement. Payment to Consultant shall be made by the Town in accordance with

the terms of this Agreement, for the services mutually agreed upon by the Parties to be properly performed by the Consultant prior to such termination date.

ARTICLE 4: SCOPE OF SERVICES

4.1 SCOPE

The following services, when authorized in writing by a Notice to Proceed from the Town, shall be performed by Consultant in accordance with the Town's requirements:

Review residential and commercial development plans submitted to the Town by Developers / Engineers for compliance with Town and State design codes.

If there is a conflict between the above quoted subjects and Exhibit A, then such conflict shall be resolved pursuant to the provisions of Section 10.9, below.

4.2 AUTHORIZED AGENT

All work performed by the Consultant will be performed under this Agreement, signed by a duly authorized agent of the Town as approved by resolution of the Town Council of the Town of Little Elm, Texas, and the designated authorized agent for the Consultant.

ARTICLE 5: COMPENSATION / PAYMENT TERMS AND CONDITIONS

5.1 Compensation for the performance of Professional Services described herein shall be paid to Consultant by the Town. The original contract agreement began on October 1, 2023 in a total amount not to exceed Fifty Thousand dollars (\$50,000). This Amendment is to increase the compensation of the original contract agreement in the amount of One Hundred Thousand dollars (\$100,000) which shall accrue and be payable as provided in Sections 5.1 and 5.2 hereof.

5.2 Work will be performed at the rates set forth in Exhibit A: 2023 Standard Rate Schedule, which is attached hereto and incorporated herein by reference, or as otherwise provided in negotiated fee schedules approved within this Agreement, if any.

5.3 Consultant payment for work under this Agreement shall be made in installments billed not more frequently than once each month upon receipt of invoices from the Consultant. If the Town fails to make any payment due the Consultant within thirty (30) days after receipt of Consultant's invoice, the amounts due the Consultant will be increased at the rate of 1.5% per month from said thirtieth day, unless there is a good faith refusal by the Town to pay. Payment shall be remitted to Consultant by Town as instructed on invoices.

ARTICLE 6: TIME FOR COMPLETION

6.1 The Consultant's services and compensation under this Agreement have been agreed to in anticipation of orderly and continuous progress of the Assigned Project(s) through completion of the project(s).

6.2 If the Town fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, the Consultant shall be entitled to equitable adjustment of rates and amounts of compensations to reflect reasonable costs incurred by Consultant as a result of the delay or changes in the various elements that comprise such rates of compensation, but in no event shall such compensation exceed the scope of services schedule of maximum payment unless a written amendment to this Agreement is executed between the Parties.

ARTICLE 7: INDEMNIFICATION

7.1 THE CONSULTANT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD HARMLESS THE TOWN, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES (HEREINAFTER COLLECTIVELY REFERRED TO AS "INDEMNITEES") FROM AND AGAINST SUITS, ACTIONS, CLAIMS, LOSSES, ANY DAMAGE, LIABILITY, AND FROM AND AGAINST ANY COSTS AND EXPENSES, INCLUDING, IN PART, ATTORNEY'S FEES

INCIDENTAL TO THE DEFENSE OF SUCH SUITS, ACTIONS CLAIMS, LOSSES, DAMAGES OR LIABILITY ON ACCOUNT OF INJURY, DISEASE, SICKNESS, INCLUDING DEATH, TO ANY PERSON OR DAMAGE TO PROPERTY INCLUDING, IN PART, THE LOSS OF USE RESULTING THEREFROM, ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF THE CONSULTANT, ITS OFFICERS, EMPLOYEES, SERVANTS, AGENTS OR SUBCONTRACTORS, OR ANYONE ELSE UNDER THE CONSULTANT'S DIRECTION AND CONTROL, AND ARISING OUT OF, RESULTING FROM, OR CAUSED BY THE PERFORMANCE OR FAILURE OF PERFORMANCE OF ANY WORK OR SERVICES UNDER THIS AGREEMENT, OR FROM CONDITIONS CREATED BY THE PERFORMANCE OR NON-PERFORMANCE OF SAID WORK OR SERVICES. IN THE EVENT ONE OR MORE OF THE INDEMNITEES IS DETERMINED BY A COURT OF LAW TO BE JOINTLY OR DERIVATIVELY NEGLIGENT OR LIABLE FOR SUCH DAMAGE OR INJURY, THE CONSULTANT SHALL BE OBLIGATED TO INDEMNIFY INDEMNITEES AS PROVIDED HEREIN ON A PROPORTIONATE BASIS IN ACCORDANCE WITH THE FINAL JUDGMENT, AFTER ALL APPEALS ARE EXHAUSTED, DETERMINING SUCH JOINT OR DERIVATIVE NEGLIGENCE OR LIABILITY. THIS INDEMNIFICATION IS SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE, § 271.904(A) AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002(B), AS SAME MAY BE APPLICABLE TO CONSULTANT AS A MATTER OF LAW.

7.02 NOTHING CONTAINED HEREIN SHALL CONSTITUTE A WAIVER OF GOVERNMENTAL IMMUNITY IN FAVOR OF ANY PARTY.

7.03 CONSULTANT AGREES THAT IT IS AN INDEPENDENT CONTRACTOR AND NOT AN AGENT OF THE TOWN, AND THAT CONSULTANT IS SUBJECT, AS AN EMPLOYER, TO ALL APPLICABLE UNEMPLOYMENT COMPENSATION STATUTES, SO FAR AS TO RELIEVE THE TOWN OF ANY RESPONSIBILITY OR LIABILITY FROM TREATING CONSULTANT'S EMPLOYEES AS EMPLOYEES OF TOWN FOR THE PURPOSE OF KEEPING RECORDS, MAKING REPORTS OR PAYMENTS OF UNEMPLOYMENT COMPENSATION TAXES OR CONTRIBUTIONS. CONSULTANT FURTHER AGREES TO INDEMNIFY AND HOLD THE TOWN HARMLESS AND REIMBURSE IT FOR ANY EXPENSES OR LIABILITY INCURRED UNDER SAID STATUTES IN CONNECTION WITH EMPLOYEES OF CONSULTANT.

7.04 CONSULTANT SHALL DEFEND AND INDEMNIFY AND HOLD THE TOWN HARMLESS FROM ANY AND ALL CLAIMS, SUITS OR LIENS BASED UPON OR ALLEGED TO BE BASED UPON THE NON-PAYMENT OF LABOR, TOOLS, MATERIALS, EQUIPMENT, SUPPLIES, TRANSPORTATION AND MANAGEMENT COSTS INCURRED BY CONSULTANT IN PERFORMING THIS AGREEMENT.

ARTICLE 8: INSURANCE

8.1 Insurance

The Consultant shall provide and maintain insurance as listed in the insurance requirements document.

ARTICLE 9: DEFAULT

In the event Consultant fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within thirty (30) days after written notice by Town to Consultant, Town may, at its sole discretion without prejudice to any other right or remedy.

- (a) Terminate this Agreement and be relieved of the payment of any further consideration to Consultant except for all work determined by the Town to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Consultant to and from meetings called by the Town at which Consultant is required to attend, but shall not include any loss of profit of Consultant. In the event of such termination, the Town may proceed to complete the services in any manner deemed proper by the Town, either by the use of its own forces or by resubmitting to others. Consultant agrees that any costs incurred to complete the services herein provided for may be deducted and paid by the Town out of such monies as may be due or that may thereafter become due to Consultant under and by virtue of this Agreement.

- (b) The Town may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of Consultant.

ARTICLE 10: MISCELLANEOUS

10.1 Reuse of Documents:

All documents including Maps, Plans and Specifications provided or furnished by the Consultant pursuant to this Agreement are instruments of service; and Consultant shall retain ownership and property interest therein whether or not the work is completed. The Town may make and retain copies of any plans or specifications provided under this Agreement for the use by Town and others; such documents are not intended or suitable for reuse by Town or others on extension of the Project or on any other Project. Any such reuse without written approval or adaptation by the Consultant for the specific purpose intended will be at the Town's sole risk and without liability to the Consultant.

10.2 Entire Agreement.

This Agreement constitutes the sole and only Agreement of the Parties and supersedes any prior understandings or written or oral agreements between the Parties with respect to this subject matter.

10.3 Assignment.

Neither this Agreement nor any duties or obligations under it shall be assignable by Consultant without the prior written consent of the Town. In the event of an assignment by Consultant to which the Town has consented, the assignee or the assignee's legal representative shall agree in writing with the Town to personally assume, perform, and be bound by all the covenants, obligations, and agreements contained in this Agreement.

10.4 Adjustments in Services/Amendment.

This Agreement may be amended by the mutual written agreement of the Parties. Consultant shall not make any claims for extra services, additional services or changes in the services without a written agreement with the Town prior to the performance of such services.

10.5 Governing law.

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in Denton County, Texas.

10.6 Notices.

All notices required by this Agreement shall be in writing and addressed to the following, or such other Party or address as either Party designates in writing, by certified mail, postage prepaid or by hand delivery:

Town of Little Elm

Purchasing
100 W. Eldorado Pkwy
Little Elm, TX 75068
214-975-0411
purchasing@littleelm.org

Cobb, Fendley & Associates, Inc.

Ted B. Sugg, Principal
2801 Network Blvd, Suite 800
Frisco, TX 75034
972-335-3214
tsugg@cobbhendley.com

10.7 Legal construction.

In the event any one or more of the provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

10.8 Successors and Assigns.

- (a) The Town and Consultant each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns of Town and Consultant are hereby bound to the other Party to this Agreement and to the partners, successors, executors, administrators, legal representatives and assigns of such other Party in respect of all covenants and obligations of this Agreement.
- (b) Neither the Town nor the Consultant may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other Party, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- (c) Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by the Consultant to any Consultant, subcontractor, supplier, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than the Town and the Consultant.

10.9 Conflict.

If a conflict exists between this Agreement, and an Exhibit, the Solicitation, and/or the Response, then such conflicts shall be resolved as follows:

- (a) If a conflict exists between this Agreement and an Exhibit, the Solicitation, or the Response, then this Agreement shall control.
- (b) If a conflict exists between the Response and an Exhibit, the Exhibit shall control.
- (c) If a conflict exists between the Response and the Solicitation, the Solicitation shall control.

10.10 Severability

Any provision or part of this Agreement that is held to be void or unenforceable under any law or regulation or by a court of competent jurisdiction shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the Town and the Consultant, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.11 Captions

The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretations of the provisions set forth herein.

10.12 Counterparts

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

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on this the ____ day of _____, 2023.

TOWN OF LITTLE ELM

CONSULTANT

Matt Mueller, Town Manager

Mark C. Lorange, P.E.

Mark Lorange, Sr. Vice President

Exhibit A: 2023 Standard Rate Schedule

EXHIBIT A



2023 Standard Rate Schedule

Senior Engineer V or Principal.....	\$330.00/HR
Senior Engineer IV or Project Manager V.....	\$314.00/HR
Senior Engineer III or Project Manager IV.....	\$307.00/HR
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Technician I (GIS, Telecom, Utility, CAD, Field).....	\$75.00/HR
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Senior Registered Professional Land Surveyor.....	\$250.00/HR
Registered Professional Land Surveyor.....	\$199.00/HR
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Mileage (Standard Car or Truck)	IRS Approved Rate
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Other Misc. Expenses Related to the Project	@ Cost + 10%

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- Bond Prints (All Sizes).....
- Mylar Prints
- Vellum Prints

(*) Technology charges added to each billable man-hour.

Town of Little Elm, Texas

Standard Professional Services Agreement

This Agreement is made by and between the Town of Little Elm, Texas, a Texas home-rule municipality (hereinafter referred to as the "Owner") and Cobb, Fendley & Associates, Inc., (hereinafter referred to as the "Consultant") for Development Plan Reviews, (hereinafter referred to as the "Project"). In consideration of the premises, covenants and mutual promises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the Consultant hereby agree as follows:

ARTICLE I: CONTRACT & CONTRACT DOCUMENTS

1.1 THE CONTRACT

The Contract between the Owner and the Consultant, of which this Agreement is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last Party to execute it.

1.2. THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, the Solicitation, Requirements and Instructions to Bidders/Proposers, the Specifications, terms and conditions, Attachments, Maps, Drawings, Scope of Service, Time Line, all Change Orders issued hereafter, any other amendments hereto executed by the parties hereafter, together with the following (if any):

Documents not enumerated in this Paragraph 1.2.1 are not Contract Documents and do not form part of this Agreement.

ARTICLE 2: RECITALS

- 2.1 The Town desires to have the Consultant develop the program and provide necessary services to develop the same ("PROJECT"); and
- 2.2 The Consultant has the knowledge, ability and expertise to provide such services; and
- 2.3 The Town desires to engage the services of Consultant, as an independent Consultant and not as an employee, to provide services as set forth herein.

ARTICLE 3: TERM / TERMINATION

3.1 TERM

The term of this Agreement shall begin on October 1, 2023. This Agreement shall continue until Consultant completes the services required herein to the satisfaction of the Town, unless sooner terminated as provided herein.

3.2 TERMINATION

This Agreement may be suspended or terminated by either Party with or without cause at any time by giving written notice to the other Party. In the event suspension or termination is without cause, payment to the Consultant, in accordance with the terms of this Agreement, will be made on the basis of services reasonably determined by Town to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to Town.

In the event that the Town requires a modification of this Agreement with Consultant, and in the event the Parties fail to agree upon a modification of this Agreement, the Parties shall have the option of terminating this Agreement. Payment to Consultant shall be made by the Town in accordance with the terms of this Agreement, for the services mutually agreed upon by the Parties to be properly performed by the Consultant prior to such termination date.

ARTICLE 4: SCOPE OF SERVICES

4.1 SCOPE

The following services, when authorized in writing by a Notice to Proceed from the Town, shall be performed by Consultant in accordance with the Town's requirements:

Review residential and commercial development plans submitted to the Town by Developers / Engineers for compliance with Town and State design codes.

If there is a conflict between the above quoted subjects and Exhibit A, then such conflict shall be resolved pursuant to the provisions of Section 10.9, below.

4.2 AUTHORIZED AGENT

All work performed by the Consultant will be performed under this Agreement, signed by a duly authorized agent of the Town as approved by resolution of the Town Council of the Town of Little Elm, Texas, and the designated authorized agent for the Consultant.

ARTICLE 5: COMPENSATION / PAYMENT TERMS AND CONDITIONS

5.1 Compensation for the performance of Professional Services described herein shall be paid to Consultant by the Town in a total amount not to exceed Fifty Thousand dollars (\$50,000) which shall accrue and be payable as provided in Sections 5.1 and 5.2 hereof.

5.2 Work will be performed at the rates set forth in Exhibit A: 2023 Standard Rate Schedule, which is attached hereto and incorporated herein by reference, or as otherwise provided in negotiated fee schedules approved within this Agreement, if any.

5.3 Consultant payment for work under this Agreement shall be made in installments billed not more frequently than once each month upon receipt of invoices from the Consultant. If the Town fails to make any payment due the Consultant within thirty (30) days after receipt of Consultant's invoice, the amounts due the Consultant will be increased at the rate of 1.5% per month from said thirtieth day, unless there is a good faith refusal by the Town to pay. Payment shall be remitted to Consultant by Town as instructed on invoices.

ARTICLE 6: TIME FOR COMPLETION

6.1 The Consultant's services and compensation under this Agreement have been agreed to in anticipation of orderly and continuous progress of the Assigned Project(s) through completion of the project(s).

6.2 If the Town fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, the Consultant shall be entitled to equitable adjustment of rates and amounts of compensations to reflect reasonable costs incurred by Consultant as a result of the delay or changes in the various elements that comprise such rates of compensation, but in no event shall such compensation exceed the scope of services schedule of maximum payment unless a written amendment to this Agreement is executed between the Parties.

ARTICLE 7: INDEMNIFICATION

7.1 THE CONSULTANT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD HARMLESS THE TOWN, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES (HEREINAFTER COLLECTIVELY REFERRED TO AS "INDEMNITEES") FROM AND AGAINST SUITS, ACTIONS, CLAIMS, LOSSES, ANY DAMAGE, LIABILITY, AND FROM AND AGAINST ANY COSTS AND EXPENSES, INCLUDING, IN PART, ATTORNEY'S FEES INCIDENTAL TO THE DEFENSE OF SUCH SUITS, ACTIONS CLAIMS, LOSSES, DAMAGES OR LIABILITY ON ACCOUNT OF INJURY, DISEASE, SICKNESS, INCLUDING DEATH, TO ANY PERSON OR DAMAGE TO PROPERTY INCLUDING, IN PART, THE LOSS OF USE RESULTING THEREFROM, ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF THE CONSULTANT, ITS OFFICERS, EMPLOYEES, SERVANTS, AGENTS OR SUBCONTRACTORS, OR ANYONE ELSE

UNDER THE CONSULTANT'S DIRECTION AND CONTROL, AND ARISING OUT OF, RESULTING FROM, OR CAUSED BY THE PERFORMANCE OR FAILURE OF PERFORMANCE OF ANY WORK OR SERVICES UNDER THIS AGREEMENT, OR FROM CONDITIONS CREATED BY THE PERFORMANCE OR NON-PERFORMANCE OF SAID WORK OR SERVICES. IN THE EVENT ONE OR MORE OF THE INDEMNITEES IS DETERMINED BY A COURT OF LAW TO BE JOINTLY OR DERIVATIVELY NEGLIGENT OR LIABLE FOR SUCH DAMAGE OR INJURY, THE CONSULTANT SHALL BE OBLIGATED TO INDEMNIFY INDEMNITEES AS PROVIDED HEREIN ON A PROPORTIONATE BASIS IN ACCORDANCE WITH THE FINAL JUDGMENT, AFTER ALL APPEALS ARE EXHAUSTED, DETERMINING SUCH JOINT OR DERIVATIVE NEGLIGENCE OR LIABILITY. THIS INDEMNIFICATION IS SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE, § 271.904(A) AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002(B), AS SAME MAY BE APPLICABLE TO CONSULTANT AS A MATTER OF LAW.

7.02 NOTHING CONTAINED HEREIN SHALL CONSTITUTE A WAIVER OF GOVERNMENTAL IMMUNITY IN FAVOR OF ANY PARTY.

7.03 CONSULTANT AGREES THAT IT IS AN INDEPENDENT CONTRACTOR AND NOT AN AGENT OF THE TOWN, AND THAT CONSULTANT IS SUBJECT, AS AN EMPLOYER, TO ALL APPLICABLE UNEMPLOYMENT COMPENSATION STATUTES, SO FAR AS TO RELIEVE THE TOWN OF ANY RESPONSIBILITY OR LIABILITY FROM TREATING CONSULTANT'S EMPLOYEES AS EMPLOYEES OF TOWN FOR THE PURPOSE OF KEEPING RECORDS, MAKING REPORTS OR PAYMENTS OF UNEMPLOYMENT COMPENSATION TAXES OR CONTRIBUTIONS. CONSULTANT FURTHER AGREES TO INDEMNIFY AND HOLD THE TOWN HARMLESS AND REIMBURSE IT FOR ANY EXPENSES OR LIABILITY INCURRED UNDER SAID STATUTES IN CONNECTION WITH EMPLOYEES OF CONSULTANT.

7.04 CONSULTANT SHALL DEFEND AND INDEMNIFY AND HOLD THE TOWN HARMLESS FROM ANY AND ALL CLAIMS, SUITS OR LIENS BASED UPON OR ALLEGED TO BE BASED UPON THE NON-PAYMENT OF LABOR, TOOLS, MATERIALS, EQUIPMENT, SUPPLIES, TRANSPORTATION AND MANAGEMENT COSTS INCURRED BY CONSULTANT IN PERFORMING THIS AGREEMENT.

ARTICLE 8: INSURANCE

8.1 Insurance

The Consultant shall provide and maintain insurance as listed in the insurance requirements document.

ARTICLE 9: DEFAULT

In the event Consultant fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within thirty (30) days after written notice by Town to Consultant, Town may, at its sole discretion without prejudice to any other right or remedy.

- (a) Terminate this Agreement and be relieved of the payment of any further consideration to Consultant except for all work determined by the Town to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Consultant to and from meetings called by the Town at which Consultant is required to attend, but shall not include any loss of profit of Consultant. In the event of such termination, the Town may proceed to complete the services in any manner deemed proper by the Town, either by the use of its own forces or by resubmitting to others. Consultant agrees that any costs incurred to complete the services herein provided for may be deducted and paid by the Town out of such monies as may be due or that may thereafter become due to Consultant under and by virtue of this Agreement.
- (b) The Town may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of Consultant.

ARTICLE 10: MISCELLANEOUS

10.1 Reuse of Documents:

All documents including Maps, Plans and Specifications provided or furnished by the Consultant pursuant to this Agreement are instruments of service; and Consultant shall retain ownership and property interest therein whether or not the work is completed. The Town may make and retain copies of any plans or specifications provided under this Agreement for the use by Town and others; such documents are not intended or suitable for reuse by Town or others on extension of the Project or on any other Project. Any such reuse without written approval or adaptation by the Consultant for the specific purpose intended will be at the Town's sole risk and without liability to the Consultant.

10.2 Entire Agreement.

This Agreement constitutes the sole and only Agreement of the Parties and supersedes any prior understandings or written or oral agreements between the Parties with respect to this subject matter.

10.3 Assignment.

Neither this Agreement nor any duties or obligations under it shall be assignable by Consultant without the prior written consent of the Town. In the event of an assignment by Consultant to which the Town has consented, the assignee or the assignee's legal representative shall agree in writing with the Town to personally assume, perform, and be bound by all the covenants, obligations, and agreements contained in this Agreement.

10.4 Adjustments in Services/Amendment.

This Agreement may be amended by the mutual written agreement of the Parties. Consultant shall not make any claims for extra services, additional services or changes in the services without a written agreement with the Town prior to the performance of such services.

10.5 Governing law.

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in Denton County, Texas.

10.6 Notices.

All notices required by this Agreement shall be in writing and addressed to the following, or such other Party or address as either Party designates in writing, by certified mail, postage prepaid or by hand delivery:

Town of Little Elm

Purchasing
100 W. Eldorado Pkwy
Little Elm, TX 75068
214-975-0411
purchasing@littleelm.org

Cobb, Fendley & Associates, Inc.

Ted B. Sugg, Principal
2801 Network Blvd, Suite 800
Frisco, TX 75034
972-335-3214
tsugg@cobbhendley.com

10.7 Legal construction.

In the event any one or more of the provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

10.8 Successors and Assigns.

- (a) The Town and Consultant each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns of Town and Consultant are hereby bound to the other Party to this Agreement and to the partners, successors, executors, administrators, legal representatives and assigns of such other Party in respect of all covenants and obligations of this Agreement.
- (b) Neither the Town nor the Consultant may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other Party, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- (c) Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by the Consultant to any Consultant, subcontractor, supplier, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than the Town and the Consultant.

10.9 Conflict.

If a conflict exists between this Agreement, and an Exhibit, the Solicitation, and/or the Response, then such conflicts shall be resolved as follows:

- (a) If a conflict exists between this Agreement and an Exhibit, the Solicitation, or the Response, then this Agreement shall control.
- (b) If a conflict exists between the Response and an Exhibit, the Exhibit shall control.
- (c) If a conflict exists between the Response and the Solicitation, the Solicitation shall control.

10.10 Severability

Any provision or part of this Agreement that is held to be void or unenforceable under any law or regulation or by a court of competent jurisdiction shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the Town and the Consultant, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.11 Captions

The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretations of the provisions set forth herein.

10.12 Counterparts

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

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on this the ____ day of _____, 2023.

TOWN OF LITTLE ELM

CONSULTANT

Matt Mueller, Town Manager

Mark C. Lorange, P.E.

Mark Lorange, Sr. Vice President

Exhibit A: 2023 Standard Rate Schedule

EXHIBIT A



2023 Standard Rate Schedule

Senior Engineer V or Principal.....	\$330.00/HR
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(*) Technology charges added to each billable man-hour.



Date: 12/19/2023
Agenda Item #: 6. A.
Department: Administrative Services
Strategic Goal: Maintain operational integrity and viability
Staff Contact: Caitlan Biggs, Director of Administrative Services/Town Secretary

AGENDA ITEM:

Present, Discuss, and Consider Action to Approve the **2024 Strategic Plan**.

DESCRIPTION:

Per the Town's Charter, the Town Council must review the adopted strategic plan every two years. The last update was approved in early 2022.

As part of the update, the Town Council met with members of the various appointed boards and commissions in November to receive feedback on the current plan. Following this session, Town Council reviewed the feedback and recommended updates to the plan.

Staff will review the recommended changes to the plan for consideration.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Staff requests direction from Town Council.

Attachments

Draft 2024 Strategic Plan

Town of Little Elm



Strategic Vision, Goals, and Objectives

Updated 2024

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TOWN OF LITTLE ELM
MISSION AND VISION

The Town of Little Elm is a distinct and desirable lakeside destination for all people to live and play while enjoying a safe, vibrant, and welcoming community.

VISION



MISSION

The Mission of the Town of Little Elm is to build on our unique lake opportunities and hometown charm, encourage diverse housing options and business opportunities, and provide an unmatched quality of life.



TOWN OF LITTLE ELM

VISION SUPPORTING STATEMENTS

Little Elm provides an environment that is:

- Safe
- Diverse in housing opportunities
- Inclusive

In a community that possesses...

- A strong sense of community identity
- A strong neighborhood connection
- A strong sense of aesthetics and attention to detail
- A destination for recreation and leisure activities via a lakefront district and potential to utilize shallow-water activities (fishing, canoeing, kayaking, etc.)
- Economic and business development that serves our residents and takes advantage of our commercial corridors
- Strong partnership with school districts

And provides:

- A full range of housing options
- Services and amenities that are unique to Little Elm (lake and trail system) and encouraging an active lifestyle
- Multiple entertainment and retail options
- Services and conveniences to meet the needs of our residents
- Recreational programming for all residents in quality facilities that are safe, visually appealing, and comfortable for spectators and participants

Little Elm operates in a way that is:

- Known for being friendly and courteous – demonstrates empathy in all interactions
- Easy to do business with – all processes are streamlined; the telephone is answered
- Financially responsible – controls costs and remains opportunistic in pursuing projects that promote the vision
- Cooperative and encouraging in its relationships with community organizations and churches

SWOT ANALYSIS

<p>Strengths</p> <ul style="list-style-type: none"> • Location and lake access. • Residents, Council, and Town management are aligned in their desire to provide a high-quality and streamlined development process. • Efficient procedures, systems, and well-developed customer service. • Key staff has prior municipal experience. • Access to regional transportation and amenities. • Centrally located to employment centers. • Neighborhoods have created a strong sense of community. • Friendly, cooperative, and supportive staff. • Good working relationships within Town departments, other municipalities, and the development community. • Unique lakefront amenities. • Reputation of Little Elm as a safe place to live. • Powerful sense of community. 	<p>Opportunities</p> <ul style="list-style-type: none"> • Maximize lake access to create a unique recreation opportunity. • Location of Little Elm is poised for continued development. • Undeveloped and underdeveloped property provides a “blank slate” for new development and recreational opportunities. • Enhance community involvement and connections as the Town grows – enhance and create traditions that promote our image and feel. • Build on positive relationships in the region to take advantage of the lessons we can learn from others. • U.S. 380 represents an opportunity for economic development. • The ability to use new and available technology to streamline service delivery. • Capitalize on lunchtime traffic of teachers and students for restaurants. • Potential of redeveloped Hilltown on schools and Town. • Current development trajectory for Town build-out and resulting revenues. • Emerging redevelopment window in some areas of Town.
<p>Weaknesses</p> <ul style="list-style-type: none"> • Current construction makes transportation difficult. • High rate of growth presents challenges to maintain our expected level of service to residents and the development community. • High rate of growth presents challenges to keep up with infrastructure needs. • High rate of retail leakage. • No immediate access to major interstate traffic. • Geographical connectivity. • Known as a “commuter” community. • Commercial area competitiveness. • Historical geographic challenges and location of key intersections. • Transportation infrastructure challenges. • Lack of patience for development projects. 	<p>Threats</p> <ul style="list-style-type: none"> • Growth of community and demand for services exceeding staff’s capacity. • Other communities are competing for development in the region. • Slowdown of growth and build-out. • Multiple jurisdictions control U.S. 380. • Substandard development standards in unincorporated areas. • Impact of Hilltown left unresolved. • Recognize the impacts on public safety with growth. • Shifting community priorities as Town grows. • Ability to remain competitive with other organizations for talent. • Regulatory and other governmental agencies impeding Town priorities or implementing mandates.

TOWN OF LITTLE ELM STRATEGIC GOALS

- **Provide a safe and welcoming environment for Little Elm residents and visitors:** Little Elm will be a community that is safe and welcoming to all who live here and visit. A safe and welcoming environment is accomplished by upholding a strong sense of community with engaged residents, maintaining clean and aesthetically welcoming corridors and neighborhoods, preserving a low crime rate, and ensuring that public safety officials are courteous, professional, and ethical while providing equitable service to all.
- **Ensure strong relationships within the community and region:** Little Elm will strive to ensure positive relationships within the community and region. Strong and positive relationships are accomplished by conducting business with a high level of integrity, promoting open communication, transparency, partnerships, and displaying a high level of courteousness in all of our interactions. We will operate with a partner mentality with all entities with which we share a common interest.
- **Maximize community recreation and leisure activities:** Little Elm will maximize recreational and leisure activities for the region. Recreational and leisure activities will be provided for a broad range of socio-economic and interests groups, focusing on maximizing the unique shoreline recreation opportunities on Lewisville Lake.
- **Maintain operational integrity and viability:** Little Elm will ensure the Town's financial and operational processes' integrity and long-term viability. Little Elm's operational and financial soundness will be ensured by maintaining a competitive tax rate, aggressively recruiting selective retail and small business economic development prospects, planning for long-term financial obligations, and maintaining a level of operational efficiency.
- **Promote and expand Little Elm's identity:** Maintain Little Elm's distinctive look and high development standards that provide vibrant, high-quality neighborhoods and development. Create a sense of place and brand identity that extends beyond our borders.
- **Ensure excellence in public services while keeping up with the growth in the community:** Little Elm will ensure that high-quality public services are maintained by addressing growth needs in infrastructure and by attracting, retaining, equipping, and empowering a workforce that delivers excellent service for an excellent value.

TOWN OF LITTLE ELM

STRATEGIC GOALS AND LONG-TERM OBJECTIVES

Provide a safe and welcoming environment for Little Elm residents and visitors:

Little Elm will be a community that is safe and welcoming to all who live here and visit. A safe and welcoming environment is accomplished by upholding a strong sense of community with an engaged residents, maintaining clean and aesthetically welcoming corridors and neighborhoods, preserving a low crime rate, and ensuring that public safety officials are courteous, professional, and ethical while providing equitable service to all.

Long Term Objectives

- Maintain safe and effective walkways and roadways.
- Maintain and expand relationships between the Police Department and resident groups.
- Ensure continuity of dispatch solution.
- Provide quality community events that attract visitors and facilitate a sense of belonging within the community.
- Continue to provide opportunities for residents to volunteer and be involved in achieving our strategic goals.
- Ensure a strong focus on community-oriented policing, public safety, public outreach and education, and servant leadership.
- Embrace the community's diversity and operate in a way that provides equitable service to all residents.
- Build Fire Station 4 and northwest Police Substation to accommodate growth.
- Explore partnerships for public safety and animal facilities.
- Create and implement a special events policy.

Ensure strong relationships within the community and region: Little Elm will strive to ensure positive relationships within the community and region. Strong and positive relationships are accomplished by conducting business with a high level of integrity, promoting open communication, transparency, partnerships, and displaying a high level of courteousness in all of our interactions. We will operate with a partner mentality with all entities with which we share a common interest.

Long Term Objectives

- Provide opportunities and methods for residents to engage with and be involved in the Town.
- Operate all Town activities in an open, transparent manner.
- Maintain strong relationships with neighborhood associations and civic groups.
- Be an equitable partner in mutual aid to neighboring communities.
- Maintain a culture of friendly customer service and servant leadership.
- Continually identify opportunities for regional shared services, expanding them when possible.
- Operate as a service provider for neighboring communities and districts where possible.
- Participate in meetings and projects with the North Texas Council of Governments, county, state, and federal agencies, and neighboring cities.
- Promote events for regional participation with our neighbors and maximize cross-promotional opportunities for development.
- Participate in leadership in professional organizations.
- Explore collaborative opportunities with the three school districts that exist within Town limits.
- Continue to promote and expand digital services to enhance the ability to access Town government functions online.
- Maximize social media and communications outreach.
- Create more opportunities for youth involvement.
- Create more opportunities for veterans to be involved in the Town.
- Create and implement a communications and engagement plan.

Maximize community recreation and leisure activities: Little Elm will maximize recreational and leisure activities for the region. Recreational and leisure activities will be provided for a broad range of socio-economic and interest groups, focusing on maximizing the unique shoreline recreation opportunities on Lewisville Lake.

Long Term Objectives

- Maintain and update Parks Master Plan.
- Maintain a mutually beneficial relationship with the Corps of Engineers.
- Continue development of a Town-wide trail system to link between recreational amenities.
- Provide inclusive recreational opportunities for a wide variety of socio-economic groups, ages, and interests.
- Utilize new technology and products to provide innovative services and amenities in the Parks system.
- Continue developing and maximizing The Cove at the Lakefront® and other lakefront recreation and leisure opportunities.
- Develop and maintain recreation infrastructure unique to North Texas.
- Ensure quality of youth sports facilities and park maintenance.
- Maintain positive relationships with user groups.
- Explore partnership opportunities for RV Park, camping, and Cottonwood Park development.
- Complete improvements in Cottonwood Park Phase 1 and plan for future phases.
- Create and implement a plan for enhancements for Little Elm Park.
- Seek a partner to develop an event/hospitality center adjacent to The Rec at the Lakefront™.
- Develop and build Lakeside Sports Complex.
- Ensure completion of The Lawn at the Lakefront™.
- Conduct a feasibility study for Doe Branch Park.
- Explore options to enhance streetscape and pedestrian connectivity in The Lakefront™ District.

Maintain operational integrity and viability: Little Elm will ensure the Town's financial and operational processes' integrity and long-term viability. Little Elm's operating and financial soundness will be ensured by maintaining a competitive tax rate, aggressively recruiting selective retail and small business economic development prospects, planning for long-term financial obligations, and maintaining a level of operational efficiency.

Long Term Objectives

- Maintain a competitive tax rate.
- Ensure that the Town is known for being transparent and flexible to work with in the development process.
- Maintain and leverage knowledge of unique retail and expand into the North Texas market.
- Recruit new businesses and encourage future development phases in the Lakefront District.
- Target business development to provide dual revenue streams (property tax and sales tax) that support and increase the job base.
- Activate the remote-work residents to engage with opportunities in the business community.
- Maintain a strong bond rating.
- Maintain the fleet replacement fund.
- Work to establish a capital replacement fund for large cost facility maintenance items.
- Maintain strong reserves.
- Use fund balance for one-time expenses.
- Promote a financially responsible culture and continually looks for operational efficiencies that provide high value.
- Develop and implement plans to develop the northwest corner of Town and 380 corridor.
- Ensure completion of the Lakefront District Phase II multi-use development.
- Evaluate Lakefront District boundaries for future development.
- Identify new revenue streams.

Promote and expand Little Elm’s identity: Maintain Little Elm’s distinctive look and high development standards that provide vibrant, high-quality neighborhoods and development. Create a sense of place and brand identity that extends beyond our borders.

Long Term Objectives

- Continue aggressively branding Little Elm.
- Continue to grow the Lakefront District as a tourism destination .
- Maintain a “hometown” feel as the Town continues to grow.
- Update and maintain the Comprehensive Plan.
- Maintain neighborhood and commercial integrity.
- Promote a full range of housing options.
- Maintain high-quality aesthetics for corridors and entryways.
- Collaborate with other entities to deliver and promote a unified brand message.
- Expand regional marketing of Little Elm’s activities.
- Provide funds to continue gateway signage as expansion continues.
- Maintain consistent standards for design and building inspection.
-
- Review and update the subdivision and zoning ordinances and use chart to better support the Strategic Plan and Town Council vision.

Ensure excellence in public services while keeping up with the growth in the community: Little Elm will ensure that high-quality public services are maintained by addressing growth needs in infrastructure, and by attracting, retaining, equipping, and empowering a workforce that delivers excellent service for an excellent value.

Long Term Objectives

- Maintain a competitive market-based compensation and incentives plan.
- Offer training to provide employees a culture of continuous learning and development opportunities.
- Maintain a fun and friendly work environment.
- Promote and maintain a values-based culture of servant leadership.
- Maintain the Town's multi-year staffing plan to accommodate growth.
- Implement an Asset Management System.
- Maintain annual maintenance and replacement program.
- Ensure adequate planning when adding new infrastructure.
- Conduct a long-term facilities study.
- Review and update the Town's Hiring Policy.



Date: 12/19/2023
Agenda Item #: 6. B.
Department: Administrative Services
Strategic Goal: Ensure strong relationship within the community and region
Staff Contact: Joe Florentino, Assistant Town Manager

AGENDA ITEM:

Consider Action to Approve an **Interlocal Agreement for Fire Protection Services between the Town of Little Elm and Denton County Fresh Water Supply Districts 8-A, 8-B, 11-A, 11-B, and 11-C.**

DESCRIPTION:

As part of the Strategic Plan, one of the Town's objectives is to operate as a service provider for neighboring communities and districts where possible. The Board of Directors for Denton County Fresh Water Supply Districts 8-A, 8-B, 11-A, 11-B, and 11-C has determined that it is in the best interest of the Districts and residents of the Paloma Creek developments to enter into a long-term contract with the Town to provide firefighting services to the area.

BUDGET IMPACT:

There is no cost to the Town. The Town will see an increase in revenue associated with this contract in FY 2024-2025.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Contract

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

**INTERLOCAL AGREEMENT FOR FIRE PROTECTION SERVICES
BETWEEN THE TOWN OF LITTLE ELM, TEXAS, AND DENTON COUNTY
FRESH WATER SUPPLY DISTRICTS 8-A, 8-B, 11-A, 11-B, AND 11-C**

This Fire Protection Agreement (“Agreement”) is made as of the Effective Date by and between the Town of Little Elm (the “Town”), a Texas home rule municipality and Denton County Fresh Water Supply Districts 8-A, 8-B, 11-A, 11-B, and 11-C (the “Districts”). The Town and the Districts are referred to herein collectively as “the Parties” and separately as “Party.”

WHEREAS, The Districts are political subdivisions of the State of Texas operating under the provisions of Article XVI, Section 59 and Article III, Section 52 of the Texas Constitution and Chapters 49, 51, and, for limited purposes, 53, Texas Water Code, as amended; and

WHEREAS, The Districts are seeking to secure firefighting services for the benefit of the residents and property owners within the boundaries of the Paloma Creek developments located within the Districts, as described in the attached Exhibit “A”; and

WHEREAS, Section 49.351(e) of the Texas Water Code authorizes the Districts to contract with any other person to perform firefighting services within the Districts; and

WHEREAS, Sections 49.212 and 49.351 of the Texas Water Code authorize the Districts to adopt and enforce all necessary charges or mandatory fees for providing or making available any district facility or service (including firefighting services); and

WHEREAS, pursuant to an election held on May 4, 2024, a majority of the Districts electors voting at such election authorized the levy of an operation and maintenance tax unlimited as to rate or amount for operation and maintenance purposes, including paying costs of proper services; and

WHEREAS, The Districts’ Board of Directors has determined that it is in the best interests of the Districts and residents of the Paloma Creek developments (the “Area”) to enter into a long-term contract with Town to provide firefighting services to the Area and to secure approval of such contract by the Town, Texas Commission on Environmental Quality (the “TCEQ”), and the voters of the Districts at an election pursuant to Section 49.351 of the Texas Water Code (collectively, the “Approvals”); and

WHEREAS, this Agreement is made pursuant to the authority of Section 49.213(c)(7) of the Texas Water Code and Texas Government Code, Chapter 791 as amended, more commonly known as the “Interlocal Cooperation Act,” which allows governmental entities to contract with each other to perform governmental functions for each other that they are each authorized to perform for themselves.

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND CONSIDERATION PROVIDED FOR HEREIN, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY CONFIRMED, THE PARTIES AGREE AS FOLLOWS:

Section 1 Definitions

In addition to other capitalized terms defined herein, when used in this Agreement the following capitalized terms shall have the meaning set forth below:

“Approval Date” means the date on which the last of the Approvals is obtained.

“Firefighting Services” means all of the customary and usual services of a fire department, including, but not limited to, fire suppression, fire prevention, training, safety education, maintenance, communications, emergency rescue, emergency medical services, photography, and administration services of the type and at the level of service regularly provided by Town’s Fire Department to persons and property located within Town’s incorporated limits on the Approval Date. This term shall also include fire inspections, fire code enforcement services that are typically performed by Town’s Fire Department personnel, or arson investigation services, to the extent the same are performed within Town’s incorporated limits.

“TCEQ” means the Texas Commission on Environmental Quality, a regulatory body and administrative agency of the State of Texas, or its successor agency.

Section 2 Term

2.1 Conditions Precedent to Districts Obligations. The Parties understand that, pursuant to applicable law and the rules of the TCEQ, before this Agreement may become effective, the Districts must (i) develop a fire plan (the “Plan”) in accordance with the provisions of Section 49.351, Texas Water Code, and the rules of the TCEQ, (ii) obtain TCEQ’s approval of the Plan and this Agreement, and (iii) obtain the approval of the Plan and this Agreement by the majority of Districts’ voters voting in an election (an “Election”) properly called and held by the Districts for such purpose. The foregoing shall constitute conditions precedent to this Agreement becoming effective as to the Districts. If such conditions precedent are not satisfied on or before <insert date>, this Agreement shall automatically terminate as of <insert date>.

2.2 Initial Term. Unless sooner terminated in accordance with this Agreement, this Agreement shall be for a term commencing on November 1, 2024 and ending five years later (said period being the “Initial Term”). The Parties agree that the satisfaction of the conditions precedent detailed in Section 2.1 supra could occur after November 1, 2024. Should the conditions precedent be satisfied on a date after November 1, 2024, then such date shall be deemed the commencement date of the Initial Term.

2.3 Renewal Terms. This Agreement shall automatically renew for additional fire (5) year renewal terms (the “Renewal Term(s)”), without the need for further action by the Parties, until the Area is annexed for full purposes by a municipality and the municipality takes on the obligation to provide firefighting services. However, any Party shall have the right to terminate this Agreement upon the conclusion of the Initial Term or any Renewal Term, by providing written notice of its election to terminate to the other Party on or before twelve (12) months preceding the scheduled date of expiration of the Initial Term or any Renewal Term.

Section 3 **Scope of Services**

3.1 Current Staffing, Equipment and Stations. As of the Effective Date, Town owns, staffs, equips and operates three (3) fire stations as well as firefighting vehicles and other equipment which Town uses for the provision of Firefighting Services within Town's incorporated limits and will be used in providing Firefighting Services to the Area. In providing Firefighting Services to the Area, Town solely shall be responsible for the operation of all Fire Stations and all associated fire personnel, stations, vehicles, and equipment.

3.2 Use of Water System. The Parties acknowledge that in providing Firefighting Services to the Area, Town will use the fire hydrants, connections and water supply and distribution systems (the "Water System") available in the Districts, but the Town will not be responsible for inspecting and maintaining any part of the Water System within the Districts. In addition, the Town will not be liable to Districts for any deficiency or malfunction of the Water System located within the Area except to the extent such deficiency or malfunction is the result of the negligent or intentional acts or omissions of the Town, its employees, agents, and/or contractors. On request by the Districts, the Town will provide, at cost to the Districts, inspection services for the fire hydrants and associated appurtenances located within the Area.

3.3 Provision of Firefighting Services. During the term of this Agreement, and for so long as all payments are timely made to the Town as required by Section 5, below, Town agrees to provide Firefighting Services to all persons, buildings and property located within the Area, including any land added to the Area by annexation, to the same extent and the same level of service as it would within Town. In providing Firefighting Services to the Area, Town shall follow its adopted standard operating procedures, as they may be amended from time to time, in order to determine, at the Town's sole discretion: (i) whether Firefighting Services are required in a particular case, (ii) the order in which to respond to a particular request for Firefighting Services. It is understood and acknowledged, that response times, priority of calls and the services provided will be managed by the Town for the Area in the same manner as within the Town.

3.4 Call and Response Data. Town shall maintain records of responses to emergency calls, including, but not limited to date, time, location of emergency, type of emergency, time to respond, and results. The Town shall prepare and provide monthly reports (the "Reports") to the Districts that shall include call sheets/run cards from the Town's records management system (to the extent permitted by HIPAA) to show the number and type of emergency calls answered within the boundaries of the Districts and the general action taken by the Town in response to each emergency call. The Town shall use reasonable efforts to deliver the Report for the previous month to the Districts no later than the 10th day of every month.

3.5 Insurance. Town shall be responsible for providing all general and personal liability coverage necessary for the adequate protection of Town employees providing Firefighting Services at the same level of protection afforded officers and employees while performing the same or similar duties in Town's incorporated limits.

3.6 Governmental Functions. The Parties each acknowledge and agree that the Firefighting Services to be performed by the Town are a governmental function.

Section 4
Employees, Independent Contractors and Volunteers

Town's employees, independent contractors and/or volunteers shall meet at least the minimum State qualifications with respect to their performance of Firefighting Services required under this Agreement. The Districts (i) do not assume responsibility for the actions of Town's employees, independent contractors and/or volunteers in performing Firefighting Services pursuant to this Agreement, and (ii) will make no recommendations regarding, and are in no way responsible for, the selection, sufficiency or qualification of Town's employees, independent contractors and/or volunteers.

Section 5
Compensation for Firefighting Services

5.1 Compensation.

(a) Calculation of Costs.

- (i) The Parties have agreed upon a methodology to determine the costs of providing Firefighting Services (the "Costs") to the Area. The Costs shall be determined by multiplying the number of existing water connections in the Area by the rate per connection for that year of the Agreement. The first year will begin at the start date of the Initial Term and each subsequent year will begin on the anniversary of the Initial Term's start date. The Parties agree that the rate per connection for each year shall be:

- i. Year 1- \$16.75
- ii. Year 2- \$18.09
- iii. Year 3- \$19.54
- iv. Year 4- \$21.11
- v. Year 5- \$22.80

The Costs for the Renewal Terms, Year 6 and beyond, will be adjusted annually by 100% of the increase, if any, of the most recently published CPI. "CPI" as used herein shall mean the revised Consumer Price Index for All Urban Consumers for Dallas-Fort Worth, all items, as published by the United States Department of Labor, Bureau of Labor Statistics.

- (ii) For the purposes of calculating the Costs, the number of existing water connections will be evaluated once every quarter, beginning on the Initial Term's start date, and the Cost adjusted accordingly should the number of water connections increase from the previous quarter. The Parties agree to make reasonable and good faith efforts to resolve any issues regarding such calculations. The Town shall then send monthly invoices to the Districts representing the calculated Costs for the rest of the quarter. On or before the first day of the subsequent quarter, the Districts shall provide the number of existing water connections as of the date of the subsequent quarter. The Town shall again make the calculation of Costs as previously made and invoice the Districts on a monthly basis for the rest of the quarter. This method of determining the Costs shall then

continue for the duration of the Agreement.

- (b) Payment of Monthly Invoice. The Districts shall remit payment to the Town within 30 days following the receipt of the monthly invoice form the Town.

Section 6 Notices

All notices give pursuant to this Agreement shall be in writing and given by overnight courier or certified mail with return receipt requested, in either case with receipt being deemed the date of the signed receipt. Notice given in any other manner shall be effective only if in writing and when actually received by the party or parties to be notified. For the purpose of notice, the addresses of the parties are as follows:

If to Town:

Attn: Town Manager
Town of Little Elm
Little Elm, TX 75068
(972) 377-1898

If to Districts:

Presidents, Board of Directors
c/o Allen Boone Humphries Robinson LLP
4514 Cole Avenue, Suite 1450
Dallas, TX 75205
972) 823-0800

Each Party shall have the right to change its address and specify same as the notices address for purposes of this Agreement by giving at least 30 days written notice to the other Party.

Section 7 Miscellaneous

7.1 Parties in Interest. This Agreement shall be for the sole and exclusive benefit of Town and the Districts and shall not be construed to confer any benefit or right upon any other party.

7.2 Entire Agreement. This Agreement constitutes the entire Agreement among the Parties relative to the subject matter hereof. There have not been and are no agreements, covenants, representations or warranties among the Parties, either oral or written, relative to such subject matter other than those expressly stated or provided for herein.

7.3 Good Faith Cooperation. The Parties agree to use good faith in the performance of their respective duties and obligations under this Agreement such that the intent of the Parties shall be fulfilled. The Parties further agree to take such additional actions, from time to time, as may be necessary to fully carry out the purposes and intent of this Agreement including, but not limited to, the execution of further documentation.

7.4 Default and Remedies.

(a) Notice of Default. No Party shall be in default under this Agreement until (i) written notice of the alleged failure of such Party to perform any of its obligations hereunder has been given by another Party and (ii) such noticed Party has had a period of time, as specified below, in which to cure the alleged failure. The Party declaring a default shall notify the offending Party in writing of any such alleged failure to perform. Such notice shall specify the basis for a

declaration of default, and the notified Party shall have thirty (30) days from the receipt of such notice to cure any default. If a default is not cured within such 30-day period, then noticing Party shall have the option to terminate this Agreement.

If a party is in default under this Agreement, the non-defaulting party shall be entitled to all remedies available under the law.

(b) **Town Termination; Other Remedies.** Town shall have the right to terminate this Agreement for failure by the Districts, as applicable, to make payments described in Section 5, but only after (i) Town provides written notice to the Districts of its intent to so terminate this Agreement and (ii) defaulting Party is given twenty-one (21) days from the receipt of such notice from Town to cure the failure. Town may terminate this Agreement for a failure to pay only after a failure to make all required payments within such 21-day period.

(c) **Districts Termination.** The Districts' recourse for failure of Town to furnish Firefighting Services under this Agreement will be the right to terminate this Agreement on or after the 30th day after providing written notice to Town of such failure containing a description of how Town has failed to provide Firefighting Service, and Town fails to cure such default. Termination pursuant to this Section 7.4(c) shall not release the Districts of its obligations to pay for Firefighting Services provided by Town up to the date of termination or the date Town ceased providing Firefighting Services, whichever is earlier.

(d) **Districts' Rights Upon Termination.** Should this Agreement be terminated for any reason, or if any term of this Agreement ends and the Agreement is not renewed, Districts will be free to seek the services contemplated by this Agreement from any source available to the Districts.

7.5 Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall be not be affected thereby.

7.6 Force Majeure.

(a) In the event any Party is rendered unable, wholly or in part, by "force majeure" (as hereinafter defined) to carry out its obligations under this Agreement, then the obligations of such Party to the extent affected by such force majeure, to the extent due diligence is being used to resume performance at the earliest practical time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period of time. As soon as reasonably possible after the occurrence of the force majeure relied upon, the Party whose contractual obligations are affected shall give written notice of such force majeure to the other Party. If possible to remedy, such cause shall be remedied with all reasonable dispatch.

(b) The term "force majeure" as used herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, order of the United States or the State of Texas or other military authority with jurisdiction over either Party, insurrections, riots, epidemics, landslides, earthquakes, fires, hurricanes, arrests, civil disturbances, widespread pestilence, explosions, breakage or accidents to machinery, pipelines or canals, significant variation from normal weather conditions reasonably expected during the period in question, and any other

inability a Party could not have avoided by the exercise of due diligence and care. “Force majeure” shall not mean or refer to governmental regulations or acts of any governmental entity, board, commission or council over which a Party may reasonably exert influence in order to meet its obligations pursuant to this Agreement.

7.7 Liability.

(a) **Districts.** Nothing stated herein shall be construed as a waiver of all the protections afforded to the Districts as sovereign governmental units. Districts assumes no liability or responsibility for the acts and omissions of Town, its employees, agents, officers or others working through them in any capacity.

(b) **Town.** Nothing stated herein shall be construed as a waiver of all the protections afforded to the Town as a sovereign governmental unit. Town assumes no liability or responsibility for the acts and omissions of Districts, its employees, agents, officers or others working through them in any capacity.

7.8 Attorney’s Fees and Venue. In the event suit is filed by a Party as a result of the performance or non-performance of the terms set forth in this Agreement, and given that this Agreement is a contract for good or services under Chapter 271 of the Texas Local Government Code, the prevailing Party shall recover its reasonable attorneys’ fees and court costs, with venue of any such action to be in a state court in Denton County, Texas.

7.9 Waiver of Breach. No waiver by a Party of any default or breach of a term or condition of this Agreement by another Party may be treated as a waiver of any subsequent default or breach of the same or any other term or condition of this Agreement.

7.10 Modification. This Agreement may only be modified, changed or altered at any time upon mutual agreement of the Parties, provided that any such modification, change and/or alteration be reduced to writing and approved by the Parties’ governing bodies and, to the extent required by law, the TCEQ and/or the qualified voters of the Districts.

7.11 No Waiver of Immunity. Nothing in this Agreement shall give any claim or cause of action to any person or party not a party to this Agreement, nor create any claim or cause of action against the Town or the Districts which would not exist in the absence of this Agreement. Nothing in this Agreement shall add to or change the liability limits or immunities otherwise available to another Party, and nothing in this Agreement shall be deemed or construed to waive any defense, privilege, or immunity of the Parties nor of any of their elected officials, officers, or employees, as to any claim or cause of action brought by any Party, person or entity.

7.12 Authority and Enforceability. The Parties represent and warrant that this Agreement has been approved and or adopted by the Parties’ authorized representatives and that the individuals executing this Agreement on behalf of each Party has been duly authorized to do so. Each Party acknowledges and agrees that this Agreement is binding upon such Party and enforceable against such Party in accordance with its terms and conditions.

7.13 No Third-Party Beneficiaries. This Agreement only inures the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

7.14 No Joint Enterprise. This Agreement is not intended to and shall not be construed so as to create a joint enterprise between Parties.

7.15 No Interpretation Against a Party. This Agreement shall not be construed more strictly against the drafter as the Parties have had the benefit of counsel in the negotiation and preparation of this Agreement.

7.16 Heading. The headings of the various paragraphs of the Agreement have been inserted for convenient reference only and shall not be construed to enlarge, diminish, or otherwise change the express provisions hereof.

7.17 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

7.18 Mediation. All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, shall be referred to mediation before, and as a condition precedent to, the initiation of any adjudicative action or proceeding, including arbitration.

SIGNED AND AGREED this _____ day of _____, 2023.

TOWN OF LITTLE ELM, TEXAS

_____, Mayor

ATTEST:

Town Secretary

STATE OF TEXAS §


COUNTY OF DENTON §

Before me on _____, ____, 2023, the undersigned notary public appeared _____, Mayor of the Town of Little Elm, and executed the foregoing agreement for the purposes therein expressed on behalf of such municipality.

Notary Public in and for the State of Texas

SIGNED AND AGREED this 16th day of October, 2023.

DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO. 11-A

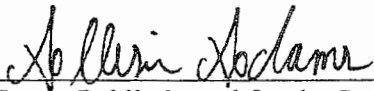


Nikki Gontzer, President

STATE OF TEXAS §

COUNTY OF DENTON §

Before me on October 16, 2023, the undersigned notary public appeared
Nikki Gontzer, President of Denton County Fresh
Water Supply District No. 11-A, and executed the foregoing agreement for the purposes therein
expressed on behalf of such district.



Notary Public in and for the State of Texas

SIGNED AND AGREED this 16th day of October, 2023.

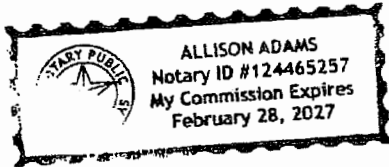
**DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO. 11-B**

David M. McClellan
David M. McClellan, President

STATE OF TEXAS §

COUNTY OF DENTON §

Before me on October, 16, 2023, the undersigned notary public appeared David McClellan, President of Denton County Fresh Water Supply District No. 11-B, and executed the foregoing agreement for the purposes therein expressed on behalf of such district.



Allison Adams
Notary Public in and for the State of Texas

SIGNED AND AGREED this 26th day of October, 2023.

**DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO. 11-C**

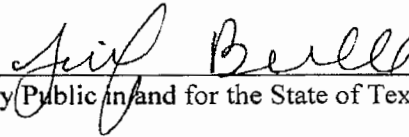
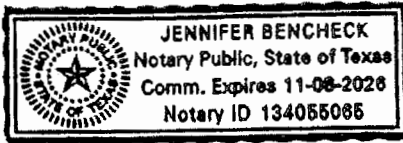


Robbie Patman, President

STATE OF TEXAS §

COUNTY OF DENTON §

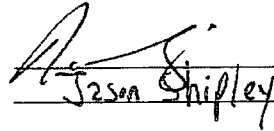
Before me on October, 26, 2023, the undersigned notary public appeared Robbie Patman, President of Denton County Fresh Water Supply District No. 11-C, and executed the foregoing agreement for the purposes therein expressed on behalf of such district.



Notary Public in and for the State of Texas

SIGNED AND AGREED this 24th day of October, 2023.

**DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO. 8-A**

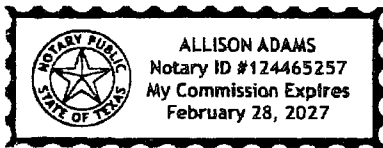


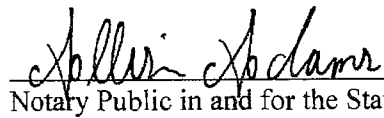
Jason Shipley, President

STATE OF TEXAS §

COUNTY OF DENTON §

Before me on October, 24, 2023, the undersigned notary public appeared Jason Shipley, President of Denton County Fresh Water Supply District No. 8-A, and executed the foregoing agreement for the purposes therein expressed on behalf of such district.

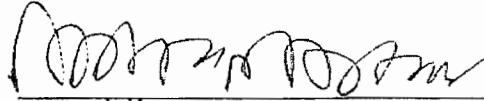




Notary Public in and for the State of Texas

SIGNED AND AGREED this 18th day of October, 2023.

**DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO. 8-B**

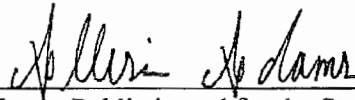


David Harrison, President

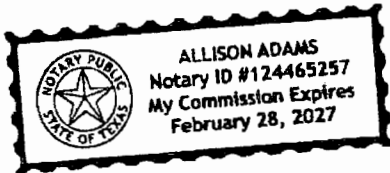
STATE OF TEXAS §

COUNTY OF DENTON §

Before me on October, 18, 2023, the undersigned notary public appeared David Harrison, President of Denton County Fresh Water Supply District No. 8-B, and executed the foregoing agreement for the purposes therein expressed on behalf of such district.



Notary Public in and for the State of Texas





Date: 12/19/2023
Agenda Item #: 6. C.
Department: Administrative Services
Strategic Goal: Ensure strong relationship within the community and region
Staff Contact: Joe Florentino, Assistant Town Manager

AGENDA ITEM:

Consider Action to Approve an **Interlocal Agreement for Fire Protection Services between the Town of Little Elm and Elm Ridge Water Control and Improvement District of Denton County.**

DESCRIPTION:

As part of the Strategic Plan, one of the Town's objectives is to operate as a service provider for neighboring communities and districts where possible. The Board of Directors for Elm Ridge Water Control and Improvement District of Denton County has determined that it is in the best interest of the Districts and residents of the Savannah and ArrowBrooke developments to enter into a long-term contract with the Town to provide firefighting services to the area.

BUDGET IMPACT:

There is no cost to the Town. The Town will see an increase in revenue associated with this contract in FY 2024-2025.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Elm Ridge Contract

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

**INTERLOCAL AGREEMENT FOR FIRE PROTECTION SERVICES
BETWEEN THE TOWN OF LITTLE ELM, TEXAS, AND ELM RIDGE
WATER CONTROL AND IMPROVEMENT DISTRICT OF DENTON
COUNTY, TEXAS**

This Fire Protection Agreement (“Agreement”) is made as of the Effective Date by and between the Town of Little Elm (the “Town”), a Texas home rule municipality and Elm Ridge Water Control and Improvement District of Denton County (the “District”). The Town and District are referred to herein collectively as “the Parties” and separately as “Party.”

WHEREAS, District is a political subdivision of the State of Texas operating under the provisions of Article XVI, Section 59 and Article III, Section 52 of the Texas Constitution and Chapters 49, 51, and, for limited purposes, 53, Texas Water Code, as amended; and

WHEREAS, District is seeking to secure firefighting services for the benefit of the residents and property owners within the boundaries of the ArrowBrooke and Savannah developments located within the District, as described in the attached Exhibit “A”; and

WHEREAS, Section 49.351(e) of the Texas Water Code authorizes District to contract with any other person to perform firefighting services within the District; and

WHEREAS, Sections 49.212 and 49.351 of the Texas Water Code authorize District to adopt and enforce all necessary charges or mandatory fees for providing or making available any district facility or service (including firefighting services); and

WHEREAS, pursuant to an election held on November 7, 2000, a majority of District electors voting at such election authorized the levy of an operation and maintenance tax unlimited as to rate or amount for operation and maintenance purposes, including paying costs of proper services; and

WHEREAS, District’s Board of Directors has determined that it is in the best interests of District and residents of ArrowBrooke and Savannah developments (the “Area”) to enter into a long-term contract with Town to provide firefighting services to the Area and to secure approval of such contract by the Town, Texas Commission on Environmental Quality (the “TCEQ”), and the voters of the District at an election pursuant to Section 49.351 of the Texas Water Code (collectively, the “Approvals”); and

WHEREAS, this Agreement is made pursuant to the authority of Section 49.213(c)(7) of the Texas Water Code and Texas Government Code, Chapter 791 as amended, more commonly known as the “Interlocal Cooperation Act,” which allows governmental entities to contract with each other to perform governmental functions for each other that they are each authorized to perform for themselves.

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND CONSIDERATION PROVIDED FOR HEREIN, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY CONFIRMED, THE PARTIES AGREE AS FOLLOWS:

Section 1 Definitions

In addition to other capitalized terms defined herein, when used in this Agreement the following capitalized terms shall have the meaning set forth below:

“Approval Date” means the date on which the last of the Approvals is obtained.

“Firefighting Services” means all of the customary and usual services of a fire department, including, but not limited to, fire suppression, fire prevention, training, safety education, maintenance, communications, emergency rescue, emergency medical services, photography, and administration services of the type and at the level of service regularly provided by Town’s Fire Department to persons and property located within Town’s incorporated limits on the Approval Date. This term shall also include fire inspections, fire code enforcement services that are typically performed by Town’s Fire Department personnel, or arson investigation services, to the extent the same are performed within Town’s incorporated limits.

“TCEQ” means the Texas Commission on Environmental Quality, a regulatory body and administrative agency of the State of Texas, or its successor agency.

Section 2 Term

2.1 Conditions Precedent to District Obligations. The Parties understand that, pursuant to applicable law and the rules of the TCEQ, before this Agreement may become effective, the District must (i) develop a fire plan (the “Plan”) in accordance with the provisions of Section 49.351, Texas Water Code, and the rules of the TCEQ, (ii) obtain TCEQ’s approval of the Plan and this Agreement, and (iii) obtain the approval of the Plan and this Agreement by the majority of District voters voting in an election (an “Election”) properly called and held by District for such purpose. The foregoing shall constitute conditions precedent to this Agreement becoming effective as to the District. If such conditions precedent are not satisfied on or before <insert date>, this Agreement shall automatically terminate as of <insert date>.

2.2 Initial Term. Unless sooner terminated in accordance with this Agreement, this Agreement shall be for a term commencing on November 1, 2024 and ending five years later (said period being the “Initial Term”). The Parties agree that the satisfaction of the conditions precedent detailed in Section 2.1 supra could occur after November 1, 2024. Should the conditions precedent be satisfied on a date after November 1, 2024, then such date shall be deemed the commencement date of the Initial Term.

2.3 Renewal Terms. This Agreement shall automatically renew for additional fire (5) year renewal terms (the “Renewal Term(s)”), without the need for further action by the Parties, until the Areas are annexed for full purposes by a municipality and the municipality takes on the obligation to provide firefighting services. However, any Party shall have the right to terminate this Agreement upon the conclusion of the Initial Term or any Renewal Term, by providing written notice of its election to terminate to the other Party on or before twelve (12) months preceding the scheduled date of expiration of the Initial Term or any Renewal Term.

2.4 Transfer of Service. The Parties acknowledge that the District is surrounded by the extra-territorial jurisdictions of multiple municipalities. The Parties agree that any time in the future should another municipality or other entity offer Firefighting Services to the District at an

amount agreeable to the District, the District shall have the option of terminating this Agreement on twelve (12) months written notice to the Town. This option is available to the District regardless of the time remaining in the Initial Term or any Renewal Term.

Should the District determine that another municipality or other entity offering Firefighting Services is available to serve only Arrowbrooke, then the District shall have the option of removing Arrowbrooke from this Agreement upon thirty (30) days written notice to the Town.

Section 3 Scope of Services

3.1 Current Staffing, Equipment and Stations. As of the Effective Date, Town owns, staffs, equips and operates three (3) fire stations as well as firefighting vehicles and other equipment which Town uses for the provision of Firefighting Services within Town's incorporated limits and will be used in providing Firefighting Services to the Area. In providing Firefighting Services to the Area, Town solely shall be responsible for the operation of all Fire Stations and all associated fire personnel, stations, vehicles, and equipment.

3.2 Use of Water System. The Parties acknowledge that in providing Firefighting Services to the Area, Town will use the fire hydrants, connections and water supply and distribution systems (the "Water System") available in the District, but the Town will not be responsible for inspecting and maintaining any part of the Water System within the District. In addition, the Town will not be liable to the District for any deficiency or malfunction of the Water System located within the Area except to the extent such deficiency or malfunction is the result of the negligent or intentional acts or omissions of the Town, its employees, agents, and/or contractors. On request by the District, the Town will provide, at cost to the District, inspection services for the fire hydrants and associated appurtenances located within the Area.

3.3 Provision of Firefighting Services. During the term of this Agreement, and for so long as all payments are timely made to the Town as required by Section 5, below, Town agrees to provide Firefighting Services to all persons, buildings and property located within the Area, including any land added to the Area by annexation, to the same extent and the same level of service as it would within Town. In providing Firefighting Services to the Area, Town shall follow its adopted standard operating procedures, as they may be amended from time to time, in order to determine, the Town's sole discretion: (i) whether Firefighting Services are required in a particular case, (ii) the order in which to respond to a particular request for Firefighting Services. It is understood and acknowledged, that response times, priority of calls and the services provided will be managed by the Town for the Area in the same manner as within the Town.

3.4 Call and Response Data. Town shall maintain records of responses to emergency calls, including, but not limited to date, time, location of emergency, type of emergency, time to respond, and results. The Town shall prepare and provide monthly reports (the "Reports") to the District that shall include call sheets/run cards from the Town's records management system (to the extent permitted by HIPAA) to show the number and type of emergency calls answered within the boundaries of the District and the general action taken by the Town in response to each emergency call. The Town shall use reasonable efforts to deliver the Report for the previous month to the District no later than the 10th day of every month.

3.5 Insurance. Town shall be responsible for providing all general and personal liability coverage necessary for the adequate protection of Town employees providing Firefighting Services at the same level of protection afforded officers and employees while performing the same or similar duties in Town's incorporated limits.

3.6 Governmental Functions. The Parties each acknowledge and agree that the Firefighting Services to be performed by the Town are a governmental function.

**Section 4
Employees, Independent Contractors and Volunteers**

Town's employees, independent contractors and/or volunteers shall meet at least the minimum State qualifications with respect to their performance of Firefighting Services required under this Agreement. The District (i) does not assume responsibility for the actions of Town's employees, independent contractors and/or volunteers in performing Firefighting Services pursuant to this Agreement, and (ii) will make no recommendations regarding, and are in no way responsible for, the selection, sufficiency or qualification of Town's employees, independent contractors and/or volunteers.

**Section 5
Compensation for Firefighting Services**

5.1 Compensation.

(a) Calculation of Costs.

(i) The Parties have agreed upon a methodology to determine the costs of providing Firefighting Services (the "Costs") to the Area. The Costs shall be determined by multiplying the number of existing water connections in the Area by the rate per connection for that year of the Agreement. The first year will begin at the start date of the Initial Term and each subsequent year will begin on the anniversary of the Initial Term's start date. The Parties agree that the rate per connection for each year shall be:

- i. Year 1- \$16.75
- ii. Year 2- \$18.09
- iii. Year 3- \$19.54
- iv. Year 4- \$20.11
- v. Year 5- \$22.80

The Costs for the Renewal Terms, Year 6 and beyond, will be adjusted annually by 100% of the increase, if any, of the most recently published CPI. "CPI" as used herein shall mean the revised Consumer Price Index for All Urban Consumers for Dallas-Fort Worth, all items, as published by the United States Department of Labor, Bureau of Labor Statistics.

(ii) For the purposes of calculating the Costs, the number of existing water connections will be evaluated once every quarter, beginning on the Initial Term's start date, and the Cost adjusted accordingly should the number of water connections increase from the previous quarter. The Parties agree to make reasonable and good faith efforts to resolve any issues regarding such calculation. The Town shall then send monthly invoices to the District representing the calculated Costs for the rest of the quarter. On or before the first day of the subsequent quarter, the District shall provide the number of existing water connections as of the date of the subsequent quarter. The Town shall again make the calculation of Costs as

previously made and invoice the District on a monthly basis for the rest of the quarter. This method of determining the Costs shall then continue for the duration of the Agreement.

- (b) Payment of Monthly Invoice. The District shall remit payment to the Town within 30 days following the receipt of the monthly invoice form the Town.

Section 6 Notices

All notices give pursuant to this Agreement shall be in writing and given by overnight courier or certified mail with return receipt requested, in either case with receipt being deemed the date of the signed receipt. Notice given in any other manner shall be effective only if in writing and when actually received by the party or parties to be notified. For the purpose of notice, the addresses of the parties are as follows:

If to Town:

Attn: Town Manager
Town of Little Elm
100 W. Eldorado Parkway
Little Elm, TX 75068
(972) 377-1898

If to District:

President, Board of Supervisors
Elm Ridge Water Control and Improvement
District of Denton County
c/o Crawford & Jordan, LLP
3100 McKinnon Street, Suite 1100
Dallas, TX 75201
(214) 981-9090

Each Party shall have the right to change its address and specify same as the notices address for purposes of this Agreement by giving at least 30 days written notice to the other Party.

Section 7 Miscellaneous

7.1 Parties in Interest. This Agreement shall be for the sole and exclusive benefit of Town and District and shall not be construed to confer any benefit or right upon any other party.

7.2 Entire Agreement. This Agreement constitutes the entire Agreement among the Parties relative to the subject matter hereof. There have not been and are no agreements, covenants, representations or warranties among the Parties, either oral or written, relative to such subject matter other than those expressly stated or provided for herein.

7.3 Good Faith Cooperation. The Parties agree to use good faith in the performance of their respective duties and obligations under this Agreement such that the intent of the Parties shall be fulfilled. The Parties further agree to take such additional actions, from time to time, as may be necessary to fully carry out the purposes and intent of this Agreement including, but not limited to, the execution of further documentation.

7.4 Default and Remedies.

(a) Notice of Default. No Party shall be in default under this Agreement until (i) written notice of the alleged failure of such Party to perform any of its obligations hereunder has been given by another Party and (ii) such noticed Party has had a period of time, as specified below, in which to cure the alleged failure. The Party declaring a default shall notify the offending Party in writing of any such alleged failure to perform. Such notice shall specify the basis for a

declaration of default, and the notified Party shall have thirty (30) days from the receipt of such notice to cure any default. If a default is not cured within such 30-day period, then noticing Party shall have the option to terminate this Agreement.

If a party is in default under this Agreement, the non-defaulting party shall be entitled to all remedies available under the law.

(b) **Town Termination; Other Remedies.** Town shall have the right to terminate this Agreement for failure by District, as applicable, to make payments described in Section 5, but only after (i) Town provides written notice to the District of its intent to so terminate this Agreement and (ii) defaulting Party is given twenty-one (21) days from the receipt of such notice from Town to cure the failure. Town may terminate this Agreement for a failure to pay only after a failure to make all required payments within such 21-day period.

(c) **District Termination.** District's recourse for failure of Town to furnish Firefighting Services under this Agreement will be the right to terminate this Agreement on or after the 30th day after providing written notice to Town of such failure containing a description of how Town has failed to provide Firefighting Service, and Town fails to cure such default. Termination pursuant to this Section 7.4(c) shall not release District of its obligations to pay for Firefighting Services provided by Town up to the date of termination or the date Town ceased providing Firefighting Services, whichever is earlier.

(d) **District's Rights Upon Termination.** Should this Agreement be terminated for any reason, or if any term of this Agreement ends and the Agreement is not renewed, District will be free to seek the services contemplated by this Agreement from any source available to District.

7.5 Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall be not be affected thereby.

7.6 Force Majeure.

(a) In the event any Party is rendered unable, wholly or in part, by "force majeure" (as hereinafter defined) to carry out its obligations under this Agreement, then the obligations of such Party to the extent affected by such force majeure, to the extent due diligence is being used to resume performance at the earliest practical time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period of time. As soon as reasonably possible after the occurrence of the force majeure relied upon, the Party whose contractual obligations are affected shall give written notice of such force majeure to the other Party. If possible to remedy, such cause shall be remedied with all reasonable dispatch.

(b) The term "force majeure" as used herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, order of the United States or the State of Texas or other military authority with jurisdiction over either Party, insurrections, riots, epidemics, landslides, earthquakes, fires, hurricanes, arrests, civil disturbances, widespread pestilence, explosions, breakage or accidents to machinery, pipelines or canals, significant variation from normal weather conditions reasonably expected during the period in question, and any other inability a Party could not have avoided by the exercise of due diligence and care. "Force majeure"

shall not mean or refer to governmental regulations or acts of any governmental entity, board, commission or council over which a Party may reasonably exert influence in order to meet its obligations pursuant to this Agreement.

7.7 Liability.

(a) **District.** Nothing stated herein shall be construed as a waiver of all the protections afforded to the District as a sovereign governmental unit. District assumes no liability or responsibility for the acts and omissions of Town, its employees, agents, officers or others working through them in any capacity.

(b) **Town.** Nothing stated herein shall be construed as a waiver of all the protections afforded to the Town as a sovereign governmental unit. Town assumes no liability or responsibility for the acts and omissions of District, its employees, agents, officers or others working through them in any capacity.

7.8 Attorney's Fees and Venue. In the event suit is filed by a Party as a result of the performance or non-performance of the terms set forth in this Agreement, and given that this Agreement is a contract for good or services under Chapter 271 of the Texas Local Government Code, the prevailing Party shall recover its reasonable attorneys' fees and court costs, with venue of any such action to be in a state court in Denton County, Texas.

7.9 Waiver of Breach. No waiver by a Party of any default or breach of a term or condition of this Agreement by another Party may be treated as a waiver of any subsequent default or breach of the same or any other term or condition of this Agreement.

7.10 Modification. This Agreement may only be modified, changed or altered at any time upon mutual agreement of the Parties, provided that any such modification, change and/or alteration be reduced to writing and approved by the Parties' governing bodies and, to the extent required by law, the TCEQ and/or the qualified voters of the District.

7.11 No Waiver of Immunity. Nothing in this Agreement shall give any claim or cause of action to any person or party not a party to this Agreement, nor create any claim or cause of action against Town or District which would not exist in the absence of this Agreement. Nothing in this Agreement shall add to or change the liability limits or immunities otherwise available to another Party, and nothing in this Agreement shall be deemed or construed to waive any defense, privilege, or immunity of the Parties nor of any of their elected officials, officers, or employees, as to any claim or cause of action brought by any Party, person or entity.

7.12 Authority and Enforceability. The Parties represent and warrant that this Agreement has been approved and or adopted by the Parties' authorized representatives and that the individuals executing this Agreement on behalf of each Party has been duly authorized to do so. Each Party acknowledges and agrees that this Agreement is binding upon such Party and enforceable against such Party in accordance with its terms and conditions.

7.13 No Third-Party Beneficiaries. This Agreement only inures the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

7.14 No Joint Enterprise. This Agreement is not intended to and shall not be construed so as to create a joint enterprise between Parties.

7.15 **No Interpretation Against a Party.** This Agreement shall not be construed more strictly against the drafter as the Parties have had the benefit of counsel in the negotiation and preparation of this Agreement.

7.16 **Heading.** The headings of the various paragraphs of the Agreement have been inserted for convenient reference only and shall not be construed to enlarge, diminish, or otherwise change the express provisions hereof.

7.17 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

7.18 **Mediation.** All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, shall be referred to mediation before, and as a condition precedent to, the initiation of any adjudicative action or proceeding, including arbitration.

SIGNED AND AGREED this ____ day of _____, 20____.

TOWN OF LITTLE ELM, TEXAS

ELM RIDGE WATER CONTROL
AND IMPROVEMENT DISTRICT
OF DENTON COUNTY

Mayor

President

ATTEST:

ATTEST:

Town Secretary

District Secretary



THE STATE OF TEXAS §
COUNTY OF DENTON §

This instrument was acknowledged before me on the ____ day of _____, 20____, by _____, Mayor of the Town of Little Elm, on behalf of said Town and as the act and deed of the Town.

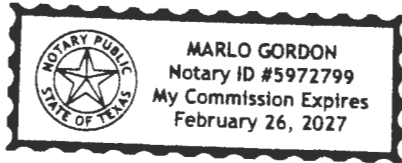
[SEAL.]

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF DENTON §

This instrument was acknowledged before me on the 21st day of November, 2023, by Amy Myers President of Elm Ridge Water Control and Improvement District of Denton County, on behalf of said District and as the act and deed of the District.

[SEAL]



Marlo Gordon

Notary Public, State of Texas