



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

**Tuesday, July 16, 2024**

**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. Present and Discuss the **Unified Development Code Process**.
  - B. Present and Discuss **Discover Little Elm**.
  - C. Present and Discuss the **Town's Filming Permit Policy**.
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  - C. Items to be Withdrawn from Consent Agenda.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. **Public Comments**

*Persons may address the Town Council on any issue for up to three (3) minutes. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meeting Act, the council may not comment or deliberate such statements during this period, except as authorized by Section 551.007, Texas Government Code.*

4. **Consent Agenda**

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

A. Consider Action to Approve the **Minutes from the July 2, 2024, Regular Town Council Meeting.**

B. Consider Action to Approve **Ordinance No. 1764 regarding the Town of Little Elm's Texas Municipal Retirement System Benefits by Adopting a Non-Retroactive Repeating Cost of Living Adjustment for Retirees and their Beneficiaries under TMRS Act 853.404(f) and Authorizing Annually Accruing Updated Service Credits and Transfer Updated Service Credits.**

C. Consider Action to Approve the **Performance Agreement between Lakefront Ice Cream, LLC; dba as Stella's Ice Cream, and Little Elm Economic Development.**



- D. Consider Action to Approve **Authorization to the Town Manager to Execute the Home Improvement Tax Incentive Program Agreement for 2713 North Wavecrest Court.**
- E. Consider Action to Award **Bid 2024-18 for UV System Upgrades to Felix Construction, in the Estimated Amount of \$1,778,164.**
- F. Consider Action to Approve the **Final Acceptance of the Lobo Lane Technology Park Project.**

5. **Regular Items.**

- A. Present, Discuss, and Consider Action on **All Matters Incident and Related to the Issuance and Sale of "Town of Little Elm, Texas, Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2024", including the Adoption of Ordinance No. 1765 Authorizing the Issuance of such Certificates of Obligation.**
- B. Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1766 Regarding a Request to Rezone Approximately 1.6 Acres of Land, Currently Zoned as Light Commercial, Generally Located West of the Intersection of King Road and FM 423, within Little Elm's Town Limits, in Order to Establish a New Planned Development - Light Commercial District, with Modified Development Standards to Allow for Redevelopment.**
  - **Open Public Hearing:**
  - **Receive Public Comments:**
  - **Close Public Hearing:**
  - **Take Action on Ordinance No. 1766:**
- C. Present, Discuss, and Consider Action on a **Development Agreement between the Town of Little Elm and Bracha LLC.**
- D. Present, Discuss, and Consider Action on a **Special Events Permit Application for Diwali at Beach.**

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

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

employee(s).

- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

7. **Reconvene into Open Session**

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

- COVID-19 Pandemic and the Town's response thereto, including the consideration of an emergency declaration ordinance.
- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
- 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. **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 11th day of July 2024 before 5:00 p.m.**



**Date:** 07/16/2024  
**Agenda Item #:** 1. A.  
**Department:** Development Services  
**Strategic Goal:** Promote and expand Little Elm's identity  
**Staff Contact:** Fred Gibbs, Director of Development Services

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#### **AGENDA ITEM:**

Present and Discuss the **Unified Development Code Process**.

#### **DESCRIPTION:**

In February 2024, the Town requested proposals for a professional consultant capable of updating the Town's Zoning Ordinance, including all development standards, exterior construction, landscaping, screening, fencing, parking, lighting, subdivision regulations, as well as the Sign Ordinance, and developing a Unified Development Code, with associated technical manuals. The Town is looking to develop a Unified Development Code in order to streamline and standardize the development process. The current versions of the zoning ordinance, landscape regulations, subdivision regulations, and sign code are outdated. Although they have been amended over the years, the Town has never engaged in a comprehensive evaluation or revision to these ordinances.

As Little Elm approaches build-out, the Town must now shift its focus not only toward the development of greenfield property but redevelopment of existing properties. The current ordinances focus on traditional suburban development patterns and do not adequately provide for infill or redevelopment opportunities of existing older properties. Also, these ordinances do not reflect the best practices or emerging trends in land use, urban design, or pedestrian-oriented development.

The Town desires an innovative and creative approach toward the completion of this task; applying interactive and user-friendly graphics and elements will be essential to facilitate ease of navigation. The resulting document will be user-friendly for Town staff, residents, and the development community. The content will be cutting-edge, concise, and clear. Most importantly, it will be made available to the public in a way that is accessible and easy to use, through different types of media.

In April 2024, Town Council awarded the RFP to Clarion Associates. This project was anticipated to follow the completion of the 2023 Comprehensive Plan Update/Small Area Planning project, however, given the amount of time necessary for such an undertaking, Staff and the consultant have already begun work.

At this time, the consultant would like to introduce themselves and the project to Town Council, and have a discussion on the next steps of this process.

**BUDGET IMPACT:**

This item has no budget impact.

**RECOMMENDED ACTION:**

Information only, no action required.

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**Date:** 07/16/2024  
**Agenda Item #:** 1. B.  
**Department:** Community Services  
**Strategic Goal:** Promote and expand Little Elm's identity  
**Staff Contact:** Drew Bailey, Managing Director of Business Development and Tourism

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**AGENDA ITEM:**

Present and Discuss **Discover Little Elm.**

**DESCRIPTION:**

Town staff will present the launch of Discover Little Elm for the Tourism Division and discuss the attached logo options.

**BUDGET IMPACT:**

There is no budget impact for this item.

**RECOMMENDED ACTION:**

Staff request direction from Town Council.

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**Attachments**

Discover Little Elm Logo Options





**Date:** 07/16/2024  
**Agenda Item #:** 1. C.  
**Department:** Community Services  
**Strategic Goal:** Promote and expand Little Elm's identity  
**Staff Contact:** Drew Bailey, Managing Director of Business Development and Tourism

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**AGENDA ITEM:**

Present and Discuss the **Town's Filming Permit Policy**.

**DESCRIPTION:**

Town staff will present the new filming permit policy for the Town.

**BUDGET IMPACT:**

There is no budget impact for this item.

**RECOMMENDED ACTION:**

Staff requests direction from Town Council.

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**Attachments**

Draft Filming Permit Policy

## **GUIDELINES FOR FILMING IN LITTLE ELM, TEXAS**

### **TABLE OF CONTENTS**

- I. Purpose
- II. Town Control/Town Manager Authority
- III. Permit Requirements and Fees
- IV. Application Fee
- V. Use of Town Equipment and Personnel
- VI. Use of Town-Owned Real Estate
- VII. Vehicles and Equipment
- VIII. Hours of Filming
- IX. Notification of Neighbors
- X. Certificate of Insurance
- XI. Damage to Public or Private Property XII. Hold Harmless Agreement



## PURPOSE

The Guidelines contained in this policy are intended to create a program for promoting economic development, tourism, and marketing activity within Little Elm and the vicinity of the Town. The following Guidelines are also intended to protect the personal and property rights of Little Elm, Texas residents and businesses, and to promote the public health, safety, and welfare. The Director of Community Services or designee reserves the right to impose additional regulations in the interest of public health, safety, and welfare, or if otherwise deemed appropriate by the Director of Community Services or designee.

These Guidelines cover requests for commercial use of Town-owned property (including but not limited to streets, rights-of-way, parks, and/or public buildings), commercial use of private property which may affect adjacent public or private property, and the use of Town equipment and personnel in all types of motion picture production, including, but not limited to, feature films, television programs, commercials, music videos, and corporate films.

## TOWN CONTROL/DIRECTOR OF COMMUNITY SERVICES OR DESIGNEE AUTHORITY

The Director of Community Services or designee may authorize the use of any street, right-of-way, park, or public building, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the Director of Community Services or designee may require that any or all of the conditions and/or remuneration herein and as specified on the application be met as a prerequisite to that use.

The Applicant agrees that the Town of Little Elm shall have exclusive authority to grant the Applicant the use of public streets, rights-of-way, parks and public buildings of the Town, as well as authority to regulate the hours of production and the general location of the production. The Town reserves the full and absolute right to prohibit all filming or to order cessation of filming in order to promote the public health, safety, or welfare.

The Applicant shall allow Town departments (e.g., Police, Fire, Building) to inspect all structures, property, devices, and equipment to be used in connection with the filming and taping, as deemed appropriate by the Town Manager.

## PERMIT REQUIREMENTS

Before filing an application for filming in Little Elm, the Office of Tourism and Business Development must be contacted to discuss the production's specific filming requirements and the feasibility of filming in Little Elm, TX.

Any commercial producer who desires to undertake a commercial production in Little Elm is required to complete and return the attached application for filming to the Office of Tourism and Business Development, within the time frames below:

- **Commercials or episodic television:** a minimum of three (3) business days prior to the commencement of filming or any substantial activity related to the project.
- **Feature films:** a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.

## APPLICATION FEE

A suggested application processing fee of \$25 should accompany each application for filming in Little Elm.

The Director of Community Services or designee may waive this fee upon proof of an organization's non-profit status or for any other reason deemed appropriate by the Director of Community Services or designee.

## USE OF TOWN EQUIPMENT AND PERSONNEL

The Applicant shall pay for all costs of any Police, Fire, Public Works, or other Town personnel assigned to the project (whether or not specifically requested by the production). Remuneration rates for the use of any Town equipment, including police cars and fire equipment, will be established on a case-by-case basis as determined by the Director of Community Services or designee. The Applicant shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. The Director of Community Services or designee may, at his/her discretion, require an advance payment for all costs related to Town personnel and/or the use of Town equipment.

The Director of Community Services or designee, in consultation with the Chief of Police and/or Fire Chief, shall have the authority to stipulate additional fire or police requirements and level of staffing for same, at any time during a film project if it is determined to be in the best interest of public health, safety and welfare, which cost shall be borne entirely by the Applicant.

Off-duty police officers and firefighters shall be paid by the production company at a rate no less than one and one-half times their hourly rate.

## USE OF TOWN-OWNED REAL ESTATE

The Director of Community Services or designee may authorize the use of any street, right-of-way, park or public building, use of Little Elm, Texas name, trademark, or logo and/or use of Town equipment and/or personnel for commercial uses in motion picture production. In conjunction with these uses, the Director of Community Services or designee may require that any or all of the conditions and/or remuneration as specified herein and on the application be met as a prerequisite to that use. A security or damage deposit may be required within the discretion of the Director of Community Services or designee.

The Applicant shall reimburse the Town for inconveniences when using public property. Below is the rate schedule the Town will follow unless you are utilizing a space with an already published price:

Activity:	Cost per calendar day:
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area.	\$500
Partial, non-disruptive use of a public building, park, right-of-way, or public area.	\$250
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking.	\$100
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking.	\$25
Use of Town parking lots, parking areas, and Town streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles). Per designated area.	\$50

The Applicant acknowledges and agrees that the Town of Little Elm, Texas, possesses and retains exclusive authority to grant the Applicant a revocable license for the use of its name, trademark, and logo, public streets, rights-of-way, parks and buildings of the Town as well as control over the hours of production and the general location of the production. The Town reserves the full and absolute right to prohibit all filming or to order cessation of filming activity in order to promote the public health, safety and/or, welfare.

In order to leave the Town-owned property in as good condition as when received, the Applicant is responsible for and must provide professional cleaning and/or sanitation services upon completion of work, if the Town requests such cleaning and/or sanitation services at any time. Upon such a request by the Town, the Applicant must obtain approval from the Town of the Applicant's arrangements for cleaning and/or sanitation services (which will not be unreasonably withheld). The Town may require such approval before use of the Town-owned property when Production Activity begins.

## **VEHICLES AND EQUIPMENT**

The Applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations. Such locations will need to be specifically approved by the Director of Community Services or designee. On-street parking or use of public parking lots is subject to Town approval.

The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the Director of Community Services or designee.

## **HOURS OF FILMING**

Unless explicitly written permission has been obtained from the Director of Community Services or designee in advance, and affected property owners, tenants, and residents have been notified, filming will be limited to the following hours:

- Monday through Friday: 7 a.m. to 9 p.m.
- Saturday, Sunday, and holidays: 8 a.m. to 9 p.m.

## **NOTIFICATION OF NEIGHBORS**

The Applicant shall provide a short, written description, approved by the Director of Community Services or designee, of the schedule for the proposed production to the owners, tenants and residents of each property in the affected neighborhood(s). The Applicant, or his or her designee, shall make a good faith effort to notify each owner, tenant, and resident of all such property, and shall submit, as part of this application, a report noting owners, tenants, and/or residents' comments, along with their signatures, addresses, and phone numbers. Based upon this community feedback, and other appropriate factors considered by the Director of Community Services or designee, the Director of Community Services or designee may grant or deny the filming application.

## **CERTIFICATE OF INSURANCE**

The Applicant shall attach a valid certificate of insurance, issued by a company authorized to conduct business in the state of Texas, naming the Town of Little Elm and its agents, officers, elected officials, employees, and assigns, as additional insured, in an amount not less than \$1,000,000 general liability, including bodily injury and property damage with a \$1,000,000 umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

## DAMAGE TO PUBLIC OR PRIVATE PROPERTY

The Applicant shall pay in full, within ten (10) days of receipt of an invoice, the costs of repair for any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its original condition prior to the production, or better than the original condition.

## HOLD HARMLESS AGREEMENT

The Applicant shall sign the following Hold Harmless Agreement holding the Town harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use:

*I certify that I represent the firm which will be performing the filming/taping at the locations specified on the attached permit application. I further certify that I and my firm will perform in accordance with the directions and specifications of The Town of Little Elm, Texas, and that I and my firm will indemnify and hold harmless the Town of Little Elm, Texas and its elected officials, officers, servants, employees, successors, agents, departments, and assigns from any and all losses, damages, expenses, costs, and/or claims of every nature and kind arising out of or in connection with the filming/taping and other related activities engaged in pursuant to this Application.*

*I further certify that the information provided on this Application is true and correct to the best of my knowledge, and that I possess the authority to sign this and other contracts and agreements with the Town of Little Elm, Texas on behalf of the firm.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date:

## TOWN OF LITTLE ELM APPLICATION FOR COMMERCIAL FILMING

Title of Project: \_\_\_\_\_

Type of Production: \_\_\_\_\_  
(feature film, television series, commercial, music video, virtual reality, etc.)

Proposed Filming Locations (attach additional pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date(s) of Prep, Filming & Wrap:

\_\_\_\_\_

Primary Contact Name: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

Location Manager (if different from Primary Contact) Name: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

Name of Production Company: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Website: \_\_\_\_\_

**Has this production already been in contact with the Texas Film Commission? \_\_\_\_\_ If  
yes, who is your contact at the Texas Film Commission? \_\_\_\_\_**

**Or**

**Has this production already completed the Texas Film Commission's Texas Production Registration Form?** \_\_\_\_\_

**PRODUCTION** (*Attach additional sheets if necessary.*)

1. Production schedule and activities, including stunts, pyrotechnics, special effects, aerial or drone photography, amplified sound or use of animals: (give dates and times, hours should include prep, holding of sets, wrap and rain dates, if potentially needed)
2. Approximate number of persons involved with the production, including cast and crew:
3. Anticipated need of Town or County personnel, equipment or property:
4. Public areas in which public access will be restricted during production:
5. Describe alterations to public property:
6. Number and type of production vehicles to be used and location(s) where vehicles will be parked:
7. Location where crew will be fed, if not at filming location:
8. Location where extras will be held, if not at filming location:
9. Please attach map of anticipated street closure(s) or other public area use.

Applicant (production company representative):

\_\_\_\_\_  
*Signature* Date: \_\_\_\_\_

\_\_\_\_\_  
*Printed Name & Title*

Application approved by Town of Little Elm representative:

\_\_\_\_\_  
Date: \_\_\_\_\_

*The "Guidelines for Filming in Little Elm, Texas" apply to all motion picture production in Little Elm.*

*The Office of Tourism and Business Development may require the applicant to acknowledge receipt of the Guidelines prior to approving this application.*



**Date:** 07/16/2024  
**Agenda Item #:** 4. A.  
**Department:** Administrative Services  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Caitlan Biggs, Director of Administrative Services/Town Secretary

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**AGENDA ITEM:**

Consider Action to Approve the **Minutes from the July 2, 2024, Regular Town Council Meeting.**

**DESCRIPTION:**

The minutes from the July 2, 2024, regular Town Council meeting are attached for approval.

**BUDGET IMPACT:**

There is no budget impact for this item.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Minutes - July 2, 2024

# 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 JULY 2, 2024 - 6:00 p.m.

Present: Mayor Curtis J. Cornelious; Mayor Pro Tem Jamell T. Johnson; Council Member Tony Singh; Council Member Andrew Evans; Council Member Michel Hambrick; Council Member Ken Eaken

Absent: Council Member Lisa G. Norman

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; Deidre Hale, Director of Human Resources; Fred Gibbs, Director of Development Services; Jason Shroyer, Director of Public Works; 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 at 6:00 p.m.

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

#### A. Invocation.

*Deputy Mayor Pro Tem Tony Singh gave the invocation.*

#### B. Pledge to Flags.

#### C. Items to be Withdrawn from Consent Agenda.

*None.*

#### D. Emergency Items if Posted.

*None.*

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



**None.**

**F. Presentation of Monthly Updates.**

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

***Town Manager Matt Mueller gave an update on the July 4th firework shows at Little Elm High School and Little Elm Park.***

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

**None.**

**2. Public Comments**

*Persons may address the Town Council on any issue for up to three (3) minutes. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meeting Act, the council may not comment or deliberate such statements during this period, except as authorized by Section 551.007, Texas Government Code.*

**None.**

**3. 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 Tony Singh, seconded by Mayor Pro Tem Jamell T. Johnson **to approve the Consent Agenda.**

**Vote:** 6 - 0 - Unanimously

- A. Consider Action to Approve the **Minutes from the June 18, 2024, Regular Town Council Meeting.**
- B. Consider Action to Approve the **Cyber Liability and Data Breach Response Interlocal Agreement with Texas Municipal League Intergovernmental Risk Pool.**
- C. Consider Action to Accept the **Resignation of Ken Eaken as President of the Little Elm Economic Development Corporation Board of Directors.**

- D. Consider Action to Approve **Resolution No. 0702202401 the Town's Consent for 2024 Road Bonds.**
  - E. Consider Action to Approve **the Little Elm Governance Policy.**
  - F. Consider Action to Approve a **Development Agreement Associated with the Lakefront Residential Overlay District, between the Town of Little Elm and Sam Sesay, Property Owners of 221 West Park Drive.**
4. **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.

***No Executive Session.***

5. **Reconvene into Open Session**

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

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

6. **Adjourn.**

***Meeting was adjourned at 6:03 p.m.***

Respectfully,

**Caitlan Biggs**  
Town Secretary

Passed and Approved this 16th day of July 2024.



**Date:** 07/16/2024  
**Agenda Item #:** 4. B.  
**Department:** Finance  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Kelly Wilson, Chief Financial Officer

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**AGENDA ITEM:**

Consider Action to Approve **Ordinance No. 1764 regarding the Town of Little Elm's Texas Municipal Retirement System Benefits by Adopting a Non-Retroactive Repeating Cost of Living Adjustment for Retirees and their Beneficiaries under TMRS Act 853.404(f) and Authorizing Annually Accruing Updated Service Credits and Transfer Updated Service Credits.**

**DESCRIPTION:**

TMRS has provided retirement system plan options on the cost of living adjustment (COLA) to provide a more simple, less expensive, and more equitable calculation for annual COLAs. The Town currently has a 70% repeating retroactive COLA to all retirees and their beneficiaries. This provides the traditional retroactive COLA to be calculated by multiplying the cumulative change in the CPI since retirement by the COLA percentage of 70%. The new option of 70% repeating non-retroactive COLA will only make a change to how the COLA amount is calculated. This means the COLA is calculated by multiplying the change in the CPI for the one-year period ending 12 months before the COLA effective date by the COLA percentage of 70% that is adopted.

When staff reviewed the impact this has on the retirees' benefits, we saw a very small decrease. For example, a retiree that retired in 2002 that is currently under the retroactive COLA-70% the monthly benefit is \$278.00. With the non-retroactive change, the COLA-70% monthly benefit will be \$276.60. This is a small reduction of \$1.40 a month or 0.50%.

**BUDGET IMPACT:**

The Town's plan change will reduce the employer contribution rate from 14.11% to 13.75% effective 1/1/2025. This will be a savings over the next five years of approximately \$500,000. This is being reflected in the proposed FY2024-2025 budget and five-year financial plan.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Ordinance No. 1764 TMRS Plan

TOLE 2025 Plan Change Analysis

TMRS staff letter

**TOWN OF LITTLE ELM, TEXAS**

**ORDINANCE NO. 1764**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE TOWN OF LITTLE ELM'S TEXAS MUNICIPAL RETIREMENT SYSTEM BENEFITS: (1) ADOPTING NON-RETROACTIVE REPEATING COLAS, FOR RETIREES AND THEIR BENEFICIARIES UNDER TMRS ACT §853.404(F) AND (F-1), AND (2) AUTHORIZING ANNUALLY ACCRUING UPDATED SERVICE CREDITS AND TRANSFER UPDATED SERVICE CREDITS; AND PROVIDING FOR SEVERABILITY; AND EFFECTIVE DATE.**

**WHEREAS**, the Town of Little Elm, Texas (the "Town"), elected to participate in the Texas Municipal Retirement System (the "System" or "TMRS") pursuant to Subtitle G of Title 8, Texas Government Code, as amended (which subtitle is referred to as the "TMRS Act"); and

**WHEREAS**, the Town Council of the Town of Little Elm, Texas has determined that the initial increase in annuities authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the Board of Trustees of the System ("Board"). Pursuant to TMRS Act §853.404, an increase in retirement annuities shall be made on January 1 of each subsequent year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

**WHEREAS**, the Town of Little Elm, Texas (the "Town"), elected to participate in the Texas Municipal Retirement System (the "System" or "TMRS") pursuant to Subtitle G of Title 8, Texas Government Code, as amended (which subtitle is referred to as the "TMRS Act"); and

**WHEREAS**, House Bill 2464, 88th Texas Legislature, R.S., 2023 ("HB 2464"), added Subsections 853.404(f) and (f-1) to the TMRS Act and authorized cities participating in the System to provide certain retirees and their beneficiaries with an annually accruing ("repeating") annuity increase (also known as a cost of living adjustment, or "COLA") based on the change in the Consumer Price Index for All Urban Consumers for the one-year period that ends 12 months before the January 1 effective date of the applicable COLA (a "non-retroactive repeating COLA"); and

**WHEREAS**, new TMRS Act §853.404(f) and (f-1) allow participating cities to elect to provide non-retroactive repeating COLAs under certain circumstances, as further described by this Ordinance, by adopting an ordinance to be effective January 1 of 2024, 2025 or 2026, in accordance with TMRS Act §854.203 and §853.404; and

**WHEREAS**, TMRS Act §853.404(f-1) provides the non-retroactive repeating COLA option applies only to a participating Town that, as of January 1, 2023, either (1) has not passed an annually repeating COLA ordinance under TMRS Act §853.404(c) or had previously passed a repeating COLA ordinance and then, before January 1, 2023, passed an ordinance rescinding

such repeating COLA, or (2) does provide an annually repeating COLA under §853.404(c) and elects to provide a non-retroactive repeating COLA under §853.404(f) for purposes of maintaining or increasing the percentage amount of the COLA; and

**WHEREAS**, the Town Council acknowledges that the Town meets the above-described criteria under §853.404(f-1) and is eligible to elect a non-retroactive repeating COLA under §853.404(f) and that such election must occur before January 1, 2026, and after that date future benefit changes approved by the Town may require reversion to a retroactive repeating COLA; and

**WHEREAS**, the Town Council finds that it is in the public interest to: (1) adopt annually accruing non-retroactive COLAs for retirees and their beneficiaries under TMRS Act §853.404(f) and (f-1); and (2) in accordance with TMRS Act §853.404 and §854.203(h), reauthorize annually accruing Updated Service Credits and transfer Updated Service Credits, now:

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

**Section 1. Adoption of Non-Retroactive Repeating COLAs.**

(a) On the terms and conditions set out in TMRS Act §854.203 and §853.404, the Town authorizes and provides for payment of the increases described by this Section to the annuities paid to retired Town employees and beneficiaries of deceased Town retirees (such increases also called COLAs). An annuity increased under this Section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this Section is computed in accordance with TMRS Act §853.404(f) as the sum of the prior service and current service annuities, as increased in subsequent years under TMRS Act §854.203 or TMRS Act §853.404(c), of the person on whose service the annuities are based on the effective date of the annuity increase, multiplied by 70% of the percentage change in the Consumer Price Index for All Urban Consumers during the 12-month period ending in December of the year that is 13 months before the effective date of the increase under this Section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation under this Section does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed under this Section.

(e) In accordance with TMRS Act §853.404(f-1)(2), an increase under this Section only applies with respect to an annuity payable to a TMRS member, or their beneficiary(ies), which annuity is based on the service of a TMRS member who retired, or who is deemed to have retired under TMRS Act §854.003, not later than the last day of December of the year that is 13 months before the effective date of the increase under this Section.

(f) The amount of an increase under this Section is an obligation of this Town and of its account in the benefit accumulation fund of the System.

(g) The initial increase in annuities authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the Board of Trustees of the System ("Board"). Pursuant to TMRS Act §853.404, an increase in retirement annuities shall be made on January 1 of each subsequent year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

## **Section 2: Authorization of Annually Accruing Updated Service Credits and Transfer Updated Service Credits.**

(a) As authorized by TMRS Act §854.203(h) and §853.404, and on the terms and conditions set out in TMRS Act §§853.401 through 853.404, the Town authorizes each member of the System who on the first day of January of the calendar year immediately preceding the January 1 on which the Updated Service Credits will take effect (i) has current service credit or prior service credit in the System by reason of service to the Town, (ii) has at least 36 months of credited service with the System, and (iii) is a TMRS-contributing employee of the Town, to receive "Updated Service Credit," as that term is defined and calculated in accordance with TMRS Act §853.402.

(b) The Town authorizes and provides that each employee of the Town who (i) is eligible for Updated Service Credits under Subsection (a) above, and (ii) who has unforfeited prior service credit and/or current service credit with another System-participating municipality or municipalities by reason of previous employment, shall be credited with Updated Service Credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in TMRS Act §853.601 (also known as "Transfer USC"), both as to the initial grant and all future grants under this Ordinance.

(c) The Updated Service Credit authorized and provided under this Ordinance shall be 100% of the "base Updated Service Credit" of the TMRS member calculated as provided in TMRS Act §853.402.

(d) Each Updated Service Credit authorized and provided by this Ordinance shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(e) The initial Updated Service Credit authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the System's Board. Pursuant to TMRS Act §853.404, the authorization and grant of Updated Service Credits in this Section shall be effective on January 1 of each subsequent year, using the same percentage of the "base Updated Service Credit" stated in Subsection (c) in computing Updated Service Credits for each future year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).



### **Section 3: Severability Clause.**

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

### **Section 4. Effective Date.**

This Ordinance shall become effective from and after its adoption and publications as required by law.

**PASSED AND APPROVED on this the 16th day of July 2024.**

Curtis J. Cornelious, Mayor

**ATTEST:**

Caitlan Biggs, Town Secretary

**APPROVED AS TO FORM:**

Town Attorney, Robert Brown

## 2025 Rates • Little Elm

June 18, 2024

Plan Provisions	Current	Option 1
Employee Contribution Rate	7%	7%
City Matching Ratio	2 to 1	2 to 1
Updated Service Credit (USC)	100% (Repeating)	100% (Repeating)
Transfer USC *	Yes	Yes
COLA	70% (Repeating)	70% (Repeating)
Retroactive COLA	Yes	No
Retirement Eligibility Any Age	20 years	20 years
Vesting	5 years	5 years
Supplemental Death Benefit	Actives + Retirees	Actives + Retirees
Contribution Rates	2025	2025
Normal Cost Rate	11.63%	11.46%
Prior Service Rate	<u>2.34%</u>	<u>2.15%</u>
Retirement Rate	<b>13.97%</b>	<b>13.61%</b>
Supplemental Death Rate	<u>0.14%</u>	<u>0.14%</u>
Total Contribution Rate	<b>14.11%</b>	<b>13.75%</b>
Unfunded Actuarial Liability	\$8,548,723	\$7,830,002
Funded Ratio	88.3%	89.2%
Benefit Increase Amortization Period	20 years	20 years

\* As of the December 31, 2023 valuation date, there were 74 employees with service in other TMRS cities eligible for transfer USC.



June 25, 2024

Kelly Wilson  
Chief Financial Officer  
Town of Little Elm  
100 W Eldorado Pkwy  
Little Elm, TX 75068-5060

Dear Ms. Wilson:

We are pleased to enclose a model ordinance for your town to adopt:

**100% Updated Service Credit with Transfers  
&  
70% Non-retroactive Cost of Living Adjustment Increase to Annuitants  
Both Annually Repeating  
Both Effective January 1, 2025**

By statute, when a town offers Updated Service Credit (USC) on an annually repeating basis, the town must readopt this annually repeating provision when adopting a Cost of Living Adjustment (COLA). Therefore, the enclosed ordinance includes the town's readoption of this benefit.

By adopting this ordinance, the town will not have to adopt an ordinance each year to reauthorize the calculation of Updated Service Credit and Cost of Living Adjustment. These benefits will remain in effect for future years until such time as they are discontinued by an ordinance adopted by the Town Council.

With the adoption of these benefits, the town's contribution rate will be **13.75%** beginning January 1, 2025.

Please make sure the ordinance is adopted and signed before the effective date. When the ordinance is adopted, please send a copy to City Services at [cityservices@tmrs.com](mailto:cityservices@tmrs.com).

If you have any questions about the model ordinance or anything else, please call me at 512-225-3742.

Sincerely,

A handwritten signature in blue ink, appearing to read "Colin Davidson", is written over a light blue circular stamp.

Colin Davidson  
Director of City and Member Services

TEXAS MUNICIPAL RETIREMENT SYSTEM

P.O. Box 149153 • Austin, Texas 78714-9153  
800-924-8677 • [www.tmrs.com](http://www.tmrs.com)



**Date:** 07/16/2024  
**Agenda Item #:** 4. C.  
**Department:** Administrative Services  
**Strategic Goal:** Maximize community recreation and leisure activities  
**Staff Contact:** Jennette Espinosa, EDC Executive Director

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#### **AGENDA ITEM:**

Consider Action to Approve the **Performance Agreement between Lakefront Ice Cream, LLC; dba as Stella's Ice Cream, and Little Elm Economic Development.**

#### **DESCRIPTION:**

The requirements detailed in this Performance Agreement between Lakefront Ice Cream, LLC and Little Elm EDC are as follows:

#### **Covenants of the Developer**

- **Construction of Qualified Expenditures:** Developer covenants and agrees to construct or cause to be constructed the Qualified Expenditures located on the Property for an amount not less than **Three Hundred Thousand and No/100 Dollars (\$300,000.00)**. Further, Developer covenants and agrees to submit upon request to the LEEDC invoices, receipts, or other documentation for the Qualified Expenditures made to the Property in an amount of not less than **Three Hundred Thousand and No/100 Dollars (\$300,000.00)** and in a form acceptable to the Town by **December 31, 2024**.
- **Certificate of Occupancy:** Developer covenants and agrees to obtain or cause to be obtained by **December 31, 2024**, for a minimum of 1,617 square feet of Lakefront Ice Cream retail space.
- **Job Creation and Retention:** Developer covenants and agrees by **December 31, 2024**, and during the Term of this Agreement to employ and maintain a **minimum of three and one-half (3.5) Full-Time Equivalent Employment Positions** working at the Property.
- **Chamber of Commerce Membership:** Developer agrees to obtain and maintain a **Pontoon level** annual membership or higher with the Little Elm Chamber of Commerce for the Term of this Agreement.

#### **Covenants of the EDC**

- **Financial Assistance:** LEEDC covenants and agrees to submit reimbursement for Qualified Expenditures made by the Developer pursuant to Section 4(a) of this Agreement, in an amount **not to exceed the lesser of Eighty Thousand Eight Hundred Fifty and No/100 Dollars (\$80,850.00)** or the aggregate amount of said invoices, receipts, or other documentation submitted by the Developer to LEEDC within thirty (30) days of receipt of said documentation required by and consistent with Section 4(a) of this Agreement.

**BUDGET IMPACT:**

The budget impact for this item is the Qualified Expenditures the EDC is contributing towards tenant-finish out in the amount of \$50 per square foot totaling, not to exceed, **Eighty Thousand Eight Hundred Fifty and No/100 Dollars (\$80,850.00)**. This incentive has been included in the 2023-2024 fiscal budget and will be coded to the Incentives category.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Stella's Performance Agreement

## **PERFORMANCE AGREEMENT**

This **PERFORMANCE AGREEMENT** by and between the **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation (hereinafter referred to as the "LEEDC"), and **LAKEFRONT ICE CREAM LLC**, d/b/a Stella's Ice Cream, a Texas limited liability company (hereinafter referred to as "Developer"), is made and executed on the following recitals, terms and conditions.

**WHEREAS**, LEEDC is an economic development corporation operating pursuant to Chapter 504 of the Texas Local Government Code, as amended (also referred to as the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

**WHEREAS**, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean "expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . ."; and

**WHEREAS**, Section 501.158 of the Texas Local Government Code prohibits the provision of a direct incentive unless LEEDC enters into an Agreement with Developer providing at a minimum a schedule of additional payroll or jobs to be created or retained by LEEDC's investment; a schedule of capital investments to be made as consideration for any direct incentives provided by LEEDC to Developer; and a provision specifying the terms and conditions upon which repayment must be made should Developer fail to meet the agreed to performance requirements specified in this Agreement; and

**WHEREAS**, Developer has applied to LEEDC for financial assistance necessary for the construction of Qualified Expenditures, as defined herein, to the Property generally located at 303 E. Eldorado Parkway, Suite 102, Town of Little Elm, Texas (hereinafter referred to as the "Property"); and

**WHEREAS**, the LEEDC's Board of Directors have determined the reimbursement provided to Developer for the Qualified Expenditures made to the Property is consistent with and meets the definition of "project" as that term is defined in Section 501.103 of the Texas Local Government Code; and the definition of "cost" as that term is defined by Section 501.152 of the Texas Local Government Code; and

**WHEREAS**, Developer agrees and understands that Section 501.073(a) of the Texas Local Government Code requires the Town Council of the Town of Little Elm, Texas, to approve all programs and expenditures of the LEEDC, and accordingly this Agreement is not effective until Town Council has approved this project at a Town Council meeting called and held for that purpose.

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

**SECTION 1. FINDINGS INCORPORATED.**

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

**SECTION 2. TERM.**

This Agreement shall be effective as of the Effective Date, and shall continue thereafter until **December 31, 2028**, unless terminated sooner under the provisions hereof.

**SECTION 3. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- (a) **Act.** The word “Act” means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word “Agreement” means this Performance Agreement, together with all exhibits and schedules attached to this Performance Agreement from time to time, if any.
- (c) **Developer.** The words “Developer” mean Lakefront Ice Cream LLC, a Texas limited liability company, d/b/a Stella’s Ice Cream, its successors and assigns, whose address for the purposes of this Agreement is 303 E. Eldorado Parkway, Suite 102, Little Elm, Texas 75068.
- (d) **Effective Date.** The words “Effective Date” mean the date of the latter to execute this Agreement by and between the LEEDC and Developer.
- (e) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (f) **Full-Time Equivalent Employment Positions.** The words “Full-Time Equivalent Employment Position” or “Full-Time Equivalent Employment Positions” mean and include a job requiring a minimum of One Thousand Nine Hundred Twenty (1,920) hours of work averaged over a twelve (12) month period.
- (g) **LEEDC.** The term “LEEDC” means the Little Elm Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 100 W. Eldorado Parkway, Little Elm, Texas 75068.

- (h) **Property.** The word “Property” means 303 E. Eldorado Parkway, Suite 102, Little Elm, Texas.
- (i) **Qualified Expenditures.** The words “Qualified Expenditures” mean those expenditures consisting of tenant finish out expenses and those expenses which otherwise meet the definition of “project” as that term is defined by Section 501.103 of the Act, and the definition of “cost” as that term is defined by Section 501.152 of the Act.
- (j) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

#### **SECTION 4. AFFIRMATIVE COVENANTS OF DEVELOPER.**

Developer covenants and agrees with LEEDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Construction of Qualified Expenditures.** Developer covenants and agrees to construct or cause to be constructed the Qualified Expenditures located on the Property for an amount not less than **Three Hundred Thousand and No/100 Dollars (\$300,000.00)**. Further, Developer covenants and agrees to submit upon request to the LEEDC invoices, receipts, or other documentation for the Qualified Expenditures made to the Property in an amount of not less than **Three Hundred Thousand and No/100 Dollars (\$300,000.00)** and in a form acceptable to the Town by **December 31, 2024**.
- (b) **Certificate of Occupancy.** Developer covenants and agrees to obtain or cause to be obtained by **December 31, 2024**, a Certificate of Occupancy from the Town of Little Elm, Texas, for a minimum of 1,617 square feet of Lakefront Ice Cream retail space located on the Property.
- (c) **Operate Retail Facility.** Developer covenants and agrees by **December 31, 2024**, and during the Term of this Agreement to keep open to the general public during normal operating hours the Lakefront Ice Cream retail facility located on the Property.
- (d) **Job Creation and Retention.** Developer covenants and agrees by **December 31, 2024**, and during the Term of this Agreement to employ and maintain a minimum of **three and one-half (3.5)** Full-Time Equivalent Employment Positions working at the Property. Developer covenants and agrees beginning on **February 1, 2025**, and during the Term of this Agreement, Developer shall deliver to LEEDC an annual compliance verification signed by a duly authorized representative of Developer that shall certify the number of Full-Time Equivalent Employment Positions, and shall disclose and certify the average wage for all Full-Time Equivalent Employment Positions (the “Annual Compliance Verification”). The Developer covenants and agrees beginning on **February 1, 2025**, and annually thereafter during the Term of this Agreement, there will be a total of **four (4)** Annual Compliance Verifications due and submitted to LEEDC covering the Full-Time Equivalent Employment Positions created and maintained during the Term of this



Agreement. All Annual Compliance Verifications shall include quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports.

- (e) **Chamber of Commerce Membership.** Developer agrees to obtain and maintain a Pontoon level annual membership or higher with the Little Elm Chamber of Commerce for the Term of this Agreement.
- (f) **Performance Conditions.** Developer agrees to make, execute and deliver to LEEDC such other promissory notes, instruments, documents and other agreements as LEEDC or its attorneys may reasonably request to evidence this Agreement.
- (g) **Performance.** Developer agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between Developer and LEEDC.

#### **SECTION 5. AFFIRMATIVE COVENANTS OF LEEDC.**

LEEDC covenants and agrees with Developer that, while this Agreement is in effect, LEEDC shall comply with the following terms and conditions:

- (a) **Financial Assistance.** LEEDC covenants and agrees to submit reimbursement for Qualified Expenditures made by the Developer pursuant to Section 4(a) of this Agreement, in an amount not to exceed the lesser of **Eighty Thousand Eight Hundred Fifty and No/100 Dollars (\$80,850.00)** or the aggregate amount of said invoices, receipts, or other documentation submitted by the Developer to LEEDC within thirty (30) days of receipt of said documentation required by and consistent with Section 4(a) of this Agreement.
- (b) **Performance.** LEEDC agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between LEEDC and the Developer.

#### **SECTION 6. CESSATION OF ADVANCES.**

If LEEDC has made any commitment to make any reimbursement to Developer, whether under this Agreement or under any other agreement, LEEDC shall have no obligation to advance or disburse financial assistance if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs.

#### **SECTION 7. EVENTS OF DEFAULT.**

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **General Event of Default.** Failure of Developer or LEEDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer or LEEDC to comply with or to perform any other term, obligation, covenant or

condition contained in any other agreement by and between Developer and LEEDC is an Event of Default.

- (b) **False Statements.** Any warranty, representation, or statement made or furnished to LEEDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.
- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.
- (d) **Ad Valorem Taxes.** Developer allows its ad valorem taxes owed to the Town of Little Elm, Texas, to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof from LEEDC and/or Denton County Central Appraisal District is an Event of Default.

## **SECTION 8. EFFECT OF AN EVENT OF DEFAULT.**

In the event of default under Section 7 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement. In the event, Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts provided by LEEDC to Developer pursuant to Section 5(a) of this Agreement shall become immediately due and payable by Developer to LEEDC as follows:

- (1) Event of Default occurs between Effective Date and **December 31, 2025**, Developer repays one hundred percent (100%) of financial assistance or **Eighty Thousand Eight Hundred Fifty and No/100 Dollars (\$80,850.00)**;
- (2) Event of Default occurs between **January 1, 2026** and **December 31, 2026**, Developer repays seventy-five percent (75%) of financial assistance or **Sixty Thousand Six Hundred Thirty Seven and 50/100 Dollars (\$60,637.50)**;
- (3) Event of Default occurs between **January 1, 2027** and **December 31, 2027**, Developer repays fifty percent (50%) of financial assistance or **Forty Thousand Four Hundred - Twenty Five and No/100 Dollars (\$40,425.00)**; and
- (4) Event of Default occurs between **January 1, 2028** and **December 31, 2028**, Developer repays twenty-five percent (25%) of financial assistance or **Twenty Thousand Two Hundred Twelve and 50/100 Dollars (\$20,212.50)**.

## SECTION 9. INDEMNIFICATION.

Developer shall indemnify, save, and hold harmless LEEDC, its directors, officers, agents, attorneys, and employees (collectively, the "Indemnitees") from and against: (i) any and all claims, demands, actions or causes of action that are asserted against any Indemnatee if the claim, demand, action or cause of action directly or indirectly relates to tortious interference with contract or business interference, or wrongful or negligent use of LEEDC's financial assistance by Developer or its agents and employees; (ii) any administrative or investigative proceeding by any governmental authority directly or indirectly related, to a claim, demand, action or cause of action in which LEEDC is a disinterested party; (iii) any claim, demand, action or cause of action which directly or indirectly contests or challenges the legal authority of LEEDC or Developer to enter into this Agreement; and (iv) any and all liabilities, losses, costs, or expenses (including reasonable attorneys' fees and disbursements) that any Indemnatee suffers or incurs as a result of any of the foregoing; provided, however, that Developer shall have no obligation under this Section to LEEDC with respect to any of the foregoing arising out of the gross negligence or willful misconduct of LEEDC or the breach by LEEDC of this Agreement. If any claim, demand, action or cause of action is asserted against any Indemnatee, such Indemnatee shall promptly notify Developer, but the failure to so promptly notify Developer shall not affect Developer's obligations under this Section unless such failure materially prejudices Developer's right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. If requested by Developer in writing, as so long as no Default or Event of Default shall have occurred and be continuing, such Indemnatee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit Developer to participate in such contest. Any Indemnatee that proposes to settle or compromise any claim, demand, action, cause of action or proceeding for which Developer may be liable for payment of indemnity hereunder shall give Developer written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such claim or proceeding and shall obtain Developer's concurrence thereto.

## SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Denton County, Texas.
- (c) **Assignment.** This Agreement may not be assigned without the express written consent of

the other party.

- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Developer warrants and represents that the individual or individuals executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. LEEDC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to LEEDC:

Little Elm Economic Development Corporation  
100 W. Eldorado Parkway  
Little Elm, Texas 75068  
Attn: Jennette Espinosa, Executive Director  
Telephone: (214) 975-0455

if to Developer:

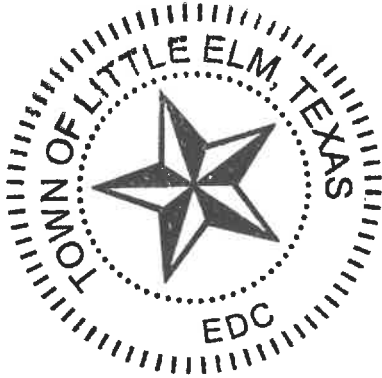
Lakefront Ice Cream, LLC  
2701 Little Elm Parkway, Suite 100-498  
Little Elm, Texas 75068  
Attn: Pavana Vennapusa  
Telephone: (515) 231-9531

- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- (i) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (j) **Undocumented Workers.** Developer certifies that the Developer does not and will not

knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of six percent (6%), not later than the 120<sup>th</sup> day after the date the LEEDC notifies Developer of the violation.

**[The Remainder of this Page Intentionally Left Blank]**

THE PARTIES ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND THE PARTIES HEREBY AGREE TO ITS TERMS. THIS AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE PROVIDED HEREIN.



**LEEDC:**

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

By: \_\_\_\_\_  
Ken Eaken, President  
Date Signed: July 8, 2024

**ATTEST:**

\_\_\_\_\_  
Jennette Espinosa, Executive Director

STATE OF TEXAS                   §  
   §  
COUNTY OF DENTON           §

This instrument was acknowledged before me on the 8<sup>th</sup> day of July, 2024, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.

Natasha Leigh Roach  
Notary Public, State of Texas



**APPROVED BY TOWN OF LITTLE ELM, TEXAS:**

\_\_\_\_\_  
Curtis J. Cornelious, Mavor

Date Signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Caitlan Biggs, Town Secretary



**DEVELOPER:**

***LAKEFRONT ICE CREAM LLC,***

d/b/a Stella's Ice Cream,

a Texas limited liability company,

By: D. Pau Kim  
Name: PAVANA VENNAPUSA  
Member  
Date Signed: 6/10/24

**STATE OF TEXAS**

§  
§  
§

**COUNTY OF DENTON**

This instrument was acknowledged before me on the 10<sup>th</sup> day of June, 2024, by PAVANA VENNAPUSA of Lakefront Ice Cream LLC, a Texas limited liability company, a Texas limited liability company, on behalf of said company.

Smruti Shete  
\_\_\_\_\_  
Notary Public, State of Texas





**Date:** 07/16/2024  
**Agenda Item #:** 4. D.  
**Department:** Development Services  
**Strategic Goal:** Provide a safe and welcoming environment for Little Elm residents and visitors  
**Staff Contact:** Fred Gibbs, Director of Development Services

---

**AGENDA ITEM:**

Consider Action to Approve **Authorization to the Town Manager to Execute the Home Improvement Tax Incentive Program Agreement for 2713 North Wavecrest Court.**

**DESCRIPTION:**

In 2017, the Town initiated a Home Improvement Incentive Program, open to all single-family residential property owners. The incentive program applies to improvements made to the exterior or interior of a residence, as well as permanent improvements to the lot, such as an in-ground pool or outdoor kitchen. The incentive is based on the increase in the Town property tax on the residence in the first full tax year following the completion of the improvements. The incentive amount is calculated as follows: the Town tax increase multiplied by ten (tax increase X 10). Payments shall be paid to the homeowner in one lump sum.

All homeowners in single-family zoned areas are eligible to participate, except those who are delinquent in property taxes or other fees. To qualify, improvement project(s) involving the reconstruction or remodeling of a single-family home must cost at least \$20,000 and be completed within 24 months of execution of this Agreement. After applying for the program, Staff must approve the project before the property owner moves forward with improvements. Staff will conduct inspections as necessary. Once work is completed, Staff will do a final inspection, review the provided receipts for the scope of work completed, and initiate the incentive amount to the homeowner based on the tax increase between the appraised taxable property value at the time of application and the appraised taxable property value one year after completion of the improvements.

Staff will continue to work with the current property owner of 2713 North Wavecrest Court, Jeremy and Ericka Allen, in the redevelopment of their property pursuant to the Agreement.

Proposed projects the property owners intend to complete include, but are not limited to, replacing and upgrading of all flooring on 1st floor, replacing front and back doors, replacing kitchen cabinets, and adding new lighting and a ceiling fan.

**BUDGET IMPACT:**



The Agreement details the property owners have up to 24 months to complete their project(s). The impacted budget will have funding for the Home Improvement Tax Incentive Program that is in the adopted budget; the anticipated range of the incentive payment is between \$2,000-\$5,000. The funds will be allocated from the General Fund within the Finance Department's operating budget.

**RECOMMENDED ACTION:**

Staff recommends approval.

---

**Attachments**

HIIP Agreement 2713 N Wavecrest

Quotes 2713 N Wavecrest Court

STATE OF TEXAS	§	TOWN OF LITTLE ELM, TEXAS
	§	QUALIFYING HOME IMPROVEMENT TAX INCENTIVE PROGRAM
DENTON COUNTY	§	AGREEMENT

This Qualifying Home Improvement Tax Incentive Program Agreement ("**Agreement**") is made by and between the Town of Little Elm, Texas ("**Town**") and Jeremy and Ericka Allen ("**Property Owner**") (each a "**Party**" or collectively the "**Parties**"), acting by and through their respective authorized officers and representatives.

**WITNESSETH:**

**WHEREAS**, the Property Owner is the owner of the real property located at 2713 N Wavecrest Court, Little Elm, TX 75068 (the "**Property**"); and

**WHEREAS**, Texas Local Government Code Chapter 380 allows the Town to provide incentives for the promotion of economic development; and

**WHEREAS**, the promotion of the redevelopment of existing housing stock in the Town promotes economic development within the Town and is essential for the continued economic growth and vitality of the Town; and

**WHEREAS**, it is well established that the availability of quality housing stock encourages the relocation of businesses and attracts new business enterprises, as well as the expansion of existing business enterprises within the Town, which in turn stimulates growth, creates jobs and increases property and sales tax revenues; and

**WHEREAS**, the promotion of the housing stock is a major contributing factor to the growth of the Town, which in turns stimulates trade and commerce and reduces unemployment; and

**WHEREAS**, residential development and redevelopment will attract and encourage business relocation and expansion since business will look to the available housing stock to meet the needs of management and the work force; and

**WHEREAS**, the Town has determined that providing an economic development incentive in accordance with this Agreement will further the objectives of the Town, will benefit the Town and the Town's inhabitants and will promote local economic development and stimulate business and commercial activity in the Town.

**NOW THEREFORE**, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## **Article I Term**

The term of this Agreement shall begin on the Effective Date and continue until the Expiration Date, unless sooner terminated, as provided herein.

## **Article II Definitions**

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Approved Project” shall mean a project for home improvements, modifications or remodeling of the Property as approved by the Town’s Director of Development Services as being eligible for an incentive under the Home Improvement Tax Incentive Program.

“Bankruptcy or Insolvency” shall mean insolvency, appointment of receiver for the Property Owner and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against the Property Owner and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Commencement of Construction” shall mean that (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for the Approved Project; and (ii) all necessary permits for the construction of the Approved Project have been issued by all applicable governmental authorities.

“Completion of Construction” shall mean the date of the final Home Improvement Tax Incentive Program inspection of the Property by the Town’s Director of Development Services, or designee, following the completion of construction of the Approved Project.

“Effective Date” shall mean the last date of execution hereof.

“Expiration Date” shall mean two (2) years from the Effective Date.

“Home Improvement Tax Incentive Program” shall mean the Town of Little Elm Home Improvement Tax Incentive Program adopted by Town of Little Elm Ordinance No. 1433, as amended. The Home Improvement Program is limited to one approved project per location per calendar year. A proposed project for home improvements, modifications or remodeling of a property is not eligible for an incentive under the Home Improvement Tax Incentive Program while an Approved Project is pending and has not been completed.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special,



ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Property Owner or any property or any business owned by Property Owner within the Town.

“Incentive” shall mean an economic development incentive in an amount equal to ten (10) times the amount of increase in property taxes for the Property for the first tax year following the date of Completion of Construction as the result of the increase in the Taxable Value of the Improvements, under the Home Improvement Tax Incentive Program as determined by the Director of Development Services for the Approved Project.

“Property” shall mean the real property, including the improvements, located at 2713 N Wavecrest Court, Little Elm, TX 75068.

“Property Owner” shall mean the owner of the Property.

“Taxable Value” shall mean the appraised value of the Property as certified by the Denton County Appraisal District, or its successor entity, as of January 1 of a given year.

“Town” shall mean the Town of Little Elm, Texas.

### **Article III Economic Development Incentive**

3.1 **Payment.** Subject to the Property Owner’s continued satisfaction of the terms and conditions of this Agreement and the obligation of the Property Owner to repay the Incentive pursuant to Section 5.2 hereof, the Town agrees to provide the Incentive to the Property Owner to be paid in a single lump-sum payment on or about April 1 of the first full calendar year following the date of Completion of Construction. For example, assume that the Approved Project is completed on June 30, 2019, and that the 2020 property taxes for the Property increased \$500.00 above the 2019 property taxes as a result of the Approved Project, then the total Incentive would be \$5,000.00, and would be paid on or about April 1, 2021. The incentive amount will be finally conveyed and accepted by the property owner and the Town in the economic development agreement in advance of the incentive payment pursuant to Section 4.4 hereof.

3.2 **Current Revenue.** The Incentive made hereunder shall be paid solely from lawfully available funds that have been appropriated by the Town. Under no circumstances shall the Town’s obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the Town’s obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution or other Party.

### **Article IV Incentive Conditions**

The obligation of the Town to pay the Incentive shall be conditioned upon the continued compliance with and satisfaction of the terms and conditions of this Agreement by the Property

Owner and each of the conditions set forth in this Article.

**4.1 Inspections.** The Property Owner agrees to submit to periodic inspections of the Property by the Town during the period beginning with the date of Commencement of Construction and ending on date of Completion of Construction.

**4.2 Construction Costs.** The construction costs incurred and paid by the Property Owner for the Approved Project shall be at least \$20,000.00 (the "Certified Construction Acceptable Costs"). The Property Owner shall, as a condition precedent to the payment of the Incentive, provide copies of invoices, receipts and other documentation as may be reasonably requested by the Town to verify the costs incurred and paid by the Property Owner for construction of the Approved Project.

**4.3 Completion of Construction.** The Property Owner shall cause Completion of Construction of the Approved Project to occur on or before twenty-four (24) calendar months after the Town approval of this Development Agreement. The Property Owner shall request the Director of Development Services inspect the Approved Project on or before twenty-four (24) calendar months after the Town approval of the Property Owner's proposed project for an Incentive. The Property Owner shall cause Completion of Construction of the Approved Project to occur prior to any sale or transfer of the Property to another person, company or other entity, unless the Agreement has been assigned by the Property Owner as permitted in Section 6.1.

**4.4 Approval of Economic Development Agreement.** Provided that all documentation of payments made by the Property Owner has been received Town, the amount of the incentive shall be determined by the Director of Development Services, whose decision shall be final in all respects. The incentive amount will be finally conveyed and accepted by the property owner and the Town in the economic development agreement in advance of the incentive payment. The economic development agreement shall be executed by the Property Owner and the Town prior to the Incentive Payment.

## **Article V Termination**

**5.1** This Agreement shall terminate upon the occurrence of any one of the following:

- (a) Mutual agreement of the Parties;
- (b) The Expiration Date;
- (c) At the Town's option, if any Impositions owed to the Town or the State of Texas by Property Owner shall become delinquent (provided, however, Property Owner retains the right to timely and properly protest and contest any such Impositions);
- (d) By the Town, in the event Property Owner breaches any of the terms or conditions of this Agreement and such breach is not cured within sixty (60) days after written notice thereof;



- (e) By the Town, if the Property Owner suffers an event of Bankruptcy or Insolvency;
- (f) By the Town, if any subsequent Federal or State legislation or any final, non-appealable decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable; or
- (g) The sale or transfer of the Property following one assignment of this Agreement as provided herein.

5.2 In the event of termination by the Town pursuant to 5.1(c), (d), (e), (f) or (g), the Property Owner shall immediately repay to the Town an amount equal to Incentive paid to Property Owner, if any, prior to termination of this Agreement.

## **Article VI Miscellaneous**

6.1 **Assignment.** This Agreement may not be assigned without the prior written consent of the Town, except that this Agreement may be assigned by the Property Owner one (1) time in connection with the sale or transfer of the ownership (including a life estate) of the Property to a subsequent owner of the Property upon thirty (30) days prior written notice to the Town. This Agreement shall automatically terminate upon any subsequent sale or transfer of the ownership of the Property.

6.2 **Binding Agreement.** The terms and conditions of this Agreement are binding upon the successors and assigns of the Parties hereto.

6.3 **Limitation on Liability.** It is understood and agreed between the Parties that the Property Owner, in satisfying the conditions of this Agreement, has acted independently, and Town assumes no responsibilities or liabilities to third Parties in connection with these actions.

6.4 **No Joint Venture.** It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties.

6.5 **Authorization.** Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.6 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three days thereafter sent by United States Mail, postage prepaid, addressed to the Party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered.

If intended for Property Owner, to:  
Jeremy and Ericka Allen  
2713 N Wavecrest Court  
Little Elm, TX 75068

If intended for Town, to:  
Attn: Development Services  
100 W. Eldorado Parkway  
Little Elm, TX 75068

6.7 **Entire Agreement.** This Agreement is the entire Agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

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

6.9 **Amendment.** This Agreement may only be amended by the mutual written agreement of the Parties.

6.10 **Legal Construction.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.11 **Recitals.** The recitals to this Agreement are incorporated herein.

6.12 **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.

6.13 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.14 **Employment of Undocumented Workers.** During the term of this Agreement the Property Owner agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a (f), the Property Owner shall repay the amount of the Grant and any other funds received by the Property Owner from the Town as of the date of such violation within one hundred twenty (120) days after the date the Property Owner is notified by the Town of such violation, plus interest at the rate of four (4%) compounded annually from the date of violation until paid.

*[Signature Page to Follow]*

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

TOWN OF LITTLE ELM, TEXAS

By: \_\_\_\_\_  
Matt Mueller, Town Manager

EXECUTED on this 5<sup>th</sup> day of July, 2024.

PROPERTY OWNER

Don Allen  
E. Allen



**PROSOURCE DALLAS MARKET CENTER**

1500 DRAGON ST  
 SUITE G  
 DALLAS, TX 75207  
 214-742-3300

**Order Date:** 4/11/2024**Salesperson:** CYNTHIA JONES

**Sold To:**  
 MCGRATH, JESSICA  
 2612 TROPHY DRIVE  
 PLANO, TX 75025  
 469-233-3142  
 469-233-3142

**Ship To:**  
 PS DALLAS MARKET CENTER  
 469-233-3142

**Invoice Number:** DA927306**PO Number:** ALLEN LVP

Description	Quantity	Unit Price	Amount
INDOOR DELIGHT COLLECTION - 9" X 72" - SPC: FORTRESS DAWN	1200.45 SF	\$3.11	\$3,733.40
LIONS TRIM END CAP FOR FORTRESS DAWN 8" X 1.378" X 0.394": FORTRESS DAWN	3 EA	\$21.80	\$65.40
LIONS TRIM T-MOLDING FOR FORTRESS DAWN 8" X 1.787" X 0.323": FORTRESS DAWN	1 EA	\$21.80	\$21.80
FREIGHT	1 EA	\$75.00	\$75.00
DASTOCK 6MIL BLACK POLY: 100 SF ROLL	12 EA	\$13.65	\$163.80
			<b>Sales tax:</b>
			<b>\$334.90</b>
			<b>Total: \$4,394.30</b>
			<b>Paid: \$4,394.30</b>
			<b>Balance Due: \$0.00</b>

line 1: lvp

line 2: end cap for tranisition to carpet : 7.83 'long

line 3: tmold : 7.83'long

APRIL EVENT DISCOUNT PRICING APPLIED. 04/03/24 - 15:42:27 : dmc01

Payment Date	Credit Card	Reference	Finance	Paid
4/30/24	Visa - 0230			\$4,394.30
				Total: \$4,394.30



*Jessica McGrath*

Customer Signature

PAID IN FULL

APPROVED  
BY: Jessica McGrath  
DATE: 4/30/24 4:09 PM  
IP address: 47.187.219.49

> Return Policy

Payment Status: **PROCESSING**

Created	Payment Method	Price	Status
May 18, 2024	ACH	\$9,827.92	<b>PROCESSING</b>
Total Listed:		\$9,827.92	

Approved by Allen, Erica on May 18, 2024

**Approved**



2930 Preston Road Suite 980 • Frisco, TX 75034 • Phone: 972-334-9800

Allen, Erica  
Phone: 4692333142

Job Address:  
2713 N Wavecrest Ct  
Little Elm, TX 75068

**Print Date:** 5-18-2024

Insurance Allen, Ericka (2)- group

This Professional Services Agreement (the "Agreement") is made as of the above referenced date between JMTodd Enterprises, LLC (dba Elite Remodeling), a Limited Liability Company, having its principal offices located at 2930 Preston Road Suite 980, Frisco, Texas 75034 and the customer name and job address referenced above.

THIS AGREEMENT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. APPROVAL ETC. All contracts are subject to approval by our Credit Department and Office. SIGNATURES AUTHORIZE CONTRACTOR TO OBTAIN A CREDIT REPORT WHEN APPLICABLE.
2. PAYMENT, ETC. This Contract is made up of Labor Equipment and Materials. Payment shall be made according to the agreed upon payment schedule payable to Elite Remodeling. To induce Contractor to perform the work, Purchaser hereby grants unto Contractor the right to file a Mechanic's and Materialman's Liens for all labor and material rendered. Elite request that all payments be made via personal or bank checks. If the Customer requests to use a credit card, then a 3-4% convenience fee will be added to the appropriate payment amount.
3. DEFAULT, ETC. Should default be made in payment of this contract, charges shall be added from the date thereof at the rate of 18% per annum and if placed in the hand of an attorney or collection agency for collection, all attorney fees, legal and filing fees, court costs, and or collection fees, shall be paid by the Purchaser accepting said contract. Contractor may report any delinquent accounts to the local credit bureau for permanent recordation in Purchaser's credit record.

4. **CHANGE REQUESTS.** Elite expects that changes do occur from time to time. If the customer requests a change to the original scope of work, that change shall be documented in an Elite Change Request Form (a copy is contained in Elite's presentation package) or one similar in content and scope, the CRF will contain the price for the change (up or down) and then both Elite and the Customer will sign the Change Request Form. Elite requests that the CRF be paid for in full and prior to the start of the additional work or changes unless arrangements are agreed to by both parties. Elite will also ensure the customer knows in advance if this change will have an impact on the original schedule created for the project.
5. **SUPERVISION AND QUALITY CONTROL.** The contractor shall supervise and direct the work using his best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for contracting and performing all portions of the work and quality and control under the Contract.
6. **DAMAGE, ETC.** Should Purchaser become aware of damage to Purchaser's property by Contractor, his agents, or employees during the course of work stipulated by this contract, said damages shall be brought to the attention of the Contractor within 5 working days of occurrence. If Purchaser fails to notify Contractor of said damage within 5 working days, Purchaser shall waive all rights against Contractor concerning said damage. If this contract involves roofing whether repairs or re-roofing, Purchaser further agrees that the contractor shall not be responsible for damages on or below the roof due to leaks caused by excessive wind (50 mph), wind driven rain, ice, hail during either the roofing process or the subsequent warranty period. Purchaser further agrees that during the duration of the work, the Purchaser's Homeowners Insurance will be responsible for any interior damage, as long as the contractor has taken appropriate action to protect the roof during the roofing process.
7. **DELAYS, ETC** Purchaser hereby acknowledges that Contractor may be subject to delays occasioned by inclement weather, labor disputes, and material supply shortages which are beyond the control of the Contractor and Purchaser hereby accepts any delays occasioned by one or all of the circumstances in the completion of the proposed project engagement.
8. **ACCESS TO WORK.** Purchaser grants Contractor access the patio area of the home for staging and executing of work unless otherwise agreed.
9. **CANCELLATIONS. ETC.** Should Purchaser elect to cancel this contract for any reason later than THREE (3) DAYS from execution, Purchaser agrees to pay Contractor an amount equal to 15% of the total contract price as liquidated damages, not as a penalty. The Contractor agrees to accept such as reasonable and just compensation for said cancellation. If material has to be restocked because of cancellation by the Purchaser prior to the installation of work, there will be an additional fee equal to 15% of contract price.
10. **WARRANTY, ETC.** Contractor will provide a three year, transferable warranty on all labor and materials provide under this contract. This Labor Warranty does not cover damage to roofs caused by lightning, gale (50 mph), hurricane, tornado, hailstorm, impact of foreign objects, or other violent storms of casualty or damage to roofs or building structure due to settlement, distortion, failure or cracking of the roof deck, walls, or foundation of a building. The Contractor shall revoke labor warranty if Contract is not paid in full. Labor and material warranty is transferable.
11. **ADDITIONAL INSURANCE. ETC.** The contract price listed on the face hereof does not include expenses or charges for additional insurance premiums or costs beyond normal insurance coverage, and any such additional expenses required by the Purchaser, premiums, or costs shall be added to the amount of the contract. The Purchaser further agrees that the Contractor shall have no responsibility for damages from fire, tornado, windstorm, rain, theft, or other perils as in normally contemplated to be covered by HOMEOWNERS INSURANCE, COMMERCIAL PROPERTY POLICY, BUSINESS RISK, OR BUILDER'S RISK INSURANCE, unless a specifically written agreement be made thereto prior to commencement of the work.
12. **COMPLETION, ETC.** This contract may not be cancelled once work has commenced except by agreement of the parties to a mutual release.
13. **VERBAL REPRESENTATION, ETC.** Any representation, statements, or other communications, NOT Written ON THIS CONTRACT or statement of work are agreed to be IMMATERIAL, and not relied on by either party, and DO NOT survive the execution of this contract.

14. **DISPUTES.** Any controversy or claim arising out of or relating to this contract or breach thereof, shall be settled by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association (AAA). If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this contract or breach thereof shall be settled by binding arbitration administered by the AAA, in accordance with its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered into any court having jurisdiction thereof.
15. **ROOF EQUIPMENT, ETC.** The Contractor shall not be held responsible for removal or reinstallation of miscellaneous roof equipment, such as solar panels, Ham or other radio or television antennae, satellite dishes or other such equipment, unless specifically included on the face of the contract. Purchaser should contact the provider of said equipment and have them coordinate removal and replacement with our crews.
16. **PRE-EXISTING DAMAGE, ETC.** The contractor shall not be responsible for existing construction or other forms of inherent vice, with the Purchaser's home or building. The Contractor will be happy to submit a proposal for correcting them on a time and material basis, if possible.
17. **ANY PROVISION, ETC.** If any provision of this contract should be held to be invalid or unenforceable, the validity or enforceability of the remaining provisions of the contract shall not be affected thereby.
18. **LIABILITY, ETC.** The maximum liability for the Contractor shall be the face amount of the contract, which Purchaser agrees shall be a liquidated sum, under any event of default of Contractor herein.
19. **EXTENT OF CONTRACT, ETC.** This contract is composed of this page, contract agreement, statement of work and payment schedule and shall be considered the entire contract by all parties.
20. The pricing proposal that accompanies this contract is valid for 30 days from date of presentation, date of email or date the pricing proposal was physically delivered to the customer.
21. **STATE LAW REQUIRES THAT A PERSON HOLD A CERTIFICATE OF REGISTRATION FROM THE TEXAS RESIDENTIAL CONSTRUCTION COMMISSION IF THE PERSON CONTRACTS TO CONSTRUCT A NEW HOME OR IF THE PERSON CONTRACTS TO CONSTRUCT A MATERIAL IMPROVEMENT TO AN EXISTING HOME OR CERTAIN IMPROVEMENTS TO THE INTERIOR OF AN EXISTING HOME AND THE TOTAL COST OF THE IMPROVEMENT IS \$10,000 OR MORE (INCLUDING LABOR AND MATERIALS).**
- **YOU MAY CONTACT THE COMMISSION AT 311 E. 14TH STREET, P.O. BOX 13144, AUSTIN, TX 78711 OR 877.651.8722 OR [WWW.TRCC.STATE.TX.US](http://WWW.TRCC.STATE.TX.US) TO FIND OUT WHETHER THE BUILDER HAS A VALID CERTIFICATE OF REGISTRATION. THE COMMISSION HAS INFORMATION AVAILABLE ON THE HISTORY OF BUILDERS, INCLUDING SUSPENSIONS, REVOCATIONS, COMPLAINTS, AND RESOLUTION OF COMPLAINTS.**
  - **THIS CONTRACT IS SUBJECT TO CHAPTER 426, PROPERTY CODE. THE PROVISIONS OF THAT CHAPTER GOVERN THE PROCESS THAT MUST BE FOLLOWED IN THE EVENT A DISPUTE ARISES OUT OF AN ALLEGED CONSTRUCTION DEFECT. IF YOU HAVE A COMPLAINT CONCERNING A CONSTRUCTION DEFECT YOU MAY CONTACT THE COMMISSION AT THE TOLL-FREE TELEPHONE NUMBER TO LEARN HOW TO PROCEED UNDER THE STATE-SPONSORED INSPECTION AND DISPUTE RESOLUTION PROCESS.**
  - **Elite Remodeling's TRCC Registration Number is: 19338. A copy of this certificate will be provided to you as part of your presentation package.**
22. **TRCC EXPIRATION:** At the conclusion of the 81st regular session of the Texas Legislature, the Texas Residential Construction Commission Act (the "Act") was not extended beyond September 1, 2009. The Act had created warranties and performance

standards for new homes and certain remodeling projects ("TRCCA Warranties"). As a result, any references to the Act or TRCCA Warranties in the Agreement are void after September 1, 2009. However, Builder agrees to provide Buyer with express, written warranties, and performance standards for the Home notwithstanding this change in the law.

23. **RCLA DISCLOSURE:** This contract is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from a construction defect. If you have a complaint concerning a construction defect and that defect has not been corrected as may be required by law or by contract, you must provide the notice required by Chapter 27 of the Texas Property Code to the Builder by certified mail, return receipt requested, not later than the 60th day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code and must describe the construction defect. If requested by the Builder, you must provide the Builder an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.
24. **Effective September 1, 2009, Elite Remodeling will provide their warranty program as part of the Express Home Warranty Program as promulgated by the Texas Association of Builders (TAB).** That program/document describes the standards of performance for the various elements or components of a home as described within that document. Elite Remodeling will extend their labor and materials warranty from one (1) year to a three (3) year transferable. All other warranties are applicable under that program. Elite will provide you a copy of that document upon request.
25. **I/we acknowledge that this contract and scope of work have been reviewed, and I/we confirm that there are no other items that were discussed or promised in the sales and design process that are not already included in this current contract.**

Owners Initials \_\_\_\_\_

Owners Initials \_\_\_\_\_

## 1st Floor- Insurance

1st Floor- Insurance

### General Building

Description	Qty/Unit
Project design & selections with Elite's selections coordinator, construction documents - labor	8
Demo baseboards, & door casings, Remove Drywall 24" only above floor in following locations downstairs powder bath, 11' wall in living room (adjacent to closet interior hall/coat - across from powder closet walls wall at stairway, on living room side only 48" above floor in garage wall adjacent to powder bath, Demo mirror, light fixture, and cabinet in powder bath save to be reinstalled) base cabinet in kitchen next to refrigerator (demo and reinstall countertop over base next to fridge) & general clean up- materials	1
Demo baseboards, & door casings, Remove Drywall 24" only above floor in following locations downstairs powder bath, 11' wall in living room (adjacent to closet interior hall/coat - across from powder closet walls wall at stairway, on living room side only 48" above floor in garage wall adjacent to powder bath, Demo mirror, light fixture, and cabinet in powder bath save to be reinstalled) base cabinet in kitchen next to refrigerator (demo and reinstall countertop over base next to fridge) & general clean up labor	1
Disposal costs	1

Description	Qty/Unit
Final punch-out of project - materials	1
Final punch-out of project - labor	1
<b>General Building Total:</b>	<b>\$5,308.40</b>

1st Floor- Insurance

**Framing & Drywall**

Description	Qty/Unit
Drywall - 1/2" - set new - tape, bed & texture -downstairs powder bath, 11' wall in living room (adjacent to closet interior hall/coat - across from powder closet walls wall at stairway, on living room side only 48" above floor in garage wall adjacent to powder bath,- match existing texture - material	1
Drywall - 1/2" - set new - tape, bed & texture -downstairs powder bath, 11' wall in living room (adjacent to closet interior hall/coat - across from powder closet walls wall at stairway, on living room side only 48" above floor in garage wall adjacent to powder bath,- match existing texture - labor	1
<b>Framing &amp; Drywall Total:</b>	<b>\$3,542.00</b>

1st Floor- Insurance

**Paint & Trim**

Description	Qty/Unit
Baseboards (LF) - detach & set new - replace to match existing baseboards - materials- walls in downstairs area where drywall is not removed	1
Baseboards (LF) - detach & set new - replace to match existing baseboards - labor- walls in downstairs area where drywall is not removed	1
Baseboard - all new baseboard, door casing, and doors on downstairs areas - materials- walls in downstairs area where drywall is removed- not including garage	1
Baseboard - all new baseboard, door casing, and doors on downstairs areas - labor- walls in downstairs area where drywall is removed- not including garage	1
Paint walls & ceiling for entire 1st floor, eggshell or flat finish on walls, eggshell or flat finish on ceilings - materials	1
Paint walls & ceiling for entire 1st floor - eggshell or flat finish on walls, eggshell or flat finish on ceilings - labor	1
Wall light fixture (EA) - wall mounted - remove and replace in same location for wall prep and paint - labor	1
<b>Paint &amp; Trim Total:</b>	<b>\$10,127.36</b>

1st Floor- Insurance

**Plumbing**

Description	Qty/Unit
Washer & dryer - detach & reset in same location using existing hoses - labor	1
Sink - pedestal - detach & reset existing - same location - install new shut-off valves at water supply - installation labor	1

Description	Qty/Unit
Toilet - detach & reset existing - includes installation of new shut-off valve at water supply - labor	1
<b>Plumbing Total:</b>	<b>\$966.00</b>

1st Floor- Insurance <b>Cabinets</b>	
Description	Qty/Unit
Cabinet estimate - replace base cabinet next to refrigerator, blend with existing finish of existing cabinets- as possible - materials	1
Cabinet delivery and installation, install new cabinet at refrigerator, reset existing powder bath wall cabinet- labor	1
Countertop installation - remove and reset existing countertop - excludes breakage -replacement or damage to existing backsplash tile (countertop) - - labor	1
<b>Cabinets Total:</b>	<b>\$1,978.00</b>

1st Floor- Insurance <b>Flooring</b>	
Description	Qty/Unit
Remove existing tile flooring - labor	1
Remove laminate floor from concrete slab - labor	1
Install Luxury vinyl flooring and underlayment - labor- all materials, transitions and underlayment provided by customer- Elite not responsible for quality or warranty of materials.	1
Dishwasher - detach and reset in same location - labor	1
Standard Range - detach and reset in same location- installation labor	1
Freestanding Fridge - detach and reset in same location - installation labor	1
<b>Flooring Total:</b>	<b>\$10,837.98</b>

1st Floor- Insurance <b>Exclusions</b>	
Description	Qty/Unit
All items listed as PBC - provided by customer	1
Labor to move and/or remove and store - furniture and accessories located in area where work is to be completed.	1
Lighting fixtures - unless otherwise specified in estimate	1
New electrical circuits & service panel upgrades unless specified	1
Plumbing fixtures - unless otherwise specified in estimate	1
Unforeseen items such as mold, insect damage, hidden mechanical, electrical, plumbing and manifolds	1
All approved selections that are returned at the homeowners' request may be subject to a restocking fee	1



Description	Qty/Unit
If initial paint swatches approved by the customer require samples to be painted on the wall, this estimate includes two samples to be painted. Any additional samples needed can be provided as a change request.	1
All existing appliances provided by customer that will be removed and reset during construction are not subject to any liability for performance or repair after reinstalling. Although Elite will handle the process with the upmost care, any age appliance is susceptible to potential repairs related to movement or sitting idle.	1
Exclusions Total:	\$0.00

1st Floor- Insurance Total: \$32,759.74

Total Price: \$32,759.74

PAYMENT SCHEDULE				
	Payment	Invoice amount	Amount paid	Balance
	Design Agreement	\$0.00	\$0.00	\$0.00
	<b>Upon contract acceptance - 30%</b>	<b>\$9,827.92</b>	<b>\$0.00</b>	<b>\$9,827.92</b>
	Weekly progress payment #1 - 15%	\$4,913.96	\$0.00	\$4,913.96
	Weekly progress payment #2 - 15%	\$4,913.96	\$0.00	\$4,913.96
	Weekly progress payment #3 - 15%	\$4,913.96	\$0.00	\$4,913.96
	Weekly progress payment #4 - 15%	\$4,913.96	\$0.00	\$4,913.96
	Due upon job completion - 10%	\$3,275.97	\$0.00	\$3,275.97
	<b>TOTAL</b>	<b>\$32,759.74</b>	<b>\$0.00</b>	<b>\$32,759.74</b>

I confirm that my action here represents my electronic signature and is binding.



Signature: \_\_\_\_\_

Date: May 18, 2024, 12:22 PM

Approved by: Allen, Erica

Payment Status: **PROCESSING**

Created	Payment Method	Price	Status
May 18, 2024	ACH	\$9,827.92	<b>PROCESSING</b>
Total Listed:		\$9,827.92	



Payment Status: **PROCESSING**

Created	Payment Method	Price	Status
May 21, 2024	ACH	\$3,669.15	<b>PROCESSING</b>
Total Listed:		\$3,669.15	

Approved by Allen, Erica on May 21, 2024

**Approved**



2930 Preston Road Suite 980 • Frisco, TX 75034 • Phone: 972-334-9800

Allen, Erica  
Phone: 469-233-3142

Job Address:  
2713 N Wavecrest Ct  
Little Elm, TX 75068

**Print Date:** 5-21-2024

5-15- Allen, Ericka

This Professional Services Agreement (the "Agreement") is made as of the above referenced date between JMTodd Enterprises, LLC (dba Elite Remodeling), a Limited Liability Company, having its principal offices located at 2930 Preston Road Suite 980, Frisco, Texas 75034 and the customer name and job address referenced above.

**THIS AGREEMENT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

1. APPROVAL ETC. All contracts are subject to approval by our Credit Department and Office. SIGNATURES AUTHORIZE CONTRACTOR TO OBTAIN A CREDIT REPORT WHEN APPLICABLE.
2. PAYMENT, ETC. This Contract is made up of Labor Equipment and Materials. Payment shall be made according to the agreed upon payment schedule payable to Elite Remodeling. To induce Contractor to perform the work, Purchaser hereby grants unto Contractor the right to file a Mechanic's and Materialman's Liens for all labor and material rendered. Elite request that all payments be made via personal or bank checks. If the Customer requests to use a credit card, then a 3-4% convenience fee will be added to the appropriate payment amount.
3. DEFAULT, ETC. Should default be made in payment of this contract, charges shall be added from the date thereof at the rate of 18% per annum and if placed in the hand of an attorney or collection agency for collection, all attorney fees, legal and filing fees, court costs, and or collection fees, shall be paid by the Purchaser accepting said contract. Contractor may report any delinquent accounts to the local credit bureau for permanent recordation in Purchaser's credit record.

4. **CHANGE REQUESTS.** Elite expects that changes do occur from time to time. If the customer requests a change to the original scope of work, that change shall be documented in an Elite Change Request Form (a copy is contained in Elite's presentation package) or one similar in content and scope, the CRF will contain the price for the change (up or down) and then both Elite and the Customer will sign the Change Request Form. Elite requests that the CRF be paid for in full and prior to the start of the additional work or changes unless arrangements are agreed to by both parties. Elite will also ensure the customer knows in advance if this change will have an impact on the original schedule created for the project.
5. **SUPERVISION AND QUALITY CONTROL.** The contractor shall supervise and direct the work using his best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for contracting and performing all portions of the work and quality and control under the Contract.
6. **DAMAGE, ETC.** Should Purchaser become aware of damage to Purchaser's property by Contractor, his agents, or employees during the course of work stipulated by this contract, said damages shall be brought to the attention of the Contractor within 5 working days of occurrence. If Purchaser fails to notify Contractor of said damage within 5 working days, Purchaser shall waive all rights against Contractor concerning said damage. If this contract involves roofing whether repairs or re-roofing, Purchaser further agrees that the contractor shall not be responsible for damages on or below the roof due to leaks caused by excessive wind (50 mph), wind driven rain, ice, hail during either the roofing process or the subsequent warranty period. Purchaser further agrees that during the duration of the work, the Purchaser's Homeowners Insurance will be responsible for any interior damage, as long as the contractor has taken appropriate action to protect the roof during the roofing process.
7. **DELAYS, ETC** Purchaser hereby acknowledges that Contractor may be subject to delays occasioned by inclement weather, labor disputes, and material supply shortages which are beyond the control of the Contractor and Purchaser hereby accepts any delays occasioned by one or all of the circumstances in the completion of the proposed project engagement.
8. **ACCESS TO WORK.** Purchaser grants Contractor access the patio area of the home for staging and executing of work unless otherwise agreed.
9. **CANCELLATIONS. ETC.** Should Purchaser elect to cancel this contract for any reason later than THREE (3) DAYS from execution, Purchaser agrees to pay Contractor an amount equal to 15% of the total contract price as liquidated damages, not as a penalty. The Contractor agrees to accept such as reasonable and just compensation for said cancellation. If material has to be restocked because of cancellation by the Purchaser prior to the installation of work, there will be an additional fee equal to 15% of contract price.
10. **WARRANTY, ETC.** Contractor will provide a three year, transferable warranty on all labor and materials provide under this contract. This Labor Warranty does not cover damage to roofs caused by lightning, gale (50 mph), hurricane, tornado, hailstorm, impact of foreign objects, or other violent storms of casualty or damage to roofs or building structure due to settlement, distortion, failure or cracking of the roof deck, walls, or foundation of a building. The Contractor shall revoke labor warranty if Contract is not paid in full. Labor and material warranty is transferable.
11. **ADDITIONAL INSURANCE. ETC.** The contract price listed on the face hereof does not include expenses or charges for additional insurance premiums or costs beyond normal insurance coverage, and any such additional expenses required by the Purchaser, premiums, or costs shall be added to the amount of the contract. The Purchaser further agrees that the Contractor shall have no responsibility for damages from fire, tornado, windstorm, rain, theft, or other perils as in normally contemplated to be covered by HOMEOWNERS INSURANCE, COMMERCIAL PROPERTY POLICY, BUSINESS RISK, OR BUILDER'S RISK INSURANCE, unless a specifically written agreement be made thereto prior to commencement of the work.
12. **COMPLETION, ETC.** This contract may not be cancelled once work has commenced except by agreement of the parties to a mutual release.
13. **VERBAL REPRESENTATION, ETC.** Any representation, statements, or other communications, NOT Written ON THIS CONTRACT or statement of work are agreed to be IMMATERIAL, and not relied on by either party, and DO NOT survive the execution of this contract.

14. **DISPUTES.** Any controversy or claim arising out of or relating to this contract or breach thereof, shall be settled by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association (AAA). If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this contract or breach thereof shall be settled by binding arbitration administered by the AAA, in accordance with its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered into any court having jurisdiction thereof.
15. **ROOF EQUIPMENT, ETC.** The Contractor shall not be held responsible for removal or reinstallation of miscellaneous roof equipment, such as solar panels, Ham or other radio or television antennae, satellite dishes or other such equipment, unless specifically included on the face of the contract. Purchaser should contact the provider of said equipment and have them coordinate removal and replacement with our crews.
16. **PRE-EXISTING DAMAGE, ETC.** The contractor shall not be responsible for existing construction or other forms of inherent vice, with the Purchaser's home or building. The Contractor will be happy to submit a proposal for correcting them on a time and material basis, if possible.
17. **ANY PROVISION, ETC.** If any provision of this contract should be held to be invalid or unenforceable, the validity or enforceability of the remaining provisions of the contract shall not be affected thereby.
18. **LIABILITY, ETC.** The maximum liability for the Contractor shall be the face amount of the contract, which Purchaser agrees shall be a liquidated sum, under any event of default of Contractor herein.
19. **EXTENT OF CONTRACT, ETC.** This contract is composed of this page, contract agreement, statement of work and payment schedule and shall be considered the entire contract by all parties.
20. The pricing proposal that accompanies this contract is valid for 30 days from date of presentation, date of email or date the pricing proposal was physically delivered to the customer.
21. **STATE LAW REQUIRES THAT A PERSON HOLD A CERTIFICATE OF REGISTRATION FROM THE TEXAS RESIDENTIAL CONSTRUCTION COMMISSION IF THE PERSON CONTRACTS TO CONSTRUCT A NEW HOME OR IF THE PERSON CONTRACTS TO CONSTRUCT A MATERIAL IMPROVEMENT TO AN EXISTING HOME OR CERTAIN IMPROVEMENTS TO THE INTERIOR OF AN EXISTING HOME AND THE TOTAL COST OF THE IMPROVEMENT IS \$10,000 OR MORE (INCLUDING LABOR AND MATERIALS).**
- **YOU MAY CONTACT THE COMMISSION AT 311 E. 14TH STREET, P.O. BOX 13144, AUSTIN, TX 78711 OR 877.651.8722 OR WWW.TRCC.STATE.TX.US TO FIND OUT WHETHER THE BUILDER HAS A VALID CERTIFICATE OF REGISTRATION. THE COMMISSION HAS INFORMATION AVAILABLE ON THE HISTORY OF BUILDERS, INCLUDING SUSPENSIONS, REVOCATIONS, COMPLAINTS, AND RESOLUTION OF COMPLAINTS.**
  - **THIS CONTRACT IS SUBJECT TO CHAPTER 426, PROPERTY CODE. THE PROVISIONS OF THAT CHAPTER GOVERN THE PROCESS THAT MUST BE FOLLOWED IN THE EVENT A DISPUTE ARISES OUT OF AN ALLEGED CONSTRUCTION DEFECT. IF YOU HAVE A COMPLAINT CONCERNING A CONSTRUCTION DEFECT YOU MAY CONTACT THE COMMISSION AT THE TOLL-FREE TELEPHONE NUMBER TO LEARN HOW TO PROCEED UNDER THE STATE-SPONSORED INSPECTION AND DISPUTE RESOLUTION PROCESS.**
  - **Elite Remodeling's TRCC Registration Number is: 19338. A copy of this certificate will be provided to you as part of your presentation package.**
22. **TRCC EXPIRATION:** At the conclusion of the 81st regular session of the Texas Legislature, the Texas Residential Construction Commission Act (the "Act") was not extended beyond September 1, 2009. The Act had created warranties and performance

standards for new homes and certain remodeling projects ("TRCCA Warranties"). As a result, any references to the Act or TRCCA Warranties in the Agreement are void after September 1, 2009. However, Builder agrees to provide Buyer with express, written warranties, and performance standards for the Home notwithstanding this change in the law.

23. **RCLA DISCLOSURE:** This contract is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from a construction defect. If you have a complaint concerning a construction defect and that defect has not been corrected as may be required by law or by contract, you must provide the notice required by Chapter 27 of the Texas Property Code to the Builder by certified mail, return receipt requested, not later than the 60th day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code and must describe the construction defect. If requested by the Builder, you must provide the Builder an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.
24. **Effective September 1, 2009, Elite Remodeling will provide their warranty program as part of the Express Home Warranty Program as promulgated by the Texas Association of Builders (TAB). That program/document describes the standards of performance for the various elements or components of a home as described within that document. Elite Remodeling will extend their labor and materials warranty from one (1) year to a three (3) year transferable. All other warranties are applicable under that program. Elite will provide you a copy of that document upon request.**
25. **I/we acknowledge that this contract and scope of work have been reviewed, and I/we confirm that there are no other items that were discussed or promised in the sales and design process that are not already included in this current contract.**

Owners Initials \_\_\_\_\_

Owners Initials \_\_\_\_\_

## Personal Additions

Personal Additions

### Doors and Windows

Description	Qty/Unit
Door (exterior - metal) pre-hung, FULL view insulated - jamb, casing, & brick mold. Includes detaching and resetting of existing locksets (\$400.00 allowance) - materials	1
Door (EA) - exterior, metal, pre-hung, FULL view, 'energy star' insulated with interior blinds - jamb, casing, & brick mold. Includes detaching and resetting of existing locksets - labor	1
Door (exterior-metal) pre-hung six panel, insulated - jamb, casing, & brick mold. Includes detaching and resetting of existing locksets (\$300.00 allowance) - materials	1
Door (EA) - exterior, metal, pre-hung six panel, insulated - jamb, casing, & brick mold. Includes detaching and resetting of existing locksets - labor	1

Personal Additions

### Electrical & Lighting

Description	Qty/Unit
Electrical - demo & rough-in for new lights, switches & outlets (existing circuits) - materials	1
Electrical - demo & rough-in for new lights, switches & outlets (existing circuits) - labor	1

Description	Qty/Unit
Ceiling fan (EA) - set new in ceiling - in Family room - existing location & switch -labor (Note: Additional structural support and/or scaffolding may be required at additional cost)	1
Recessed can light in ceiling (EA) - standard 6" - set new location with new switch - materials	11
Recessed can light in ceiling (EA) - standard 6" - set new location with new switch - labor	11
Install new switch (EA) - new location - materials	5
Install new switch (EA) - new location - labor	5
Standard dimmer switch (EA) - materials	3
Standard dimmer switch (EA) - labor	3

## Personal Additions

**Drywall, Paint & Trim**

Description	Qty/Unit
Paint new baseboard upstairs, new doors - materials	1
Paint new baseboard upstairs, new doors - labor	1
Drywall, tape, bed, texture, and touch up walls or ceiling to repair for can lights and switches - match existing texture - materials	1
Drywall, tape, bed, texture, and touch up walls or ceiling to repair for can lights and switches - match existing texture - labor	1
REMOVE FROM SCOPE - NO REMOVAL OF POPCORN CEILING OR CEILING TEXTURE TO BE COMPLETED Scrape popcorn ceiling Downstairs only - labor	0
REMOVE FROM SCOPE - NO REMOVAL OF POPCORN CEILING OR CEILING TEXTURE TO BE COMPLETED Texture ceiling downstairs only) - spray-on orange peel or splatter-drag texture - materials	0
REMOVE FROM SCOPE - NO REMOVAL OF POPCORN CEILING OR CEILING TEXTURE TO BE COMPLETED Texture ceiling (downstairs only - spray-on orange peel or splatter-drag texture - labor	0

## Personal Additions

**Flooring**

Description	Qty/Unit
Remove laminate floor from upstairs landing - labor	1
Luxury vinyl flooring and underlayment on second floor landing0 including 6 thresholds/transitions - labor	1
Carpet retacks (EA) - detach & retack carpet in affected doorways - upstairs landing - labor	4

## Personal Additions

**Exclusions**

Description	Qty/Unit
All items listed as PBC - provided by customer	1
Labor to move and/or remove and store - furniture and accessories located in area where work is to be completed.	1

Description	Qty/Unit
Lighting fixtures - unless otherwise specified in estimate	1
New electrical circuits & service panel upgrades unless specified	1
Plumbing fixtures - unless otherwise specified in estimate	1
Unforeseen items such as mold, insect damage, hidden mechanical, electrical, plumbing and manifolds	1
All approved selections that are returned at the homeowners' request may be subject to a restocking fee	1
If initial paint swatches approved by the customer require samples to be painted on the wall, this estimate includes two samples to be painted. Any additional samples needed can be provided as a change request.	1
All existing appliances provided by customer that will be removed and reset during construction are not subject to any liability for performance or repair after reinstalling. Although Elite will handle the process with the upmost care, any age appliance is susceptible to potential repairs related to movement or sitting idle.	1

**Total Price: \$12,230.50**

PAYMENT SCHEDULE				
	Payment	Invoice amount	Amount paid	Balance
	Design Agreement	\$0.00	\$0.00	\$0.00
	<b>Upon contract acceptance - 30%</b>	<b>\$3,669.15</b>	<b>\$0.00</b>	<b>\$3,669.15</b>
	Weekly progress payment #1 - 15%	\$1,834.58	\$0.00	\$1,834.58
	Weekly progress payment #2 - 15%	\$1,834.58	\$0.00	\$1,834.58
	Weekly progress payment #3 - 15%	\$1,834.58	\$0.00	\$1,834.58
	Weekly progress payment #4 - 15%	\$1,834.58	\$0.00	\$1,834.58
	Due upon job completion - 10%	\$1,223.05	\$0.00	\$1,223.05
	<b>TOTAL</b>	<b>\$12,230.50</b>	<b>\$0.00</b>	<b>\$12,230.50</b>

I confirm that my action here represents my electronic signature and is binding.



**Signature:**

**Date:**

May 21, 2024, 11:48 AM

**Approved by:**

Allen, Erica



Payment Status: **PROCESSING**

Created	Payment Method	Price	Status
May 21, 2024	ACH	\$3,669.15	<b>PROCESSING</b>
Total Listed:		\$3,669.15	



**Date:** 07/16/2024  
**Agenda Item #:** 4. E.  
**Department:** Finance  
**Strategic Goal:** Provide a safe and welcoming environment for Little Elm residents and visitors  
**Staff Contact:** Jason Shroyer, Director of Public Works

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**AGENDA ITEM:**

Consider Action to Award **Bid 2024-18 for UV System Upgrades to Felix Construction, in the Estimated Amount of \$1,778,164.**

**DESCRIPTION:**

The UV Disinfection System Upgrades project consists of the replacement of the ultraviolet disinfection equipment at the Town's wastewater treatment plant, including demolition of the existing equipment, structural modifications, electrical modifications, and installation of new disinfection equipment.

On May 13th, bids were advertised in the local paper and posted on the Town's eProcurement system. Two hundred seventy-three (273) vendors were notified, with three (3) contractors responding. Staff recommends Felix Construction of Carrollton, Texas as the lowest responsible bidder.

**BUDGET IMPACT:**

Budget is identified in the Utility CIP program and will be funded by the issuance of the 2024 Certificate of Obligations debt.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Tabulation

Town of Little Elm  
Bid Tabulation  
2024-18 UV System Upgrades

				Felix Construction Carrollton, TX		Red River Construction Wylie, TX		Crescent Constructors, Inc. Plano, TX	
Line #	Description	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended
1	UV Disinfection System	1	LS	\$1,039,916.00	\$1,039,916.00	\$1,227,700.00	\$1,227,700.00	\$1,163,000.00	\$1,163,000.00
2	Demolition	1	LS	\$23,745.00	\$23,745.00	\$40,000.00	\$40,000.00	\$50,000.00	\$50,000.00
3	Structural Modifications	1	LS	\$85,153.00	\$85,153.00	\$35,000.00	\$35,000.00	\$200,000.00	\$200,000.00
4	Temporary Bypass System	1	LS	\$599,350.00	\$599,350.00	\$627,000.00	\$627,000.00	\$600,000.00	\$600,000.00
5	SCADA System Allowance - Enter \$30,000	1	LS	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00
Total:				\$1,778,164.00		\$1,959,700.00		\$2,043,000.00	



**Date:** 07/16/2024  
**Agenda Item #:** 4. 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

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**AGENDA ITEM:**

Consider Action to Approve the **Final Acceptance of the Lobo Lane Technology Park Project.**

**DESCRIPTION:**

In December 2022, Town Council awarded the construction contract for the Lobo Lane Technology Park to Quality Excavation, LTD. The project included the installation of a new concrete fire lane, 1,661 feet of new water lines, a new split rail fence along Lobo Lane, and a new masonry screening wall with landscaping along the northern boundary of the Shell Beach Subdivision. The project is complete, and the improvements have been placed into service. Maintenance of the improvements will be the responsibility of Retractable Technologies through a separate maintenance agreement.

**BUDGET IMPACT:**

The project is funded by a grant through the Economic Development Administration, as well as a separate funding agreement with RTI Technologies. The funds will be reimbursed to the Town upon completion of the project and grant reporting requirements.

\$	1,218,726.00	Original Contract Amount
\$	297,318.19	Approved Change Orders
\$	<b>1,516,044.19</b>	<b>Final Contract Amount</b>
\$	75,802.25	Retainage Due (5%)

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Retainage Pay Application



# TOWN OF LITTLE ELM PAYMENT APPLICATION

PROJECT:	Lobo Lane Technology Park Improvements	Pay App #
CONTRACTOR:	Quality Excavation, LLC	11
ENGINEER:	TRC Engineers, Inc.	
PAYMENT PERIOD:	From <u>February 29, 2024</u> to <u>June 30, 2024</u>	PO <span style="background-color: yellow;">230000000</span>
Original Contract Amount		\$ 1,218,726.00
Approved Change Orders		\$ 297,318.19
Current Contract Amount with Change Orders		\$ 1,516,044.19
A. Total Value of Work this Estimate - Exhibit A: Column H	\$ 0.00	
B. Total Materials on Hand this Estimate - Exhibit A: Column I	0.00	
C. Total A + B (Retainage Calculated)	0.00	
D. Amount Retained this Period (C x 5%)	\$ 0.00	
F. BALANCE DUE THIS STATEMENT (C - D)		\$ 75,802.25
G. PREVIOUS PAYMENTS		\$ 1,440,241.94
H. PERCENTAGE OF CONTRACT PAID TO DATE		95.00%
<small>The undersigned Owners Representative for the Contractor listed above certifies that all work, including materials on hand, covered by this Periodical Payment has been completed and delivered and stored in accordance with the Contract Documents, that all amounts have been paid by him for work, materials, and equipment for which previous Periodical Payments were issued and received from the Owner, and that the current payment shown herein is now due.</small>		
 Signature		Kimberlie Padilla, Controller Printed Name & Title
		7/1/2024 Date
Subscribed and sworn to before me this <u>1st</u> day of <u>July</u> , 20 <u>24</u>		
Notary Public: <u>Miranda Wilson</u> Commission Expires <u>6/17/28</u>		
Recommended for Payment by: _____ Engineer of Record		Date _____
Approved for Payment by: _____ Inspector		Date _____
_____ Department Representative		Date _____
_____ Wesley Brandon, P.E., Town Engineer		Date _____
_____ Fred Gibbs, Director of Development Services		Date _____

SUBMIT BY THE 10TH OF EACH MONTH WITH EXHIBITS

PAYMENT REQUEST - EXHIBIT A: PAYMENT DETAILS

2022-06 Lobo Lane Technology Park Improvements						Quality Excavation, LLC						Pay App #: 10	
Bid #/Project Name						CONTRACTOR							
BASE BID													
A	B	C	D	E	F			G	H	I	J	K	L
ITEM	ITEM DESCRIPTION	QTY	UOM	UNIT PRICE	CONTRACT AMOUNT	Total Quantity To-Date	Quantity Previous Estimate	Quantity This Estimate	Total Value of Work Completed this Period	Materials Presently Stored	Total Value of Work from Previous Applications	Total Value of Work Completed & Stored to Date	% of Work Completed
BASE BID													
1	Excavation	4,274	SY	\$ 13.00	\$ 55,562.00	4,274.00	4274.00		\$ -	0.00	\$ 55,562.00	\$ 55,562.00	100.00%
2	8" Reinforced Concrete Pavement	2,757	SY	\$ 91.00	\$ 250,887.00	2,757.00	2757.00		\$ -	0.00	\$ 250,887.00	\$ 250,887.00	100.00%
3	6" Flexbase	3,032	SY	\$ 40.00	\$ 121,280.00	3,032.00	3032.00		\$ -	0.00	\$ 121,280.00	\$ 121,280.00	100.00%
4	Remove and Replace Existing Concrete (CO#02)	397	SY	\$ 140.00	\$ 55,580.00	397.00	397.00		\$ -	0.00	\$ 55,580.00	\$ 55,580.00	100.00%
5	Connect to Existing Concrete Pavement	176	LF	\$ 13.00	\$ 2,288.00	176.00	176.00		\$ -	0.00	\$ 2,288.00	\$ 2,288.00	100.00%
6	12" PVC Water	1,661	LF	\$ 107.00	\$ 177,727.00	1,661.00	1661.00		\$ -	0.00	\$ 177,727.00	\$ 177,727.00	100.00%
7	8" PVC Water	7	LF	\$ 268.00	\$ 1,876.00	7.00	7.00		\$ -	0.00	\$ 1,876.00	\$ 1,876.00	100.00%
8	6" PVC Water	33	LF	\$ 127.00	\$ 4,191.00	33.00	33.00		\$ -	0.00	\$ 4,191.00	\$ 4,191.00	100.00%
9	Ductile Iron Fittings	1	TON	\$ 21,000.00	\$ 21,000.00	1.00	1.00		\$ -	0.00	\$ 21,000.00	\$ 21,000.00	100.00%
10	12" Gate Valve	5	EA	\$ 5,600.00	\$ 28,000.00	5.00	5.00		\$ -	0.00	\$ 28,000.00	\$ 28,000.00	100.00%
11	8" Gate Valve	3	EA	\$ 3,300.00	\$ 9,900.00	3.00	3.00		\$ -	0.00	\$ 9,900.00	\$ 9,900.00	100.00%
12	6" Gate Valve	3	EA	\$ 1,780.00	\$ 5,340.00	3.00	3.00		\$ -	0.00	\$ 5,340.00	\$ 5,340.00	100.00%
13	Dry Bore 12" PVC Water with 20" Steel Encasement (CO#02)	42	LF	\$ 1,035.00	\$ 43,470.00	42.00	42.00		\$ -	0.00	\$ 43,470.00	\$ 43,470.00	100.00%
14	Plug Ex. Water (Regardless of Size)	4	EA	\$ 1,000.00	\$ 4,000.00	4.00	4.00		\$ -	0.00	\$ 4,000.00	\$ 4,000.00	100.00%
15	Fire Hydrant Assembly	1	EA	\$ 14,800.00	\$ 14,800.00	1.00	1.00		\$ -	0.00	\$ 14,800.00	\$ 14,800.00	100.00%
16	Relocate Existing Fire Hydrant	1	EA	\$ 2,600.00	\$ 2,600.00	1.00	1.00		\$ -	0.00	\$ 2,600.00	\$ 2,600.00	100.00%
17	Connect to Existing Hydrant	2	EA	\$ 3,000.00	\$ 6,000.00	2.00	2.00		\$ -	0.00	\$ 6,000.00	\$ 6,000.00	100.00%
18	Connect to Existing Water Line	3	EA	\$ 1,700.00	\$ 5,100.00	3.00	3.00		\$ -	0.00	\$ 5,100.00	\$ 5,100.00	100.00%
19	Trench Safety	1,661	LF	\$ 1.00	\$ 1,661.00	1,661.00	1661.00		\$ -	0.00	\$ 1,661.00	\$ 1,661.00	100.00%
20	12" RCP Culvert	96	LF	\$ 122.00	\$ 11,712.00	96.00	96.00		\$ -	0.00	\$ 11,712.00	\$ 11,712.00	100.00%
21	12" Sloped Headwall	4	EA	\$ 2,207.00	\$ 8,828.00	4.00	4.00		\$ -	0.00	\$ 8,828.00	\$ 8,828.00	100.00%
22	8ft Screening Wall (Brick) With Stone Columns (CO#02)	0	LF	\$ 433.00	\$ -	0.00	0.00		\$ -	0.00	\$ -	\$ -	#DIV/0!
23	Wooden Split Rail Fence (CO#02)	0	LF	\$ 73.00	\$ -	0.00	0.00		\$ -	0.00	\$ -	\$ -	#DIV/0!
24	Irrigation System	1	LS	\$ 77,000.00	\$ 77,000.00	1.00	1.00		\$ -	0.00	\$ 77,000.00	\$ 77,000.00	100.00%
25	Sod (Bermuda)	1,964	SY	\$ 25.00	\$ 49,100.00	1,964.00	1964.00		\$ -	0.00	\$ 49,100.00	\$ 49,100.00	100.00%
26	Silt Fence	1,865	LF	\$ 2.00	\$ 3,730.00	1,865.00	1865.00		\$ -	0.00	\$ 3,730.00	\$ 3,730.00	100.00%
27	Rock Check Dam	1	EA	\$ 2,900.00	\$ 2,900.00	1.00	1.00		\$ -	0.00	\$ 2,900.00	\$ 2,900.00	100.00%
28	Stabilized Construction Entrance	1	EA	\$ 2,100.00	\$ 2,100.00	1.00	1.00		\$ -	0.00	\$ 2,100.00	\$ 2,100.00	100.00%
29	Erosion Control (SWPPP)	1	LS	\$ 1,100.00	\$ 1,100.00	1.00	1.00		\$ -	0.00	\$ 1,100.00	\$ 1,100.00	100.00%
30	Landscaping	1	LS	\$ 35,000.00	\$ 35,000.00	1.00	1.00		\$ -	0.00	\$ 35,000.00	\$ 35,000.00	100.00%
	Total				\$ 1,002,732.00				\$0.00	\$0.00	\$ 1,002,732.00	\$ 1,002,732.00	100.00%
Change Orders													
CO#01	INCREASE HEIGHT OF BRICK SCREEN WALL BY 2' PER REVISED DETAIL SHEET	448	LF	\$ 38.33	\$ 17,171.84	448.00	448.00		\$ -	0.00	\$ 17,171.84	\$ 17,171.84	100.00%
CO#02	DELETED CO#01 INCREASE HEIGHT OF BRICK SCREEN WALL	-448	LF	\$ 38.33	\$ (17,171.84)	(448.00)	-448.00		\$ -	0.00	\$ (17,171.84)	\$ (17,171.84)	100.00%
CO#02	8' BRICK SCREENING WALL WITH STONE	793	LF	\$ 424.60	\$ 336,707.80	793.00	793.00		\$ -	0.00	\$ 336,707.80	\$ 336,707.80	100.00%
CO#02	WOODEN SPLIT RAIL FENCE WITH STONE COLUMNS	700	LF	\$ 124.49	\$ 87,143.00	700.00	700.00		\$ -	0.00	\$ 87,143.00	\$ 87,143.00	100.00%
CO#03	2" Irrigation Meter Service	1	EA	\$ 5,000.00	\$ 5,000.00	1.00	1.00		\$ -	0.00	\$ 5,000.00	\$ 5,000.00	100.00%
CO#04	WOODEN SPLIT RAIL FENCE WITH STONE COLUMNS. ADD 10% FOR POTENTIAL	361	LF	\$ 124.49	\$ 44,940.89	361.00	361.00		\$ -	0.00	\$ 44,940.89	\$ 44,940.89	100.00%
CO#05	HYDROMULCH & WATER AREAS	1730	SY	\$ 3.35	\$ 5,795.50	1,730.00	1730.00		\$ -	0.00	\$ 5,795.50	\$ 5,795.50	100.00%
CO#06	2" Irrigation Meter Service & Box Domestic	1	EA	\$ 5,500.00	\$ 5,500.00	1.00	1.00		\$ -	0.00	\$ 5,500.00	\$ 5,500.00	100.00%
CO#07	Tie in Fence Sections to Private Property	1	LS	\$ 13,067.50	\$ 13,067.50	1.00	1.00		\$ -	0.00	\$ 13,067.50	\$ 13,067.50	100.00%
CO#07	Stone Rip Rap	1	LS	\$ 2,675.00	\$ 2,675.00	1.00	1.00		\$ -	0.00	\$ 2,675.00	\$ 2,675.00	100.00%
CO#07	Sod	1	LS	\$ 12,482.50	\$ 12,482.50	1.00	1.00		\$ -	0.00	\$ 12,482.50	\$ 12,482.50	100.00%
				\$ -	\$ -	0.00			\$ -	0.00	\$ -	\$ -	0.00%
Total Change Orders					\$ 513,312.19				\$0.00	\$0.00	\$ 513,312.19	\$ 513,312.19	100%
Total All Items					\$ 1,516,044.19	\$0.00			\$0.00	\$0.00	\$ 1,516,044.19	\$ 1,516,044.19	

# Construction Time Summary

Pay App #

**11**

PROJECT: Lobo Lane Technology Park Improvements  
 CONTRACTOR: Quality Excavation, LLC NTP: February 13, 2023  
 ENGINEER: TRC Engineers, Inc.

Enter "1" for each date

Month	Date	Working Day	Lost Time	Non Working Time	Reason for Time lost
February	1	1			
February	2	1			
February	3			1	
February	4			1	
February	5	1			
February	6	1			
February	7	1			
February	8	1			
February	9	1			
February	10			1	
February	11			1	
February	12	1			
February	13	1			
February	14	1			
February	15	1			
February	16	1			
February	17			1	
February	18			1	
February	19	1			
February	20	1			
February	21	1			
February	22	1			
February	23	1			
February	24			1	
February	25			1	
February	26	1			
February	27	1			
February	28	1			
February	29		1		
Total		20	1	8	



**Date:** 07/16/2024  
**Agenda Item #:** 5. A.  
**Department:** Finance  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Kelly Wilson, Chief Financial Officer

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**AGENDA ITEM:**

Present, Discuss, and Consider Action on **All Matters Incident and Related to the Issuance and Sale of “Town of Little Elm, Texas, Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2024”, including the Adoption of Ordinance No. 1765 Authorizing the Issuance of such Certificates of Obligation.**

**DESCRIPTION:**

The Town has been working closely with our Financial Advisor, Mark McLiney, with SAMCO Capital Markets, Inc. and Bob Dransfield with Norton Rose Fulbright US LLP to issue Certificate of Obligation Bonds.

The “Notice of Intention to Issue Town of Little Elm, Texas, Certificates of Obligation” was published in the Dallas Morning News on May 24, 2024, and May 31, 2024. The Town authorized in the Notice of Intention an amount not to exceed \$25,500,000.

The 2024 Certificates of Obligation should be issued in one or more series in an aggregate principal amount not to exceed \$25,500,000 for the purpose of paying contractual obligations to be incurred for (i) constructing improvements and extensions to the Town's Waterworks and Sewer System, including the acquisition of land and rights-of-way therefor; (ii) constructing and equipping public safety facilities, including the acquisition of land and rights-of-way therefor; (iii) constructing, expanding and equipping animal shelter facilities, including the acquisition of land and rights-of-way therefor; (iv) acquiring, constructing, improving, renovating and equipping park and recreation facilities, including the acquisition of land and rights-of-way therefor; (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, entryways, pedestrian pathways, signage and traffic signalization and the acquisition of land and rights-of-way therefor and (iv) professional services rendered in connection therewith; such certificates to be payable from ad valorem taxes and a limited pledge of the net revenues of the Town's combined Waterworks and Sewer System.

The Town is provided with a bond rating that helps investors know the financial, management, and economic conditions of the Town. S&P affirmed and assigned the AA+ rating.



**BUDGET IMPACT:**

The issuance of such debt proceeds is programmed in the Town's FY2024 amended budget along with principal and interest payments in the FY2025 proposed budget and financial plan.

**RECOMMENDED ACTION:**

Town staff and Bond Counsel recommend approval.

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**Attachments**

Ordinance No. 1765

Exhibit A Paying Agent/Registrar Agreement

ORDINANCE NO. 1765

AN ORDINANCE authorizing the issuance of “TOWN OF LITTLE ELM, TEXAS, COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2024”; providing for the payment of said certificates of obligation by the levy of an ad valorem tax upon all taxable property within the Town and a limited pledge of the net revenues derived from the operation of the Town’s Waterworks and Sewer System; providing the terms and conditions of such certificates and resolving other matters incident and relating to the issuance, payment, security, sale and delivery of said certificates; including the approval and execution of a Paying Agent/Registrar Agreement; the approval and distribution of a Preliminary Official Statement and Official Statement; and providing an effective date.

WHEREAS, the Town Council of the Town of Little Elm, Texas, (the “Council”) has determined that certificates of obligation should be issued in one or more series in an aggregate principal amount not to exceed \$25,500,000 for the purpose of paying contractual obligations to be incurred for (i) constructing improvements and extensions to the Town’s Waterworks and Sewer System, including the acquisition of land and rights-of-way therefor, (ii) constructing and equipping public safety facilities, including the acquisition of land and rights-of-way therefor, (iii) constructing, expanding and equipping animal shelter facilities, including the acquisition of land and rights-of way therefor, (iv) acquiring, constructing, improving, renovating and equipping park and recreation facilities, including the acquisition of land and rights-of-way therefor, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, entryways, pedestrian pathways, signage and traffic signalization and the acquisition of land and rights-of way therefor, and (vi) professional services rendered in connection therewith; and

WHEREAS, a “Notice of Intention to Issue Town of Little Elm, Texas, Certificates of Obligation” was (a) duly published in *The Dallas Morning News*, a newspaper hereby found and determined to be of general circulation in the Town of Little Elm, Texas, on May 24, 2024 and May 31, 2024, the date of the first publication of such notice being not less than forty-six (46) days prior to the tentative date stated therein for the passage and adoption of this Ordinance and (b) duly published continuously on the Town’s website for at least forty-five (45) days before the tentative date stated therein for the passage and adoption of this Ordinance; and

WHEREAS, no petition protesting the issuance of such certificates of obligation and bearing valid petition signatures of at least 5% of the qualified electors of the Town, has been presented to or filed with the Mayor, Mayor Pro Tem, Town Secretary or any other official of the Town on or prior to the date of the passage of this Ordinance; and

WHEREAS, the Council hereby finds and determines that \$\_\_\_\_\_ in principal amount of the certificates of obligation described in the aforesaid notice should be issued and sold at this time,

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

SECTION 1. Authorization – Designation – Principal Amount - Purpose. Certificates of obligation of the Town shall be and are hereby authorized to be issued in the aggregate principal amount of \$\_\_\_\_\_ to be designated and bear the title “TOWN OF LITTLE ELM, TEXAS, COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2024” (the “Certificates”) for the purpose of paying contractual obligations

to be incurred for (i) constructing improvements and extensions to the Town’s Waterworks and Sewer System, including the acquisition of land and rights-of-way therefor, (ii) constructing and equipping public safety facilities, including the acquisition of land and rights-of-way therefor, (iii) constructing, expanding and equipping animal shelter facilities, including the acquisition of land and rights-of way therefor, (iv) acquiring, constructing, improving, renovating and equipping park and recreation facilities, including the acquisition of land and rights-of-way therefor, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, entryways, pedestrian pathways, signage and traffic signalization and the acquisition of land and rights-of way therefor, and (vi) professional services rendered in connection therewith, pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Texas Local Government Code, Subchapter C of Chapter 271, as amended.

SECTION 2. Fully Registered Obligations – Certificate Date - Authorized Denominations - Stated Maturities - Interest Rates. The Certificates are issuable in fully registered form only; shall be dated August 1, 2024 (the “Certificate Date”), shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity), and the Certificates shall become due and payable on February 1 in each of the years and in principal amounts (the “Stated Maturities”) and bear interest at per annum rates in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		
2043		
2044		

The Certificates shall bear interest on the unpaid principal amounts from the Certificate Date at the rates per annum shown in the Schedule above (calculated on the basis of a 360-day year consisting of twelve 30-day months). Interest on the Certificates shall be payable on February 1 and August 1 of each year, commencing February 1, 2025, until maturity or prior redemption.

SECTION 3. Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Certificates, due and payable by reason of maturity, redemption, or

otherwise, shall be payable only to the registered owners or holders of the Certificates (the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payments shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of BOKF, NA, Dallas, Texas, or its assigns, to serve as Paying Agent/Registrar for the Certificates is hereby approved and confirmed. The Town agrees and covenants to cause to be kept and maintained at the Designated Payment/Transfer Office (defined below) of the Paying Agent/Registrar, books and records relating to the registration, payment, transfer and exchange of the Certificates (the "Security Register"), as provided herein and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar and the Town may prescribe. The Mayor and Town Secretary of the Town are hereby authorized to execute and deliver such Agreement in connection with the delivery of the Certificates. The Town covenants to maintain and provide a Paying Agent/Registrar at all times until the Certificates are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Certificates, the Town agrees to promptly cause a written notice of the change to be sent to each Holder by United States mail, first-class postage prepaid, and such notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Certificates shall be payable at the Stated Maturities, or on a date of earlier redemption thereof, only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its designated offices, initially Kansas City, Missouri or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). The Paying/Agent Registrar shall pay interest on the Certificates only to the Holder whose name appear in the Security Register at the close of business on the Record Date (the fifteenth (15<sup>th</sup>) day of the month next preceding each interest payment date) and shall be paid either by: (i) check sent United States mail, first-class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) such other method, acceptable to the Paying Agent/Registrar, requested by the Holder at the Holder's risk and expense. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then, the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

#### SECTION 4. Redemption.

(a) Optional Redemption. The Certificates having Stated Maturities on and after February 1, 2034 shall be subject to redemption prior to maturity, at the option of the Town, on February 1, 2033, or any date thereafter, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), at the redemption price of par plus accrued interest to the date fixed for redemption.

(b) Exercise of Optional Redemption Option. Not less than 45 days prior to an optional redemption date for the Certificates (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the Town shall notify the Paying Agent/Registrar of: (i) the decision to redeem Certificates, (ii) the principal amount of each Stated Maturity to be redeemed, and (iii) the date of redemption.

(c) [Mandatory Redemption. The Certificates having a Stated Maturity of February 1, \_\_\_\_\_ (the "Term Certificates") shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and accrued interest to the date of redemption on the respective dates and in principal amounts as follows:

<u>Term Certificates due February 1, _____</u>	
<u>Redemption Date</u>	<u>Principal Amount (\$)</u>
February 1, _____	
February 1, _____	
February 1, _____ (maturity)	

At least forty-five (45) days prior to the mandatory redemption date for the Term Certificates, the Paying Agent/Registrar shall select by lot the numbers of the Term Certificates to be redeemed on the next following February 1 from moneys set aside for that purpose in the Certificate Fund (as hereinafter defined). Any Term Certificate not selected for prior redemption shall be paid on the date of its Stated Maturity.

The principal amount of the Term Certificates required to be redeemed on a mandatory redemption date may be reduced, at the option of the Town, by the principal amount of Term Certificates which, at least fifty (50) days prior to the mandatory redemption date, (1) shall have been acquired by the Town at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in paragraph (a) of this Section and not theretofore credited against a mandatory redemption requirement.]

(d) Selection of Certificates for Redemption. If less than all Outstanding (as hereinafter defined) Certificates of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Certificates as representing the number of Certificates Outstanding, which is obtained by dividing the principal amount of such Certificates by \$5,000, and shall select by lot the Certificates to be redeemed within such Stated Maturity.

(e) Notice of Redemption. Not less than 30 days prior to a redemption date for the Certificates, a notice of redemption shall be sent by United States mail, first-class postage prepaid, in the name of the Town and at the Town's expense, to each Holder of a Certificate to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at

the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Certificates, (ii) identify the Certificates to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Certificates, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Certificates, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof. If a Certificate is subject by its terms to prior redemption, and has been called for redemption, and notice of redemption has been duly given as hereinabove provided, such Certificate (or the principal amount thereof to be redeemed) shall become due and payable and interest thereon shall cease to accrue from and after the redemption date; provided moneys sufficient for the payment of such Certificate (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

(f) Conditional Notice of Redemption. With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may, at the option of the Town, state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the Town shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

SECTION 5. Registration - Transfer - Exchange of Certificates - Predecessor Certificates. A Security Register relating to the registration, payment, and transfer or exchange of the Certificates shall at all times be kept and maintained by the Town at the Designated Payment/Transfer Office of the Paying Agent/Registrar and at a place within the State of Texas, as provided herein and in accordance with the provisions of an agreement with the Paying Agent/Registrar and such rules and regulations as the Paying Agent/Registrar and the Town may prescribe. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every Holder of the Certificates issued under and pursuant to the provisions of this Ordinance or, if appropriate, the nominee thereof. Any Certificate may, in accordance with its terms and the terms hereof, be transferred or exchanged for Certificates of like kind, or other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Certificate (other than the Initial Certificate authorized in Section 8 hereof) at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates, executed on behalf of, and furnished by, the Town, of

authorized denominations and of like Stated Maturity and of a like aggregate principal amount as the Certificate or Certificates surrendered for transfer.

At the option of the Holders, Certificates (other than the Initial Certificate authorized in Section 8 hereof) may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Certificates surrendered for exchange upon surrender of the Certificates to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Certificates are so surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Certificates, executed on behalf of, and furnished by, the Town, to the Holder requesting the exchange.

All Certificates issued upon any transfer or exchange of Certificates shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States mail, first-class postage prepaid, to the Holder and, upon the registration and delivery thereof, the same shall be valid obligations of the Town, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates canceled by reason of an exchange or transfer pursuant to the provisions of this Ordinance are hereby defined to be "Predecessor Certificates," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer. Additionally, the term "Predecessor Certificates" shall include any mutilated, lost, destroyed, or stolen Certificate for which a replacement Certificate has been issued, registered and delivered in lieu thereof pursuant to Section 28 hereof and such new replacement Certificate shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

Neither the Town nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Certificate called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Certificate; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of Certificate called for redemption in part.

**SECTION 6. Execution - Registration.** The Certificates shall be executed on behalf of the Town by the Mayor or Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the Town Secretary. The signature of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of said individuals who are or were the proper officers of the Town on the Certificate Date shall be deemed to be duly executed on behalf of the Town, notwithstanding that such individuals or any of them no longer hold such offices at the time of delivery of the Certificates to the initial purchaser(s), and with respect to Certificates delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201, Texas Government Code, as amended.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 9(c), executed manually or by facsimile by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified, registered and delivered.

SECTION 7. Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 3, 4, and 5 of this Ordinance relating to the payment, and transfer/exchange of the Certificates, the Town hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the Town and DTC (the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Certificates shall be deposited with DTC who shall hold said Certificates for its participants (the "DTC Participants"). While the Certificates are held by DTC under the applicable Depository Agreement, the Holder of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Certificate (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the Town determines that DTC is incapable of properly discharging its duties as securities depository for the Certificates, the Town covenants and agrees with the Holders of the Certificates to cause Certificates to be printed in definitive form and provide for appropriate Certificate certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, Certificates in definitive form shall be assigned, transferred and exchanged on the appropriate Security Register maintained by the Paying Agent/Registrar and payment of such Certificates shall be made in accordance with the provisions of Sections 3, 4, and 5 of this Ordinance.

SECTION 8. Initial Certificate(s). The Certificates herein authorized shall be initially issued as a single fully registered certificate in the aggregate principal amount shown in Section 1 hereof with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1 (the "Initial Certificate") and shall be registered in the name of the initial purchaser(s) or their designee thereof. The Initial Certificate shall be the Certificate submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Certificate, the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Certificate and exchange it for definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the named Holders at the addresses identified for such purpose; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.



SECTION 9. Forms.

(a) Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Certificates, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Certificates, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistent with this Ordinance, be established by the Town or determined by the officers executing such Certificates as evidenced by their execution of the Certificates. Any portion of the text of any Certificate may be set forth on the reverse side of the Certificate with an appropriate reference on the face of the Certificate.

The definitive Certificates and the Initial Certificates shall be typewritten, printed, lithographed, engraved, photocopied, or otherwise reproduced in any other similar manner, all as determined by the officers executing such Certificates as evidenced by their execution.

The Town may provide (i) for the issuance of one fully registered Certificate for each Stated Maturity in the aggregate principal amount of each Stated Maturity and (ii) for the registration of such Certificates in the name of a securities depository, or the nominee thereof. While any Certificate is registered in the name of a securities depository or its nominee, references herein and in the Certificates to the Holder or registered owner of such Certificates shall mean the securities depository or its nominee and shall not mean any other person.

(b) Form of Definitive Certificates.

REGISTERED  
NO. R-\_\_\_\_\_

REGISTERED  
\$\_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
TOWN OF LITTLE ELM, TEXAS  
COMBINATION TAX AND LIMITED PLEDGE REVENUE  
CERTIFICATE OF OBLIGATION  
SERIES 2024

Certificate	Date:	Interest	Rate:	Stated	Maturity:
August 1, 2024	_____	_____	February 1, 20__	_____	_____

Registered Owner:

Principal Amount \_\_\_\_\_ DOLLARS

The Town of Little Elm (hereinafter referred to as the "Town"), a body corporate and municipal corporation in the County of Denton, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount stated above (or so much thereof as shall not have been paid upon prior redemption) and

to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Certificate appearing below (unless this Certificate bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Certificate is prior to the initial interest payment date in which case it shall bear interest from the Certificate Date) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year, commencing February 1, 2025, until maturity or prior redemption. Principal of this Certificate is payable at its Stated Maturity or on a redemption date to the registered owner hereof upon presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest is payable to the registered owner of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth (15<sup>th</sup>) day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent by first-class United States mail, postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Certificate shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized to close, and payment on such date shall have the same force and effect as if made on the original date payments was due.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$\_\_\_\_\_ (the "Certificates") for the purpose of paying contractual obligations to be incurred for (i) constructing improvements and extensions to the Town's Waterworks and Sewer System, including the acquisition of land and rights-of-way therefor, (ii) constructing and equipping public safety facilities, including the acquisition of land and rights-of-way therefor, (iii) constructing, expanding and equipping animal shelter facilities, including the acquisition of land and rights-of-way therefor, (iv) acquiring, constructing, improving, renovating and equipping park and recreation facilities, including the acquisition of land and rights-of-way therefor, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, entryways, pedestrian pathways, signage and traffic signalization and the acquisition of land and rights-of-way therefor, and (vi) professional services rendered in connection therewith, under and in strict conformity with the Constitution and laws of the State of Texas, particularly Subchapter C of Chapter 271, Texas Local Government Code, as amended, and pursuant to an ordinance adopted by the governing body of the Town (hereinafter referred to as the "Ordinance").

[The Certificates maturing on the date hereinafter identified (the "Term Certificates") are subject to mandatory redemption prior to maturity with funds on deposit in the Certificate Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the mandatory redemption date on the respective dates and in principal amounts as follows:

Term Certificates due February 1, 20\_\_\_\_\_

<u>Redemption Date</u>	<u>Principal Amount (\$)</u>
February 1, _____	
February 1, _____	
February 1, _____(maturity)	

The particular Term Certificates of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Certificates for a stated maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the Town, by the principal amount of Term Certificates of like stated maturity which, at least fifty (50) days prior to the mandatory redemption date, (1) shall have been acquired by the Town at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.]

The Certificates maturing on and after February 1, 2034 may be redeemed prior to their Stated Maturities, at the option of the Town, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on February 1, 2033, or any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to an optional redemption date, the Town shall cause a written notice of such redemption to be sent by United States mail, first class postage prepaid, to the registered owners of the Certificates to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If this Certificate (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Certificate (or the portion of its principal sum to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount redeemed.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the Town and the Paying Agent/Registrar shall not be required to transfer this Certificate to an assignee of the registered owner within forty-five (45) days of the redemption date; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance hereof in the event of its redemption in part.

With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption,

such notice may, at the option of the Town, state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the Town shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

The Certificates are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the Town and are additionally payable from and secured by a lien on and limited pledge of the Net Revenues (as defined in the Ordinance) of the Town's Waterworks and Sewer System (the "System"), such lien and pledge being limited to an amount not in excess of \$1,000 and being junior and subordinate to the lien on and pledge of the Net Revenues of the System securing the payment of "Prior Lien Obligations" (identified and defined in the Ordinance) now outstanding and hereafter issued by the Town. In the Ordinance, the Town reserves and retains the right to issue Prior Lien Obligations while the Certificates are outstanding without limitation as to principal amount but subject to any terms, conditions or restrictions as may be applicable thereto under law or otherwise, as well as the right to issue additional obligations payable from the same sources as the Certificates and, together with the Certificates, equally and ratably secured by a parity lien on and pledge of the Net Revenues of the System.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all the provisions of which the Holder by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificates; the Net Revenues of the System pledged to the payment of the principal of and interest on the Certificates; the nature and extent and manner of enforcement of the limited pledge; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the Town and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The Town and the Paying Agent/Registrar, and any agent of either, may treat the registered owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to payment of principal hereof at its Stated Maturity or its date of redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the

Town nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and covenanted that the Town is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the Town have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates by the levy of a tax and a limited pledge of the Net Revenues of the System as forestated. In case any provision in this Certificate or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the Town Council of the Town has caused this Certificate to be duly executed under the official seal of the Town as of the Certificate Date.

TOWN OF LITTLE ELM, TEXAS

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[Mayor][Mayor Pro Tem]

COUNTERSIGNED:

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Town Secretary

(TOWN SEAL)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Certificates only.

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER (   
OF PUBLIC ACCOUNTS (

THE STATE OF TEXAS

( REGISTER NO. \_\_\_\_\_  
(

I HEREBY CERTIFY that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(SEAL)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Certificates only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued and registered in the name of the Registered Owner shown above under the provisions of the within-mentioned Ordinance; the certificate or certificates of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar in Kansas City, Missouri is the Designated Payment/Transfer Office for this Certificate.

BOKF, NA, Dallas, Texas  
as Paying Agent/Registrar

By \_\_\_\_\_  
Authorized Signature

Registration date:

\_\_\_\_\_

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:)  
\_\_\_\_\_  
\_\_\_\_\_

(Social Security or other identifying number \_\_\_\_\_) the within Certificate of Obligation and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer the within Certificate of Obligation on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular

(f) Form of Initial Certificate. The Initial Certificates shall be in the form set forth in paragraph (b) of this Section except that the form of a single fully registered Initial Certificate shall be modified as follows:

The heading and first paragraph shall be amended as follows:

REGISTERED  
NO. T-1

PRINCIPAL  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
TOWN OF LITTLE ELM, TEXAS  
COMBINATION TAX AND LIMITED PLEDGE REVENUE  
CERTIFICATE OF OBLIGATION  
SERIES 2024

Certificate Date: August 1, 2024

Registered Owner: \_\_\_\_\_

Principal Amount \_\_\_\_\_ DOLLARS

The Town of Little Elm (hereinafter referred to as the "Town"), a body corporate and municipal corporation in the County of Denton, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount stated above on February 1 in the years and in the principal installments in accordance with the following schedule:

<u>Year of</u> <u>Stated Maturity</u>	<u>Principal</u> <u>Amount (\$)</u>	<u>Interest</u> <u>Rate (%)</u>
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(Information to be inserted from schedule in Section 2.)

(or so much principal as shall not have been prepaid prior to maturity) and to pay interest on the unpaid principal amount from the interest payment date next preceding the "Registration Date" of this Certificate appearing below (unless this Certificate bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Certificate is prior to the initial interest payment date in which case it shall bear interest from the Certificate Date) at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year, commencing February 1, 2025, until maturity or prior redemption. Principal of this Certificate is payable at its Stated Maturity or upon prior redemption to the registered owner by BOKF, NA, Dallas, Texas (the "Paying Agent/Registrar"), upon the presentation and surrender, at its designated offices, initially in Kansas City, Missouri, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office.") Interest shall be payable to the registered owner of this Certificate whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the fifteenth (15<sup>th</sup>) day of the month next preceding the interest payment date hereof and interest shall be paid by the Paying Agent/Registrar by check sent by United States mail, first-class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method acceptable to the Paying Agent/Registrar, requested by and at the risk and expense of the registered owner. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due.

SECTION 10. Definitions. For purposes of this Ordinance and for clarity with respect to the issuance the Certificates herein authorized, and the levy of taxes and appropriation of Net Revenues for the Certificates, the following definitions are provided:

(a) The term "Additional Certificates" shall mean tax and revenue obligations hereafter issued under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271, as amended, or any similar or law hereafter enacted, and payable from ad valorem taxes and additionally payable from and secured by a lien on and pledge of the Net Revenues of the System on a parity with and of equal rank and dignity with the lien and pledge securing the payment of the Certificates.

(b) The term "Certificate Fund" shall mean the special Fund created and established under the provisions of Section 11 of this Ordinance.

(c) The term "Certificates" shall mean the "Town of Little Elm, Texas, Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2024" authorized by this Ordinance.

(d) The term "Collection Date" shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the Town become delinquent.



(e) The term "Fiscal Year" shall mean the twelve month period ending on September 30 of each year.

(f) The term "Net Revenues" shall mean the gross revenues of the System, less the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions, as in the judgment of the Council, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the Town and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the security of any obligations payable from and secured by a lien on the Net Revenues of the System, shall be deducted in determining "Net Revenues".

(g) The term "Outstanding" when used in this Ordinance with respect to Certificates means, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except:

(1) those Certificates canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Certificates deemed to be duly paid by the Town in accordance with the provisions of Section 27 hereof; and

(3) those Certificates that have been mutilated, destroyed, lost, or stolen and replacement Certificates have been registered and delivered in lieu thereof as provided in Section 28 hereof.

(h) The term "Prior Lien Obligations" shall mean all bonds or other similar obligations now outstanding and hereafter issued that are payable from and secured by a lien on and pledge of the Net Revenues of the System which is prior in right and claim to the lien on and pledge of the Net Revenues securing the payment of the Certificates.

(i) The term "System" shall mean the Town's Waterworks and Sewer System, including, but not limited to, all properties, facilities and plants currently owned, operated and maintained by the Town for the supply, treatment and transportation of treated potable water and for the collection, treatment and disposal of water-carried wastes, together with all future extensions, improvements, replacements and additions to the System.

**SECTION 11. Certificate Fund.** For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption and retirement of the Certificates, there shall be and is hereby created a special account on the books of the Town to be designated "SPECIAL 2024 TAX AND REVENUE CERTIFICATE OF OBLIGATION FUND" (the "Certificate Fund"), and all moneys deposited to the credit of such account shall be kept and maintained in a banking fund maintained at the Town's depository. Any one or more of the Mayor, Mayor Pro Tem, Town Manager, Chief Financial Officer, and Town Secretary are hereby authorized and directed to make withdrawals from the Certificate Fund sufficient to pay the principal of and interest on the Certificates as the same become due and payable, and, shall cause to be transferred to the Paying Agent/Registrar from moneys on deposit in the Certificate Fund an amount sufficient to pay the amount of principal and/or interest falling due on Certificates, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the last business day next preceding each interest and principal payment date for the Certificates.

Pending the transfer of funds to the Paying Agent/Registrar, money in the Certificate Fund may, at the option of the Town, be invested in obligations identified in, and in accordance with the provisions of the "Public Funds Investment Act" (Chapter 2256, Texas Government Code, as amended) relating to the investment of "bond proceeds"; provided that all such investments shall be made in such a manner that the money required to be expended from said Fund will be available at the proper time or times. All interest and income derived from deposits and investments in the Certificate Fund shall be credited to, and any losses debited to, the said Certificate Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Certificates.

SECTION 12. Tax Levy. To provide for the payment of the "Debt Service Requirements" on the Certificates being (i) the interest the Certificates and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied for the current year and each succeeding year thereafter while said Certificates or any interest thereon shall remain Outstanding, a sufficient tax on each one hundred dollars' valuation of taxable property in said Town, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected for the Certificates shall be paid into the Certificate Fund. The Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the said Debt Service Requirements, it having been determined that the existing and available taxing authority of the Town for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Certificates shall be determined and accomplished in the following manner:

(a) Prior to the date the Council establishes the annual tax rate and passes an ordinance levying ad valorem taxes each year, the Council shall determine:

(1) The amount on deposit in the Certificate Fund after (a) deducting the total amount of Debt Service Requirements to become due on Certificates prior to the Collection Date for the ad valorem taxes to be levied and (b) adding to that amount the amount of the Net Revenues of the System appropriated and allocated to pay such Debt Service Requirements prior to the Collection Date for the ad valorem taxes to be levied.

(2) The amount of Net Revenues of the System, appropriated and to be set aside for the payment of the Debt Service Requirements on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(3) The amount of Debt Service Requirements to become due and payable on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(b) The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Certificates shall be the amount established in paragraph (3) above less the sum total of the amounts established in paragraphs (1) and (2), after taking into consideration delinquencies and costs of collecting such annual taxes.

SECTION 13. Limited Pledge of Net Revenues. The Town hereby covenants and agrees that, subject to the prior lien on and pledge of the Net Revenues of the System to the payment

and security of Prior Lien Obligations, the Net Revenues of the System in an amount not to exceed \$1,000 are hereby irrevocably pledged, equally and ratably, to the payment of the principal of and interest on the Certificates. This limited pledge of \$1,000 of the Net Revenues of the System made for the payment of the Certificates shall constitute a lien on the Net Revenues of the System until such time as the Town shall pay all of such \$1,000, after which time the pledge shall cease, all in accordance with the terms and provisions of this Ordinance; this limited pledge shall be junior and subordinate to the lien on and pledge of the Net Revenues of the System securing the payment of "Prior Lien Obligations" (identified and defined above in Section 10(h)) now outstanding and hereafter issued by the Town.

Texas Government Code, Chapter 1208, as amended, applies to the issuance of the Certificates and the pledge of the Net Revenues of the System granted by the Town under this Section 13, and such pledge is therefore valid, effective and perfected from and after the date of adoption of this Ordinance without physical delivery or transfer or transfer of control of the Net Revenues, the filing of this Ordinance or any other act. If Texas law is amended at any time while the Certificates are Outstanding such that the pledge of the Net Revenues of the System granted by the Town under this Section 13 is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the Town agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

**SECTION 14. Revenue Fund.** The Town hereby covenants and agrees that all revenues derived from the operation of the System shall be kept separate and apart from all other funds, accounts and moneys of the Town, and all such revenues shall be deposited as collected into the "Town of Little Elm, Texas, Water Utility System and Sanitary Sewer System Fund" (heretofore created and established and hereinafter called the "Revenue Fund"). All moneys deposited to the credit of the Revenue Fund shall be pledged and appropriated to the extent required for the following purposes and in the order of priority shown, to wit:

**First:** To the payment of the reasonable and proper operating and maintenance expenses as defined herein or required by statute to be a first charge on and claim against the gross revenues of the System.

**Second:** To the payment of all amounts required to be deposited in the special funds created and established for the payment, security and benefit of Prior Lien Obligations in accordance with the terms and provisions of any ordinance authorizing the issuance of Prior Lien Obligations.

**Third:** To the payment, equally and ratably, of the limited amounts pledged to the payment of the limited amounts required to be deposited in the special funds and accounts created and established for the payment of the debt service requirements of the Certificates and Additional Certificates.

Any Net Revenues remaining in the Revenue Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other Town purpose now or hereafter permitted by law.

**SECTION 15. Deposits to Certificate Fund.** The Town hereby covenants and agrees to cause to be deposited to the credit of the Certificate Fund the amount required to fully pay the interest and/or principal, then due and payable on the Certificates, such deposits to pay maturing

principal and accrued interest on the Certificates to be made on or before the 1st day of each February and August, beginning February 1, 2025.

The deposits to be made to the credit of the Certificate Fund, as provided above, shall be made until such time as such Fund contains amounts equal to pay the principal of and interest and premium, if any, on the Certificates to maturity. Accrued interest, if any, and premium, if any, received from the purchaser of the Certificates deposited to the Certificate Fund and ad valorem taxes levied, collected and deposited in the Certificate Fund for and on behalf the Certificates may be taken into consideration and reduce the amount of the deposits otherwise required to be deposited in the Certificate Fund from the Net Revenues of the System. In addition, any surplus proceeds from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said Fund from ad valorem taxes and the Net Revenues of the System.

SECTION 16. Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds, and moneys on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

SECTION 17. Maintenance of System - Insurance. The Town covenants and agrees that while the Certificates remain Outstanding it will maintain and operate the System with all possible efficiency and maintain casualty and other insurance on the properties of the System and its operations of a kind and in such amounts customarily carried by municipal corporations in the State of Texas engaged in a similar type business; that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Texas.

SECTION 18. Rates and Charges. The Town hereby covenants and agrees with the Holders of the Certificates that rates and charges for water and sewer services afforded by the System will be established and maintained to provide revenues sufficient at all times to pay:

(a) all operating, maintenance, depreciation, replacement, betterment and interest charges and other costs incurred in the maintenance and operation of the System;

(b) To produce Net Revenues sufficient to pay (i) the interest on and principal of the Prior Lien Obligations as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment and security thereof and (ii) the amounts, if any, required to be deposited in the special funds created and established for the payment of the Certificates; and

(c) To pay other legally incurred indebtedness payable from the revenues of the System and/or secured by a lien on the System or the revenues thereof.

SECTION 19. Records and Accounts - Annual Audit. The Town further covenants and agrees that while any of the Certificates remain Outstanding, it will keep and maintain separate and complete records and accounts pertaining to the operations of the System in which complete and correct entries shall be made of all transactions relating thereto, as provided by law. The Holder or Holders of the Certificates or any duly authorized agent or agents of such Holders shall have the right to inspect the System and all properties comprising the same. The Town further

agrees that following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants.

**SECTION 20. Remedies in Event of Default.** In addition to all the rights and remedies provided by the laws of the State of Texas, the Town covenants and agrees particularly that in the event the Town (a) defaults in the payments to be made to the Certificate Fund, or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, the owner or owners of any of the Certificates shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the Town and other officers of the Town to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedies provided under this Ordinance shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

**SECTION 21. Special Covenants.** The Town hereby further covenants as follows:

(a) It has the lawful power to pledge the Net Revenues of the System supporting this issue of Certificates, and it has lawfully exercised said powers under the Constitution and laws of the State of Texas, including said power existing under Chapter 1502 of the Texas Government Code, as amended, and Texas Local Government Code, Subchapter C of Section 271, as amended.

(b) Other than for the payment of: (i) the Prior Lien Obligations, and (ii) the limited pledge on the Certificates, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the Town or of the System.

(c) While the pledge of the Net Revenues supporting the Certificates is outstanding, the Town will not sell, lease or encumber the System or any substantial part thereof, provided that this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the System.

(d) To the extent that it legally may, while any of the Certificates are Outstanding, no franchise shall be granted for the installation or operation of any competing waterworks and sanitary sewer systems other than those owned by the Town, and the operation of any such systems by anyone other than the Town shall be prohibited.

**SECTION 22. Issuance of Prior Lien Obligations and Additional Certificates.** The Town hereby expressly reserves the right to issue Prior Lien Obligations, without limitation as to principal amount but subject to any terms, conditions or restrictions applicable under law or otherwise, and, also reserves the right to issue Additional Certificates which, together with the Certificates, shall be secured by a parity lien on and pledge of the Net Revenues of the System.

**SECTION 23. Application of Prior Lien Obligations Covenants and Agreements.** It is the intention of this governing body and accordingly hereby recognized and stipulated that the provisions, agreements and covenants contained in this Ordinance bearing upon the

management and operations of the System, and the administering and application of revenues derived from such operations, shall to the extent possible be harmonized with like provisions, agreements and covenants contained in the ordinances authorizing the issuance of the Prior Lien Obligations. To the extent of any irreconcilable conflict between the provisions contained in this Ordinance and in the prior ordinances authorizing the issuance of the Prior Lien Obligations, the provisions, agreements and covenants contained in the prior ordinances shall prevail to the extent of such conflict and shall be applicable to this Ordinance but in all respects subject to the priority of rights and benefits, if any, conferred thereby to the holders of the Prior Lien Obligations. Notwithstanding the above, any change or modification affecting the application of revenues derived from the operation of the System shall not impair the obligation of contract with respect to the pledges of revenues made in this Ordinance for the payment and security for the Certificates.

SECTION 24. Notices to Holders - Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Certificates. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 25. Cancellation. All Certificates surrendered for payment, redemption transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the Town, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The Town may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the Town may have acquired in any manner whatsoever; and, all Certificates so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Certificates held by the Paying Agent/Registrar shall be returned to the Town.

SECTION 26. Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

*“Closing Date”* means the date on which the Certificates are first authenticated and delivered to the initial purchaser against payment therefor.

*“Code”* means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

*“Computation Date”* has the meaning set forth in Section 1.148-1(b) of the Regulations.

*“Gross Proceeds”* means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Certificates.

*“Investment”* has the meaning set forth in Section 1.148-1(b) of the Regulations.

*“Nonpurpose Investment”* means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

*“Rebate Amount”* has the meaning set forth in Section 1.148-1(b) of the Regulations.

*“Regulations”* means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Certificates. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary, or final Income Tax Regulation designed to supplement, amend, or replace the specific Regulation referenced.

*“Yield”* of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Certificates has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The Town shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Town receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the Town shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Town shall at all times prior to the last Stated Maturity of Certificates:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Certificates or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general

application within the Town or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Town shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a takeorpay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Town shall not at any time prior to the final Stated Maturity of the Certificates directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Certificates.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Town shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The Town shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The Town shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Certificate is discharged. However, to the extent permitted by law, the Town may commingle Gross Proceeds of the Certificates with other money of the Town, provided that the Town separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the Town shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The Town shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Certificates until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Certificates by the Purchaser and the loan of the money represented thereby and in order to induce such



purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the Town shall pay to the United States out of its general fund, or appropriate fund, or, if permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the Certificate Fund, the amount that when added to the future value of previous rebate payments made for the Certificates equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The Town shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.1483(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Town shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Certificates, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates not been relevant to either party.

(j) Elections. The Town hereby directs and authorizes the Mayor, Mayor Pro Tem, Town Manager, and Chief Financial Officer, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

**SECTION 27. Satisfaction of Obligations of Town.** If the Town shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and the Net Revenues of the System (to the extent such limited pledge of Net Revenues shall not have been discharged or terminated by prior payment of principal of or interest on the Certificates) and all covenants, agreements, and other obligations of the Town to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Certificates or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Certificates or the principal amount(s) thereof at maturity or the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent

accounting or consulting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The Town covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the Town or deposited as directed by the Town. Furthermore, upon the Town's request, the Paying Agent/Registrar shall remit to the Town along with a written receipt, any moneys deposited and held in trust by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates which remain unclaimed for a period of three years after being so deposited and held on the Stated Maturity or applicable redemption date on the Certificates. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the Town shall be subject to any applicable unclaimed property laws of the State of Texas.

The term "Government Securities," as used herein, shall mean any securities and obligations now or hereafter authorized by state law that are eligible to discharge obligations such as the Certificates. Current state law permits defeasance with the following types of securities: (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the Town authorizes the defeasance of the Certificates, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that, on the date the Town authorizes the defeasance of the Certificates, have been refunded and are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Certificates under the then applicable laws of the State of Texas.

**SECTION 28. Mutilated, Destroyed, Lost, and Stolen Certificates.** In case any Certificate shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Certificate of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Certificate, or in lieu of and in substitution for such destroyed, lost or stolen Certificate, only upon the approval of the Town and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Certificate, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the Town and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Certificate shall be borne by the Holder of the Certificate mutilated, or destroyed, lost or stolen.

Every replacement Certificate issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Certificates.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Certificates.

SECTION 29. Ordinance a Contract - Amendments. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the Town, and shall not be amended or repealed by the Town so long as any Certificate remains Outstanding except as permitted in this Section and in Section 33 hereof. The Town, may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. Additionally, with the written consent of Holders holding a majority in aggregate principal amount of the Certificates then Outstanding, the Town may, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Certificates, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of, premium, if any, and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates, (ii) give any preference to any Certificate over any other Certificate, or (iii) reduce the aggregate principal amount of Certificates required to be held by Holders for consent to any such amendment, addition, or rescission.

SECTION 30. Sale of the Certificates and Official Statement Approval. Pursuant to a public sale for the Certificates, the bid submitted by \_\_\_\_\_ (herein referred to as the "Purchaser") is declared to be the best bid received producing the lowest true interest cost rate to the Town, and the sale of the Certificates to said Purchaser at the price of par plus a cash premium of \$\_\_\_\_\_ is hereby determined to be in the best interests of the Town and is approved and confirmed. Delivery of the Certificates to the Purchaser shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale. The Initial Certificate shall be registered as provided in the winning bid.

Furthermore, the Preliminary Official Statement and the Notice of Sale prepared in connection with the public offering and sale of the Certificates are hereby ratified, confirmed and approved in all respects. The final Official Statement reflecting the terms of the sale (together with such changes approved by any one or more of the Mayor, Mayor Pro Tem, Town Manager, Chief Financial Officer, and Town Secretary), is hereby approved as to form and content, and the Council hereby finds that the information and data contained in such Official Statement, dated July 16, 2024, pertaining to the Town and its financial affairs is true and correct in all material respects and no material facts have been omitted which are necessary to make the statements contained in the Official Statement, in the light of the circumstances under which they were made, not misleading. The use of such Official Statement in the reoffering, sale and delivery of the Certificates by the Purchaser is hereby approved and authorized. The Mayor and Town Secretary are further authorized and directed to manually execute and deliver for and on behalf of the Town copies of said Official Statement in final form as may be required by the Purchaser, and such Official Statement in the final form and content manually executed by said officials shall be deemed to be approved by the Council and constitute the Official Statement authorized for distribution and use by the Purchaser.

SECTION 31. Proceeds of Sale. The proceeds of sale of the Certificates, excluding the accrued interest received from the Purchaser and amounts to pay costs of issuance, shall be deposited in a construction fund maintained at a Town depository bank. Pending expenditure for the authorized projects and purposes set forth herein, such proceeds of sale may be invested in authorized investments in accordance with the provisions of Texas Government Code, Chapter 2256, as amended, including guaranteed investment contracts permitted by Section 2256.015 et seq., and the Town's investment policies and guidelines, and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Certificate Fund as shall be determined by the Town Council. Accrued interest as well as all surplus proceeds of sale of the Certificates, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Certificate Fund. The premium of \$\_\_\_\_\_ will be used as follows: \$\_\_\_\_\_ will be used for underwriter's discount, \$\_\_\_\_\_ will be deposited to the construction fund, \$\_\_\_\_\_ will be deposited to the Certificate Fund and \$\_\_\_\_\_ will be used to pay costs of issuance.

SECTION 32. Control and Custody of Certificates. The Mayor or Mayor Pro Tem of the Town shall be and is hereby authorized to take and have charge of all necessary orders and records pending the sale of the Certificates, the investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Certificates, and shall take and have charge and control of the Initial Certificate pending the approval thereof by the Attorney General and its registration thereof by the Comptroller of Public Accounts.

Furthermore, any one or more of the Mayor, Mayor Pro Tem, Chief Financial Officer, and Town Secretary, are hereby authorized and directed to furnish and execute such documents and certifications relating to the Town and the issuance of the Certificates, including a certification as to facts, estimates, circumstances and reasonable expectations pertaining to the use and expenditure and investment of the proceeds of the Certificates as may be necessary for the approval of the Attorney General and their registration by the Comptroller of Public Accounts. In addition, such officials, together with the Town's financial advisor, bond counsel and the Paying Agent/Registrar, are authorized and directed to make the necessary arrangements for the delivery of the Initial Certificate(s) to the initial purchaser.

SECTION 33. Continuing Disclosure Undertaking.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"Financial Obligation" means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports.

The Town shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning in or after 2024, financial information and operating data with respect to the Town of the general type included under the heading in the Official Statement titled "INVESTMENT AUTHORITY AND INVESTMENT PRACTICES OF THE ISSUER - Current Investments" and the information in Tables 1, 2, 6, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25 and 26 of Appendix A of the Official Statement, and (2) within twelve months after the end of each fiscal year ending in or after 2024, and if not provided as part of such financial information and operating data, audited financial statements of the Town. If the audit of such financial statements is not complete within 12 months after any such fiscal year end, then the Town will file unaudited financial statements by the required time and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in Appendix D of the Official Statement, or such other accounting principles as the Town may be required to employ from time to time pursuant to state law or regulation, and audited, if the Town commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the Town changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Town otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet website or filed with the SEC.

(c) Notice of Certain Events. The Town shall provide notice of any of the following events with respect to the Certificates to the MSRB in a timely manner and not more than ten (10) business days after occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (7) Modifications to rights of holders of the Certificates, if material;
- (8) Certificate calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Certificates, if material;
- (11) Rating changes;

- (12) Bankruptcy, insolvency, receivership, or similar event of the Town, which shall occur as described below;
- (13) The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Incurrence of a Financial Obligation of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Town, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Town, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding item (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Town in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Town and (b) the Town intends the words used in the immediately preceding items (15) and (16) in this Section to have the meanings ascribed to them in SEC Release No. 34-83885, dated August 20, 2018.

The Town shall notify the MSRB, in a timely manner, of any failure by the Town to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments.

The Town shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Town remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the Town in any event will give the notice required by subsection (c) of this Section of any Certificate calls and defeasance that cause the Town to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Certificates; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Town undertakes to provide only the financial information, operating data, financial statements, and notices which

it has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the Town does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the Town's financial results, condition, or prospects; nor does the Town undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the Town does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE TOWN BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE TOWN, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Town in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Town under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the Town from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Town, but only if (i) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the Town (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Certificates. The provisions of this Section may also be amended from time to time or repealed by the Town if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the Town's right to do so would not prevent underwriters of the initial public offering of the Certificates from lawfully purchasing or selling Certificates in such offering. If the Town so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

**SECTION 34. Further Procedures.** Any one or more of the Mayor, Mayor Pro Tem, Town Manager, Chief Financial Officer and Town Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the Town all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Certificates. In addition, prior to the initial delivery of the Certificates, the

Mayor, Mayor Pro Tem, Town Manager, Chief Financial Officer or Bond Counsel to the Town are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Certificates by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the Town whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

The Town authorizes the Mayor, the Mayor Pro Tem, the Town Manager, the Deputy Town Manager, and the Chief Financial Officer of the Town, or any authorized official or the designee thereof, to take all actions necessary to execute any necessary contracts or amendments with SAMCO Capital Markets, Inc., as the financial advisor to the Town (the "Financial Advisor") and Norton Rose Fulbright US LLP, as the bond counsel to the Town (the "Bond Counsel"). The Town Council understands that under applicable federal securities laws and regulations that the Town must have a contractual arrangement with its Financial Advisor relating to the sale, issuance, and delivery of the Town's debt obligations.

SECTION 35. Bond Counsel's Opinion. The Purchaser's obligation to accept delivery of the Certificates is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Dallas, Texas, approving the Certificates as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Certificates. The Town Council confirms the continuation of the engagement of Norton Rose Fulbright US LLP as the Town's bond counsel.

SECTION 36. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof and neither the Town nor attorneys approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

SECTION 37. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the Town, the Paying Agent/Registrar, and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the Town, the Paying Agent/Registrar and the Holders.

SECTION 38. Inconsistent Provisions. All ordinances, orders, or resolutions, or parts thereof which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 39. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 40. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.



SECTION 41. Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance or the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 42. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 43. Incorporation of Findings and Determinations. The findings and determinations of the Town Council contained in the preamble of this Ordinance are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 44. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 45. Effective Date. This Ordinance shall take effect and be in force immediately from and after its adoption on the date shown below in accordance with Texas Government Code, Section 1201.028, as amended.

*[remainder of page intentionally left blank]*

PASSED AND ADOPTED, this July 16, 2024

TOWN OF LITTLE ELM, TEXAS

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Mayor

ATTEST:

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Town Secretary

(Town Seal)

APPROVED AS TO FORM:

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Town Attorney

**EXHIBIT A**  
**PAYING AGENT/REGISTRAR AGREEMENT**

## **PAYING AGENT/REGISTRAR AGREEMENT**

THIS AGREEMENT is entered into as of July 16, 2024 (this "Agreement"), by and between BOKF, NA, a banking association duly organized and existing under the laws of the United States of America, or its successors (the "Bank") and the Town of Little Elm, Texas (the "Issuer"),

### **RECITALS**

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "TOWN OF LITTLE ELM, TEXAS COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2024" (the "Securities"), dated August 1, 2024, such Securities scheduled to be delivered to the initial purchasers thereof on or about August 14, 2024; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

### **ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR**

**Section 1.01 Appointment.** The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Authorizing Document" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the Authorizing Document.

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

**Section 1.02 Compensation.** As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in **Annex A** attached hereto; provided however, notwithstanding anything herein or in Annex A to the contrary, the aggregate value of this agreement shall be less than the dollar limitation set forth in Sections 2271.002(a)(2), 2274.002(a)(2) and 2276.002(a)(2) of the Texas Government Code, as amended.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of

the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

## **ARTICLE TWO DEFINITIONS**

**Section 2.01 Definitions.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

“Acceleration Date” on any Security means the date, if any, on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

“Authorizing Document” means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, as the same may be amended or modified, including any pricing certificate related thereto, certified by the secretary or any other officer of the Issuer and delivered to the Bank.

“Bank Office” means the designated office of the Bank at the address shown in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

“Holder” and “Security Holder” each means the Person in whose name a Security is registered in the Security Register.

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

“Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Authorizing Document).

“Redemption Date”, when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to the terms of the Authorizing Document.

“Responsible Officer”, when used with respect to the Bank, means the Chairman or ViceChairman of the Board of Directors, the Chairman or ViceChairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to

whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“Security Register” means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

“Stated Maturity” means the date specified in the Authorizing Document the principal of a Security is scheduled to be due and payable.

**Section 2.02 Other Definitions.** The terms “Bank,” “Issuer,” and “Securities (Security)” have the meanings assigned to them in the recital paragraphs of this Agreement.

The term “Paying Agent/Registrar” refers to the Bank in the performance of the duties and functions of this Agreement.

### **ARTICLE THREE PAYING AGENT**

**Section 3.01 Duties of Paying Agent.** As Paying Agent, the Bank shall pay, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following address:

BOKF, NA  
Corporate Trust Services  
2405 Grand Blvd., Suite 840  
Kansas City, MO 64108

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date (as defined in the Authorizing Document). All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the paying agent account provided in Section 5.05 hereof, sent by United States mail, first class postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder’s risk and expense.

**Section 3.02 Payment Dates.** The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Authorizing Document.

### **ARTICLE FOUR REGISTRAR**

**Section 4.01 Security Register - Transfers and Exchanges.** The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the “Security Register”) for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other

information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacements of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority, such written instrument to be in a form satisfactory to the Bank and duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a reregistration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

**Section 4.02 Securities.** The Issuer shall provide additional Securities when needed to facilitate transfers or exchanges thereof. The Bank covenants that such additional Securities, if and when provided, will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

**Section 4.03 Form of Security Register.** The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

**Section 4.04 List of Security Holders.** The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

**Section 4.05 Return of Cancelled Securities.** The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, all Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

**Section 4.06 Mutilated, Destroyed, Lost or Stolen Securities.** The Issuer hereby instructs the Bank, subject to the provisions of the Authorizing Document, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such mutilated, destroyed, lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, destroyed, lost or stolen.

**Section 4.07 Transaction Information to Issuer.** The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

## **ARTICLE FIVE THE BANK**

**Section 5.01 Duties of Bank.** The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

**Section 5.02 Reliance on Documents, Etc.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality



of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document supplied by the Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(g) The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum or letter as prepared by the Issuer, Issuer's financial advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum or letter acknowledged by the Issuer, the Issuer's financial advisor or other agent as the final closing memorandum or letter. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

**Section 5.03 Recitals of Issuer.** The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

**Section 5.04 May Hold Securities.** The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

**Section 5.05 Moneys Held by Bank - Paying Agent Account/Collateralization.** A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping, and disbursement of moneys received from the Issuer under this Agreement for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such paying agent account shall be made by check drawn on such account unless the owner of the Securities shall, at its own expense and risk, request an alternative method of payment.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal of, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be held by the Bank and disposed of only in accordance with Title 6 of the Texas Property Code, as amended. The Bank shall have no liability by virtue of actions taken in compliance with this provision.

The Bank is not obligated to pay interest on any money received by it under this Agreement.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Issuer, act as trustee under indentures authorizing other bond transactions of the Issuer, or act in any other capacity not in conflict with its duties hereunder.

**Section 5.06 Indemnification.** To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

**Section 5.07 Interpleader.** The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the state and county where the administrative office of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

**Section 5.08 DTC Services.** It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements", which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

## **ARTICLE SIX MISCELLANEOUS PROVISIONS**

**Section 6.01 Amendment.** This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

**Section 6.02 Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other.

**Section 6.03 Notices.** Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page(s) hereof.

**Section 6.04 Effect of Headings.** The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

**Section 6.05 Successors and Assigns.** All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

**Section 6.06 Severability.** In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 6.07 Merger, Conversion, Consolidation, or Succession.** Any corporation or association into which the Bank may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank as Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of either parties hereto.

**Section 6.08 Benefits of Agreement.** Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

**Section 6.09 Entire Agreement.** This Agreement and the Authorizing Document constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Authorizing Document, the Authorizing Document shall govern.

**Section 6. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

**Section 6. Termination.** This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. However, if the Issuer fails to appoint a successor Paying Agent/Registrar within a reasonable time, the Bank may petition a court of competent jurisdiction within the State of Texas to appoint a successor. Furthermore, the Bank and the Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with the other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

**Section 6. Iran, Sudan or Foreign Terrorist Organizations.** The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on the following page of such officer's internet website:

<https://comptroller.texas.gov/purchasing/publications/divestment.php>

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and excludes the Bank and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

Notwithstanding anything contained herein, the representations and covenants contained in this Section 6.12 shall survive the termination of this Agreement until the statute of limitations has run.

**Section 6. Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

*[The remainder of this page intentionally left blank.]*

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

BOKF, NA

By:\_\_\_\_\_

Title:\_\_\_\_\_

Address: 5956 Sherry Lane, Suite 900  
Dallas, Texas 75225

TOWN OF LITTLE ELM, TEXAS

By: \_\_\_\_\_  
Mayor

Address: 100 West Eldorado Parkway  
Little Elm, Texas 75068

Attest:

\_\_\_\_\_  
Town Secretary

## ANNEX A



**Date:** 07/16/2024  
**Agenda Item #:** 5. B.  
**Department:** Development Services  
**Strategic Goal:** Promote and expand Little Elm's identity  
**Staff Contact:** Olga Chernomorets, Planning Manager

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#### **AGENDA ITEM:**

Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1766 Regarding a Request to Rezone Approximately 1.6 Acres of Land, Currently Zoned as Light Commercial, Generally Located West of the Intersection of King Road and FM 423, within Little Elm's Town Limits, in Order to Establish a New Planned Development - Light Commercial District, with Modified Development Standards to Allow for Redevelopment.**

- **Open Public Hearing:**
- **Receive Public Comments:**
- **Close Public Hearing:**
- **Take Action on Ordinance No. 1766:**

#### **DESCRIPTION:**

##### **Location**

Generally located west of the intersection of King Road and FM 423, within Little Elm's town limits.

##### **Background**

Subject property consists of two commercial lots totaling approximately 1.6 acres, currently zoned Light Commercial. The property was annexed into the Town in 2002 through Ordinance No. 561. The adjacent properties to the East, West, and North are also zoned and operating as Light Commercial. Land to the South of this property is a self-storage business and is zoned Light Industrial. The property has access to King Road along the northern boundary and has the potential for cross access to the properties to the east and west.

Subject property currently has two vacant structures totaling 7,825 square feet, which appear to have been originally constructed between 1987 and 1995. Javelina Corporation, a government contractor that created avionics equipment, was the original and prior owner and operator of the property, before it was annexed. Since the building was built before the property was annexed, and due to the previous owner's status as a government contractor, the Town has been unable to inspect or enter the building.



The property was purchased in 2021 by Sayra Carpenter, one of the owners of Bracha Jewelry, with the intention of converting the building into her business headquarters. The building and property, in their current state, are existing nonconforming; the property is also not currently platted. This means that the current owner has been unable to receive a certificate of occupancy for use of the property. In order to get their Certificate of Occupancy, the site and buildings must be brought into compliance with the Town's Zoning and Subdivision Ordinances, as well as the most current Building and Fire Codes. However, due to the existing conditions and constraints of the property, it is not financially feasible to fully bring the property into compliance without demolishing the existing structures.

In an effort to help the property owner, Staff suggested requesting a Planned Development as the best route forward; this would capture the existing nonconforming aspects of the property and building while providing reasonable improvements throughout the property to help move it toward compliance.

### **Proposal**

The applicant is proposing to rezone the subject property to establish a new Planned Development District utilizing Light Commercial District as the base, with modified development standards in order to improve the existing site and building with the understanding that this is a challenging older development. Staff has been working with the applicant to bring the project into compliance with as many applicable development standards as financially feasible but still keep the existing buildings, in order to increase the chances of approval and create quality commercial space for their business.

As part of these efforts, the applicant is proposing to pave the driveway and parking lot, create parking lot landscape islands, plant trees around the perimeter and internally on the site, renovate the building interior, upgrade the materials and design of the buildings' exterior, and create a paved cross access between commercial properties to the existing east and west. While the proposal meets the majority of the Town's development standards, due to limitations and challenges of an infill redevelopment, the applicant is requesting the following modifications:

- Architectural Design Standards
  - Materials, articulation, and glazing
- Front yard setback and landscape buffer
- Overhead utility line to remain as exists

### **Uses**

The applicant is a co-owner of Bracha Jewelry and is looking to set up a new office that meets the company's needs as a growing business. The applicant is proposing to use the rear building (Building 1) primarily as their office headquarters, with a multimedia studio and retail component of their business; these uses are permitted-by-right in the Light Commercial district. The applicant is proposing to utilize the front building (Building 2) for most of the same purposes, with the potential for restaurant or retail, both allowed by right under Light Commercial.

### **Zoning Standards**

The applicant's proposal meets all Height, Area, and Setback requirements of the Town's Zoning Ordinance with the exception of the maximum front yard setback. At this time, the applicant is not proposing to change the footprint of the buildings so the maximum setback which is typically 100' in LC districts would be captured as shown on the site plan. The requirement of a maximum front yard setback is intended to create an active storefront and create unified feel for the block or district. Being an adaptive reuse development, with office as the primary use, and given the depth of the lot, Staff does not believe allowing the existing 135-foot setback would detract from the area

or the intent of the ordinance. Some recent PDs that were approved with an increased maximum front yard setback were Little Elm Court, near the corner of FM 423 and Woodlake Parkway; and Parkwood Collision on Highway 380.

### Design Standards

Currently, the two existing structures on site are constructed solely of metal. The applicant has consulted with a structural engineer to assess the limits of how much masonry can be added based on the current foundation and structure. The engineer recommended that in order to have a full height masonry wall, a concrete brick ledge would need to be placed below the masonry veneer. This would be accomplished by the removal and replacement of 6" of flatwork around the perimeter of the building; this is a significant expense that the property owner is not able to undertake in addition to the paving and landscaping improvements for the rest of the site.

As a result, the applicant is proposing to enhance the exterior of the buildings by adding brick and stucco to portions of the building most visible from the right of way to create the perception of architectural features and articulations. The proposal includes adding several windows as there currently are not any on the existing structure, as well as paint and wood accents. The applicant's goal is to preserve the original structure of the buildings in order to reduce development costs and utilize the existing building framework. This type of adaptive reuse, where an existing structure and site are renovated to meet current standards, is common in areas where vacant land is scarce and will become more common as Little Elm approaches build-out.

The applicant is requesting to amend the design standards for building materials to the following, with primary facades facing the street in bold:

#### Rear Building (Building 1)

Elevation	Glazing	Class A	Class B	Class C
<b>North</b>	<b>15%</b>	<b>23%</b>	<b>59%</b>	<b>8%</b>
<b>East</b>	<b>24%</b>	<b>24%</b>	<b>19%</b>	<b>33%</b>
South	4%	0%	0%	96%
West	0%	0%	49%	51%

#### Front Building (Building 2)

Elevation	Glazing	Class A	Class B	Class C
<b>North</b>	<b>16%</b>	<b>33%</b>	<b>45%</b>	<b>6%</b>
<b>East</b>	<b>42%</b>	<b>39%</b>	<b>0%</b>	<b>19%</b>
South	0%	27%	0%	73%
West	0%	23%	17%	60%

As the materials charts above show, Glazing and Class A materials are prioritized on the primary facades of both buildings.

Additionally, the applicant has included language in their narrative that states that the front building (Building 2) will be required to have its façades resurfaced no later than 24 months after the rear building (Building 1) has received a Certificate of Occupancy (CO). While the owner might not have immediate plans for the front building, this mechanism creates a guarantee that a cohesive look will be achieved by a certain time. The applicant will then begin the permitting process for the finish-out of the interior of the building when they deem necessary.

### **Landscaping and Screening Standards**

The proposed perimeter, interior, foundation, and landscaping points for the site meet the Town's landscaping requirements. The applicant's proposal goes above the regular landscaping standards for the LC district, particularly within the interior landscaping and foundation planting.

Due to the existing placement of King Road and the adjacent commercial properties, in order for the applicant to create an adequate cross access connection, it is impossible to maintain the required 20-foot front landscape buffer. This is partially due to the right-of-way adjustment that resulted in some of these properties losing a small portion of their frontage. Staff believes that given this existing condition, the applicant has provided a significant amount of enhanced landscaping and tree planting along the right-of-way in order to meet the intent of this requirement.

Additionally, the existing property is bound by chain-link fence on the east, south, and west sides, and wrought iron fence along the northern boundary. The applicant originally misunderstood the Town's requirements, and requested to keep the chain link fence around most of the property. During the Planning and Zoning Commission hearing, the applicant was asked to replace the fence with wrought iron if they intended to keep the property fully fenced in, and the plans were revised to show the wrought iron fence instead. However, fence around the entire property is not a requirement and the applicant does not actually wish to keep the property fenced in.

### **Parking**

The applicant is proposing to pave the current asphalt driveway and parking lot, providing stripped parking spaces, with required landscaped islands. The proposal meets the Town's parking regulations, including space size, ratios, and total amount of parking provided.

### **Subdivision.**

The property is not currently platted and will be required to get a final plat approved as part of the Site Development Permit process.

### **Signage**

The only proposed signage is what is included in the façade plan. Any other proposed signage will need to follow the Town's sign ordinance.

### **Fire, Engineering, Building**

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

### **Comprehensive Plan**

The proposed development is in accordance with the Town's Comprehensive Plan and Future Land Use Plan. The Town envisions this property as a light commercial use, which aligns with the intent of the proposed development.

### **Recommendation to Commission**

Staff is generally supportive of infill redevelopment, especially in cases involving previously vacant underutilized property and the adaptive reuse of existing buildings. This request proposes to repurpose an old warehouse/assembly building for unique and distinctive office and retail space, generating additional foot traffic and investment to the area. Additionally, enhancing and renovating an old building for new business reduces the demand for new construction materials and minimizes waste.

The proposed site improvements move a nonconforming property toward compliance and correct a previously missed opportunity for cross access between Kings Plaza and FM 423. The request also provides a redevelopment with a thought-out vision for the future to ensure the business can grow its operation and remain on this property for many years to come. As always, Staff is supportive of long-term business investment that helps to further the vision of the Comprehensive Plan.

### **Commission Findings**

On May 16, 2024, at their regular hearing, the Planning and Zoning Commission voiced concerns over allowing the existing buildings to remain and establish many of the existing-nonconforming standards as permitted within the PD. The Planning and Zoning Commission felt that the proposal was not a sufficient compromise of site development standards, with their main concern being the lack of quality of the proposed façade enhancements, and inconsistency with the design and facades of the existing adjacent commercial properties. With the understanding that there are limitations to significantly altering the facades of an existing metal structure, the Commission requested the applicant to provide data from a qualified engineer indicating the maximum potential enhancements to each façade, without having to reinforce the foundation to ensure structural integrity. The Commission voted 6-1 to table the item until the June 6, 2024 meeting.

After discussing the requested changes with Staff, the applicant decided that more time would be preferred to get their new proposal together and requested to wait until the June 20, 2024 meeting. Since the public hearing was already held on the May 16, 2024 meeting, with confirmation from the Town Attorney, Staff were able to move the agenda item without needing to fall under any new requirements for public noticing.

At their regular hearing on June 20, 2024, the Planning and Zoning Commission discussed the revisions to the proposed facades. The Commission deliberated whether the proposed redevelopment of the site is truly the highest and best path forward for this property, with a couple of the Commissioners agreeing that while something needs to be done on this site, a better path would be to demolish and rebuild. During the public hearing, Natasha Roach with the Economic Development Corporation, spoke in support of the proposed request.

### **BUDGET IMPACT:**

This item has no budget impact.

### **RECOMMENDED ACTION:**

The Planning and Zoning Commission recommend approval (4-2) of the proposed request as presented.

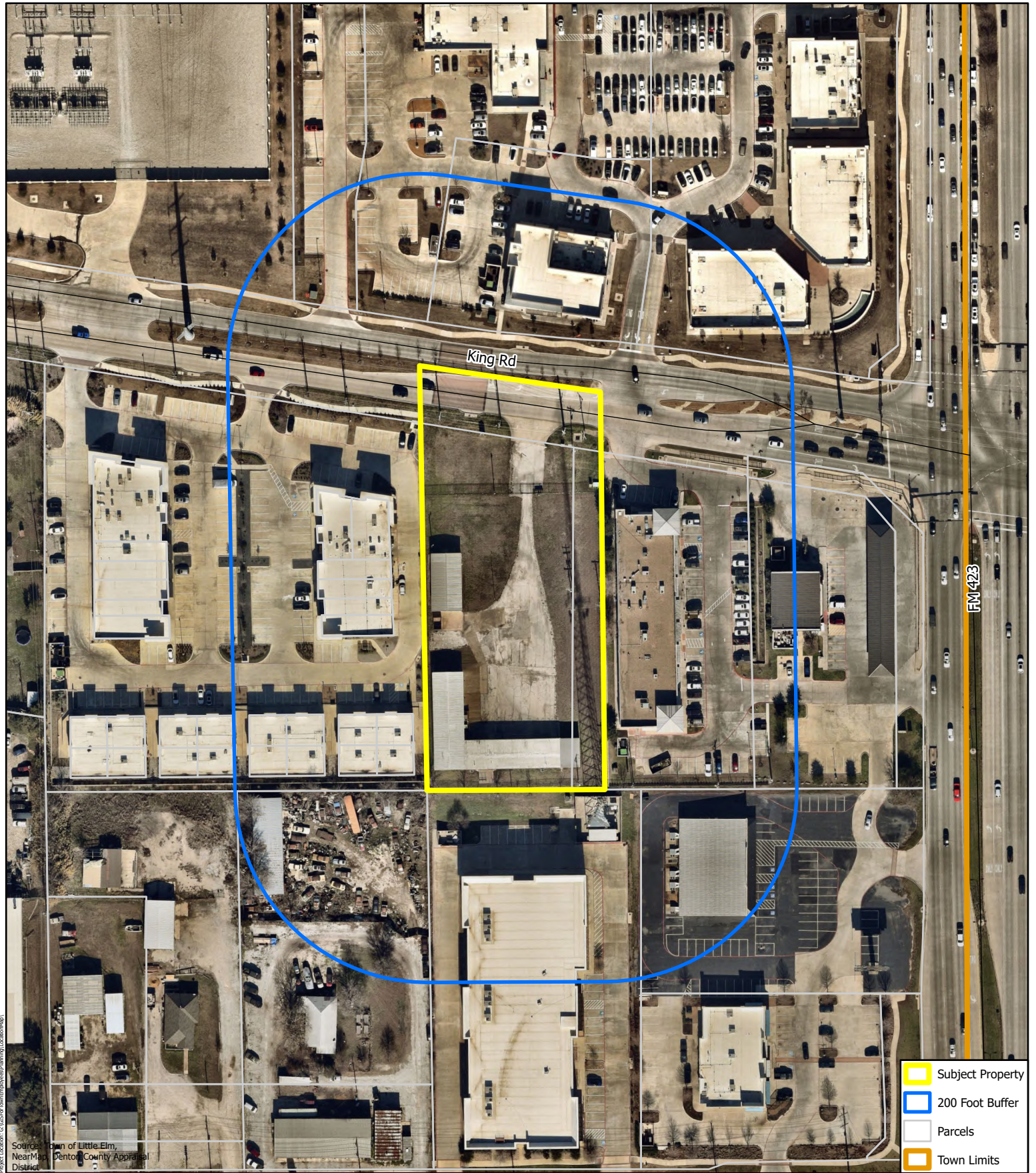
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### **Attachments**

Location Map

Ordinance No. 1766 - Bracha PD





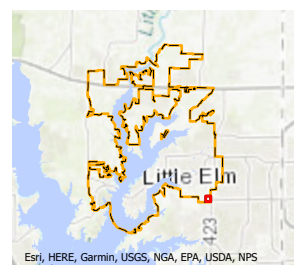


**LITTLE ELM**

**Bracha Retail Planned Development**  
**(PD-24-000279)**  
**Little Elm, TX, 75068**

**Town of Little Elm**  
**Denton County, Tx**  
 Date: 4/30/2024

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Esri, HERE, Garmin, USGS, NGA, EPA, USDA, NPS

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



**TOWN OF LITTLE ELM  
ORDINANCE NO. 1766**

**AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, BY ESTABLISHING A NEW PLANNED DEVELOPMENT – LIGHT COMMERCIAL (PD-LC) DISTRICT BASED ON LIGHT COMMERCIAL STANDARDS, WITH MODIFIED DEVELOPMENT STANDARDS TO ALLOW FOR REDEVELOPMENT OF A 1.6 ACRE PROPERTY LOCATED WEST OF THE INTERSECTION OF KING ROAD AND FM 423; PROVIDING A SAVINGS CLAUSE; CORRECTING THE OFFICIAL ZONING MAP; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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

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

**WHEREAS**, a request to establish a Planned Development-Light Commercial (PD-LC) District based on Light Commercial district with modified development standards, on approximately 1.6 acres of land, more specifically described in the exhibits, attached hereto; and

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

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

**WHEREAS**, at its regular meeting held on June 20, 2024 the Planning & Zoning Commission considered and made recommendations on Case No. PD-24-000279; and

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

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

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

**SECTION 2. ZONING AMENDMENT.** That Ordinance No. 226 of the Town of Little Elm, Texas, the same being the Comprehensive Zoning Ordinance of the Town, is hereby amended by establishing a new Planned Development-Light Commercial (PD-LC) based on Light Commercial (LC) district requirements with modified development standards, on property located west of the intersection of King Road and FM 423, within Little Elm's town limits, on approximately 1.6 acres of land more particularly described in **Exhibit A**, and attached hereto, subject to all of the terms and conditions set forth herein, the terms and conditions of the Comprehensive Zoning Ordinance, and all other applicable ordinances, laws, rules, regulations, and standards.

**SECTION 3. CONDITIONS AND REGULATIONS.** The permitted standards shall be in accordance with the Light Commercial (LC), and all applicable provisions of Chapter 106 – Zoning Ordinance in general, plus as specified herein:

- a. The Zoning and Land Use Regulations, and all conditions set forth in **Exhibit B** attached hereto and made a part hereof for all purposes shall be adhered to in their entirety for the purposes of this Planned Development. In the event of conflict between the provisions of **Exhibit B** and provisions of any other exhibit, the provisions of **Exhibit B** control.
- b. Plans must be submitted for permitting for the redevelopment of Building 2 no later than 24 months after the issuance of a Certificate of Occupancy for Building 1.

**SECTION 4. PLANNED DEVELOPMENT MASTER PLAN.** The Concept Plan and related plans, images, and documents approved and described as **Exhibit B** attached

hereto and made a part hereof are approved. The subject property shall be improved in accordance with the plans set forth in Exhibit C.

- a. If, after two years from the date of approval of the Planned Development Master Plan, no substantial development progress has been made within the PD, then the Planned Development Master Plan shall expire. If the Planned Development Master Plan expires, a new Planned Development Master Plan must be submitted and approved according to the procedures within the Zoning Ordinance, Planned Development Districts. An extension of the two year expiration shall be granted if a development application for the PD has been submitted and is undergoing the development review process or if the Director of Development Services determines development progress is occurring.
- b. The Planned Development Master Plan shall control the use and development of the property, and all building permits and development requests shall be in accordance with the plan until it is amended by the City Council.
- c. If a change to the Concept Plan, if any, is requested, the request shall be processed in accordance with the development standards in effect at the time the change is requested for the proposed development.

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

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

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

**SECTION 7. SEVERABILITY.** The sections, paragraphs, sentences, phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid or unconstitutional, the adjudication shall not affect any other section or provision of this ordinance or the application of any other



section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of the ordinance without the valid parts and to this end the provisions of this ordinance shall remain in full force and effect.

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

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

**PASSED AND APPROVED** by the Town Council of the Town of Little Elm, Texas on the 16<sup>th</sup> day of July, 2024.

Town of Little Elm, Texas

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Curtis Cornelious, Mayor

ATTEST:

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Caitlan Biggs, Town Secretary

**Exhibit A**  
Property Description

METES AND BOUNDS  
LOT 1, BLOCK A  
BRACHA ADDITION

**WHEREAS, BRACHA, A Texas General Partnership**, is the owner of a 1.585 acre tract of land out of the Henry Kendall Survey, Abstract Number 713, situated in Denton County, Texas, and being all of that certain tract of land described in a deed to BRACHA, A Texas General Partnership, as recorded in Instrument Number 2021-148212 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being more particularly described by metes & bounds as follows:

**BEGINNING** at a capped 1/2-inch iron rod stamped “KHA” found in the South Right-of-Way line of King Road, a variable width Right-of-Way, being the Northeast corner of said BRACHA tract, the Southeast corner of a tract of land described as 'Parcel 03' in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., the Southwest corner of tract of land described in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., and the Northwest corner of Lot 2 in Block 1 of Little Elm Retail Addition, a subdivision recorded in Cabinet V, Page 43 of the Plat Records of Denton County, Texas (P.R.D.C.T.);

**THENCE** South 01 degree 00 minutes 49 seconds East, along a common line between said BRACHA tract and said Lot 2, a distance of 354.10 feet to a point in the North line of Lot 1 in Block A of Witt Tower Addition, a plat recorded in Cabinet U, Page 672, P.R.D.C.T., being the Southeast corner of said BRACHA tract and the Southwest corner of said Lot 2, from which a 3-inch metal fence corner post found for reference bears South 49 degrees 37 minutes 12 seconds West, a distance of 0.50 feet, and a capped 1/2-inch iron rod stamped “KAZ” found for reference bears South 16 degrees 11 minutes 56 seconds East, 0.68 feet; **THENCE** South 89 degrees 14 minutes 11 seconds West, along the South line of said BRACHA tract and the North line of said Witt Tower Addition, a distance of 186.27 feet to a 3-inch metal fence corner post found in said North line, being the Southwest corner of said BRACHA tract and the Southeast corner of the remainder of a tract of land described in a deed to Pamela McPartland, as recorded in Document Number 2005-87757, O.R.D.C.T.;

**THENCE** North 01 degree 08 minutes 26 seconds West, along the West line of said BRACHA tract and the East line of said McPartland tract, a distance of 385.47 feet to a capped 1/2-inch iron rod stamped “EAGLE SURVEYING” set in the South Right-of-Way line of King Road, being the Northwest corner of said BRACHA tract, the Southeast corner of a tract of land described as 'Parcel 05' in a deed to the Town of Little Elm, recorded in Document Number 2007-129632, O.R.D.C.T, and the Southwest corner of a tract of land described as 'Parcel 04' in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., from which a capped 1/2-inch iron rod stamped “KAZ” found for reference bears South 02 degrees 17 minutes 41 seconds West, a distance of 1.80 feet;

**THENCE** South 81 degrees 15 minutes 13 seconds East, along the North line of said BRACHA tract and the South line of said Town of Little Elm Parcel 04 and said Town of Little Elm Parcel 03, a distance of 189.87 feet to the POINT OF BEGINNING, containing 1.585 acres, or 69,030 square feet of land, more or less.

**Exhibit B**  
PD Exhibits

# PD ORDINANCE NO. 24-000279

Prepared for:

BRACHA

Bracha Addition

Lot 1, Block A

14085 King Road, Little Elm, Texas 75068

Denton County

Prepared by:



Texas Registered Engineering Firm No. F-23290  
4500 Mercantile Plaza Dr., Suite 228,  
Fort Worth, TX 76137  
Ph: (682) 268-2214

June 2024

## BRACHA PLANNED DEVELOPMENT DISTRICT STATEMENT OF INTENT AND PURPOSE

This zoning submittal encompasses approximately 1.585 acres of land situated within Denton County, more fully described on the legal description attached as Exhibit A (the “Property”). The planned development (“PD”) will allow for light commercial uses to improve the appearance of the overall community and existing structures. These elements will contribute to a mixed-use office and retail development that will significantly improve the existing use of the property, while providing a new and interactive use for the property based on its location in relation to existing thoroughfare.

It is the intent of this PD to primarily follow the Light Commercial (LC) zoning regulations as the base district, with modified development standards as outlined within this PD ordinance, therefore amending the existing Town of Little Elm, Texas zoning map. Any conflict between this PD and the Zoning Ordinance shall be resolved in favor of the regulations set forth in the PD, or as may be ascertained through the intent of this PD. As used herein, “Zoning Ordinance” means the comprehensive zoning of the Town of Little Elm, Texas, in effect on the effective date of this Agreement, except otherwise defined in this Agreement. Uses and development regulations specifically modified, designated or included in this PD shall not be subject to amendment after the date of the adoption of this PD (the “Effective Date”) (whether through the amendment of the Zoning Ordinance or otherwise), except through an amendment of this PD. Uses and development regulations which otherwise are not specifically modified, designated or included in this PD shall be controlled by the “Zoning Ordinance”, unless context provides to the contrary.

### Project Location

The proposed PD is located at 14085 King Road, West of the intersection of FM 423 and King Road. Legal Descriptions (Exhibit A) and PD Standards (Exhibit B) and Development Plans (Exhibit C) are provided. The property is surrounded by light commercial, light industrial and PD ordinance #1730.

### Site Plan Required

The Site Plan attached hereto within Exhibit C, and incorporated herein by reference, demonstrates locations of the resurfaced buildings and improvements within the Property. Any amendment to the site plan approved as a part of the ordinance establishing the planned development district is a change in zoning district classification and must follow the same procedures as set forth in Section 106.04.03, except that the director of planning and development may approve minor revisions which do not alter the basic relationship of the proposed development.

**GENERAL CONDITIONS FOR PD:**

1. Purpose.  
The primary purpose of this Planned Development is to allow for the resurfacing of the façade of existing building 1 and leaving building 2 in its existing condition. The secondary purpose (Phase II) of this Planned Development is to allow for the resurfacing of the façade of existing building 2 no later than 24 months after the issuance of CO for Phase I.
2. Use Regulations  
No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified under Light Commercial in section 106.05.01(b), “schedule of uses – Non-residential”.
3. Base Zoning District  
The permitted uses and standards will be in accordance with the Light Commercial District (LC) zoning as defined in the Zoning Ordinance, unless otherwise specified in the PD regulations.
4. Architectural Standards  
All provisions within Sec. 106.06.05 -Architectural Standards for Commercial Structures shall be met EXCEPT as specified below:
  - (b) Design Standards.
    - (4) All buildings shall be designed and constructed in tri-partite architecture so that they have a distinct base, middle and top, separated by horizontal elements.
    - (5) All buildings shall be constructed of 100 percent masonry finishes, as outlined in table B and in the proportions illustrated in table C.



## ARTICLE VI, TABLE B

### EXTERIOR CATEGORIES & MATERIALS FOR COMMERCIAL – BRACHA ADDITION Lot 1, Block A

Categories	Materials
A	Brick, stone, or manufactured stone
B	Architectural Metals, Cast Brick, Split-face CMU, stucco, cementitious fiber board, engineered wood, tilt-wall construction
C	Wood, tile, glass, EIFS, or other materials as approved by the director
Prohibited	Plain concrete block, aggregate, vinyl, plastic



**ARTICLE VI, TABLE C**
**Required Percentages of Exterior Materials For Commercial-  
BRACHA ADDITION Lot 1, Block A, Building 1**

	Facades	Percentage Breakdown	Definition
Buildings 15,000 square feet or less	Primary	Min. 15% Group A Min. 50% Group B Max. 15% Group C	Exterior walls on public street or along an active storefront
	Secondary	Min. 15% Group A Min. 50% Group B Max. 40% Group C	Exterior walls NOT clearly visible from a public street or along an active storefront

**ARTICLE VI, TABLE C\***
**Required Percentages of Exterior Materials For Commercial-  
BRACHA ADDITION Lot 1, Block A, Building 2**

	Facades	Percentage Breakdown	Definition
Buildings 15,000 square feet or less	Primary	Min. 20% Group B Max. 15% Group C	Exterior walls on public street or along an active storefront
	Secondary	Min. 20% Group B Max. 40% Group C	Exterior walls NOT clearly visible from a public street or along an active storefront

\*Resurfacing the façade of existing building 2 will follow the architectural standards as shown in this PD.



(f) Building Articulation Design Standards. Primary facades clearly visible from a public street or along an active storefront shall meet the following minimum standards for articulation:

- (1) Horizontal articulation shall be as depicted on Exhibit C – Development Plans.
- (2) Vertical articulation as depicted on Exhibit C – Development Plans.

(g) Design Standards.

(6) Building color

- i. Building design to articulate a modern building with building materials that articulate the Bracha brand using 3-coat Stucco, Thin Brick, Glass, canopies.
- ii. Architectural variation in volumes, towers, on main facades facing the street.
- iii. Integrated overall design with modern use of materials with glass and taller portals at entries with signage.
- iv. Variation on glass, storefront and window sizes, both horizontal and vertical.
- v. Inviting, lush landscapes.
- vi. New framed entries.

## 5. Site Development Standards

### 106.06.18 Commercial Landscape Requirements

All provisions within Sec. 106.06.18 - Commercial Landscape Requirements shall be met except as specified herein and shown on the plans.

### Division 3. – Screening Walls and Fences

All provisions within Division 3 shall be met except as specified herein and shown on the plans.

### Division 4. – Parking, Stacking, and Loading Standards

All provisions within Division 4 shall be met except as specified herein and shown on the plans.

## 6. Overhead Power Standards

### 106.06.07 Architectural Standards for Specific Structures

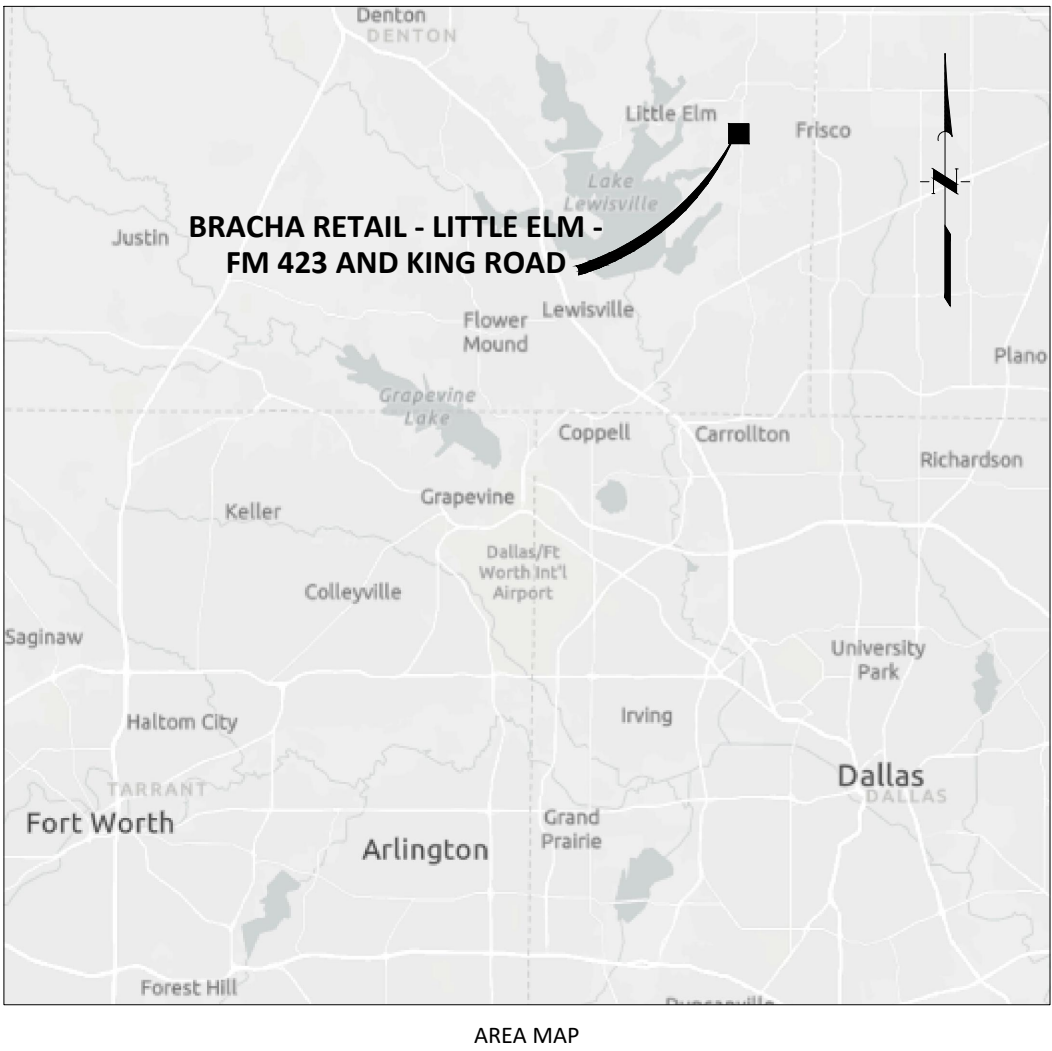
All provisions within Sec. 106.06.07 shall be met except 106.06.07(b)(3). Existing overhead service lead to building 2 to be installed underground, or as shown on site plan.

**WAIVERS FOR PD:**

1. Waiver to allow glazing below 30% on North, East, South, and West facades.
2. Waiver to allow 20' landscape setback.

**Exhibit C**  
Development Plans

CONSTRUCTION  
OF  
CIVIL SITE WORK  
FOR  
BRACHA RETAIL - LITTLE ELM - FM 423  
AND KING ROAD  
FOR  
BRACHA  
14805 KING ROAD  
FRISCO, TEXAS 75036  
DENTON COUNTY, TEXAS



OWNER

BRACHA  
12342 HARVEST MEADOW DRIVE  
FRISCO, TEXAS 75033-2125  
TEL (214) 929-1978  
CONTACT: SAYRA CARPENTER

DEVELOPER

BRACHA  
12342 HARVEST MEADOW DRIVE  
FRISCO, TEXAS 75033-2125  
TEL (214) 929-1978  
CONTACT: SAYRA CARPENTER

ARCHITECT

STUDIO MAS ARCHITECTS  
10440 E NORTHWEST HIGHWAY,  
SUITE 301  
DALLAS, TEXAS 75238  
TEL (214) 669-4684  
CONTACT: SANTOS CATALAN

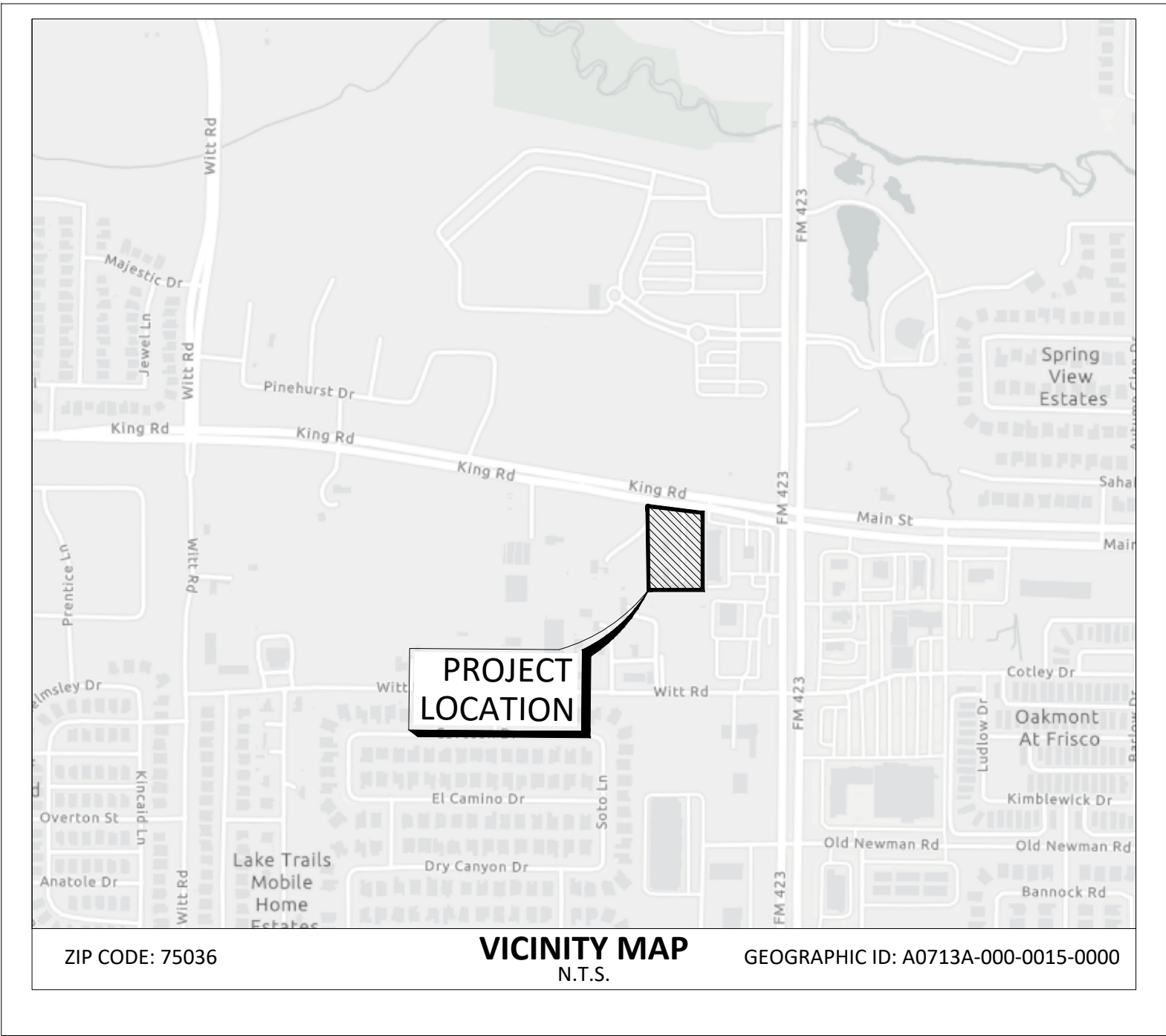
CIVIL ENGINEER

QUIDDITY ENGINEERING  
4500 MERCANTILE PLAZA DRIVE,  
SUITE 210  
FORT WORTH, TEXAS 76137  
TEL (682) 268-2200  
CONTACT: RYAN J. ALCALA, PE

LANDSCAPE

AWR DESIGNS, LLC  
P.O. BOX 1746  
ALED0, TEXAS 76008  
TEL (512) 517-5589  
CONTACT: AMANDA W. RICHARDSON

TEXAS811 NOTIFICATION SYSTEM  
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1-800-344-8377



APRIL 2024

PREPARED BY



QUIDDITY

Texas Board of Professional Engineers and Land Surveyors Reg. No. F-23290  
4500 Mercantile Plaza Drive, Suite 210 Fort Worth, Texas 76137 (682) 268.2200

JOB NUMBER 28763-0001-01

INDEX OF DRAWINGS

Sheet Number	Sheet Title
C-1	COVER
C-2	FINAL PLAT - BRACHA ADDITION LOT 1, BLOCK A
C-3	TOWN OF LITTLE ELM GENERAL CONSTRUCTION NOTES (1 OF 3)
C-4	TOWN OF LITTLE ELM GENERAL CONSTRUCTION NOTES (2 OF 3)
C-5	TOWN OF LITTLE ELM GENERAL CONSTRUCTION NOTES (3 OF 3)
C-6	SITE PLAN
C-7	EXISTING CONDITIONS AND DEMOLITION PLAN
C-8	EROSION CONTROL PLAN
C-9	TOWN OF LITTLE ELM EROSION CONTROL DETAILS (1 OF 2)
C-10	TOWN OF LITTLE ELM EROSION CONTROL DETAILS (2 OF 2)
C-11	DIMENSION CONTROL AND PAVING PLAN
C-12	UTILITY PLAN
C-13	EXISTING DRAINAGE AREA MAP
C-13.1	KINGS PLAZA PROPOSED DRAINAGE AREA MAP
C-14	PROPOSED DRAINAGE AREA MAP
C-15	GRADING AND DRAINAGE PLAN
C-16	PRIVATE PAVING DETAILS
C-17	TOWN OF LITTLE ELM BARRIER FREE RAMP DETAILS (2 OF 2)
C-18	TOWN OF LITTLE ELM MEDIAN AND SIDEWALK STAMPED CONCRETE DETAILS
C-19	TOWN OF LITTLE ELM WATER DETAILS (1 OF 4)
C-20	TOWN OF LITTLE ELM WATER DETAILS (2 OF 4)
C-21	TOWN OF LITTLE ELM WATER DETAILS (3 OF 4)
C-22	TOWN OF LITTLE ELM WATER DETAILS (4 OF 4)
C-23	TOWN OF LITTLE ELM SANITARY SEWER DETAILS (1 OF 3)
C-24	TOWN OF LITTLE ELM SANITARY SEWER DETAILS (2 OF 3)
C-25	TOWN OF LITTLE ELM SANITARY SEWER DETAILS (3 OF 3)
C-26	TOWN OF LITTLE ELM MISCELLANEOUS DETAILS (1 OF 2)
C-27	TOWN OF LITTLE ELM MISCELLANEOUS DETAILS (2 OF 2)
L1.01	LANDSCAPE PLAN
L1.02	LANDSCAPE SPECIFICATIONS AND DETAILS
L2.01	IRRIGATION PLAN
L2.02	IRRIGATION SPECIFICATIONS AND DETAILS
A1-03	BUILDING 1 ELEVATIONS
A1-04	BUILDING 2 ELEVATIONS

INTERIM REVIEW

Not intended for construction,  
bidding or permit purposes.

Engineer: RYAN J. ALCALA, P.E.

P.E. Serial No.: 137823

Date: APRIL 2024

SHEET NO.

OF C-27

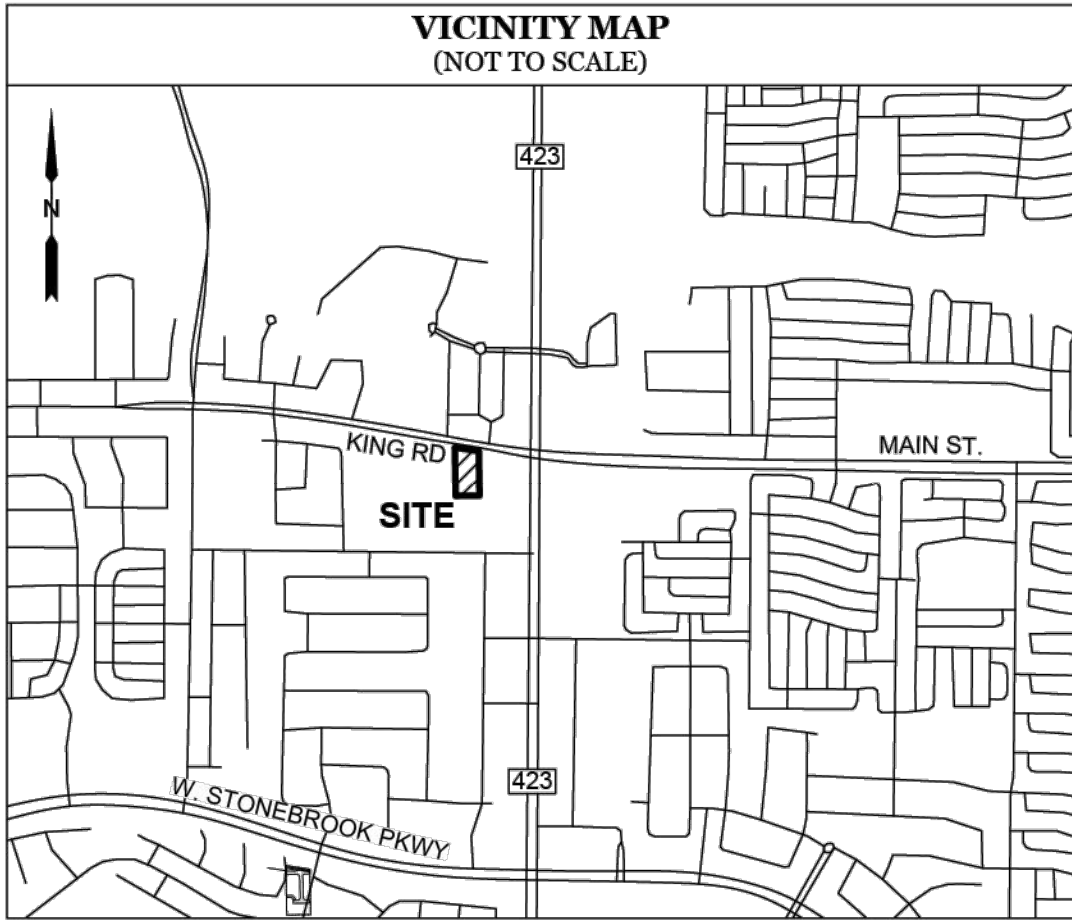
QUIDDITY  
FORT WORTH, TEXAS

JOB NUMBER 28763-0001-01

CIVIL SITE WORK - BRACHA RETAIL - LITTLE ELM - FM 423 AND KING ROAD

C-1



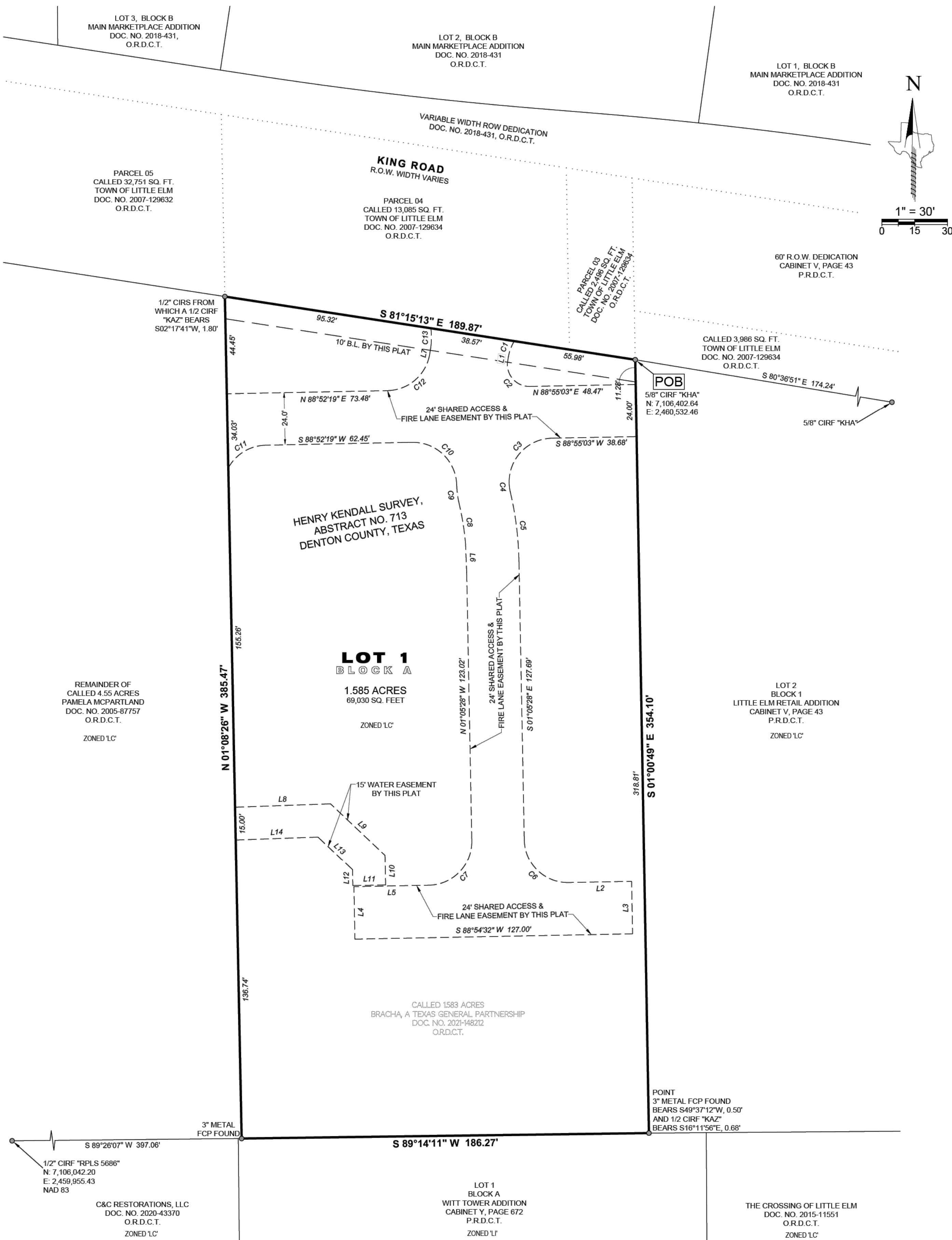


- GENERAL NOTES**
- The subject property lies within Non-Shaded Zone X according to Community Panel No. 48121C0420G, dated April 18, 2011, and is located in the Town of Little Elm, Community Number 481152 of the National Flood Insurance rate Maps for Denton County, Texas. The location of the Flood Zone shown hereon is approximate. For additional information regarding flood zone designation, please contact 1-(877) FEMA MAP.
  - The purpose of this plat is to create one (1) lot of record from an unplatted tract of land.
  - Minimum finished floor elevations are at least 2 feet above the 100 year flood plain.
  - The grid coordinates shown on this plat are based on GPS observations utilizing the AllTerra RTK Network - North American Datum of 1983 (Adjustment Realization 2011). Texas North Central Zone (4202).
  - Notice - selling a portion of this addition by metes and bounds is a violation of Town ordinance and state law and is subject to fines and withholding of utilities and building permits.
  - All interior property corners are marked with a 1/2-inch iron rod with a green plastic cap stamped "EAGLE SURVEYING" unless noted otherwise.
  - The bearings shown on this plat are based on GPS observations utilizing the AllTerra RTK Network - North American Datum of 1983 (Adjustment Realization 2011).
  - This property may be subject to charges related to impact fees and the applicant should contact the Town regarding any applicable fees due.
  - All lots comply with the minimum size requirements of the zoning district.
  - This plat does not alter or remove existing deed restrictions, if any, on this property.
  - The subject property shown hereon is zoned LC (Light Commercial) per Town of Little Elm Zoning.

LINE TABLE			
LINE	BEARING	DISTANCE	
L1	S 08°41'33" W	1.31'	
L2	N 88°54'32" E	26.71'	
L3	S 01°05'28" E	24.00'	
L4	N 01°05'28" W	24.00'	
L5	N 88°54'32" E	34.29'	
L6	N 02°20'07" W	13.21'	
L7	N 08°41'33" E	3.26'	
L8	S 87°47'56" W	43.70'	
L9	N 46°33'46" W	34.34'	
L10	N 01°05'28" W	13.61'	
L11	N 88°54'32" E	15.00'	
L12	S 01°05'28" E	7.32'	
L13	S 46°33'46" E	21.76'	
L14	N 01°05'28" E	37.64'	

CURVE TABLE				
CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING
C1	8.45'	21.50'	22°30'42"	S 19°31'14" W
C2	17.41'	10.00'	89°46'30"	S 41°11'42" E
C3	30.52'	20.00'	87°22'16"	S 45°12'24" W
C4	5.14'	20.00'	14°43'53"	S 05°42'13" E
C5	31.80'	150.00'	12°08'42"	S 07°08'48" E
C6	31.47'	19.83'	90°02'53"	S 46°16'31" E
C7	31.39'	20.00'	89°56'06"	N 43°56'28" E
C8	18.21'	126.00'	8°16'43"	N 88°54'48" W
C9	8.67'	44.00'	11°52'54"	N 07°27'42" W
C10	31.22'	20.00'	89°26'24"	N 48°24'27" W
C11	20.57'	20.00'	60°45'07"	S 58°45'48" E
C12	27.99'	20.00'	80°10'46"	N 48°46'58" E
C13	8.32'	35.00'	13°36'44"	N 00°06'56" W

LEGEND	
POB	=POINT OF BEGINNING
IRF	=IRON ROD FOUND
CIRF	=CAPPED IRON ROD FOUND
CIRS	=CAPPED IRON ROD SET
FCP	=FENCE CORNER POST
DOC. NO.	=DOCUMENT NUMBER
P.R.D.C.T.	=PLAT RECORDS, DENTON COUNTY, TEXAS
O.R.D.C.T.	=OFFICIAL RECORDS, DENTON COUNTY, TEXAS



**OWNER'S ACKNOWLEDGEMENT & DEDICATION**

STATE OF TEXAS §  
COUNTY OF DENTON §

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**THENCE** South 81 degrees 15 minutes 13 seconds East, along the North line of said BRACHA tract and the South line of said Town of Little Elm Parcel 04 and said Town of Little Elm Parcel 03, a distance of 189.87 feet to the POINT OF BEGINNING, containing 1.585 acres, or 69,030 square feet of land, more or less.

**NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS:**

THAT, BRACHA, A Texas General Partnership, does hereby adopt this plat, designating herein described property as **BRACHA ADDITION**, an addition to the Town of Little Elm, Denton County, Texas, and does hereby dedicate to public use forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the drainage and utility easements as shown. Said drainage and utility easements being hereby reserved for the mutual use and accommodation of all public utilities desiring to use same. All and any public utility shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of its respective system on the drainage and utility easement and all public utilities shall at all times have the full right of ingress and egress to or from and upon the said drainage and utility easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or parts of its respective systems without the necessity at any time of procuring the permission of anyone.

OWNER: BRACHA

BY: \_\_\_\_\_  
Sayra Carpenter Date

STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority, on this day personally appeared Sayra Carpenter, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF THE OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Notary Public in and for the State of Texas

**CERTIFICATE OF SURVEYOR**

STATE OF TEXAS §  
COUNTY OF DENTON §

I, **MATTHEW RAABE**, Registered Professional Land Surveyor, do hereby certify that this plat was prepared from an actual survey made on the ground and that the monuments shown hereon were found or placed with 1/2-inch iron rods with green plastic caps stamped "EAGLE SURVEYING" under my direction and supervision in accordance with the current provisions of the Texas Administrative Code and the Ordinances of the Town of Little Elm, Denton County, Texas.

**PRELIMINARY**  
This document shall not be  
recorded for any purpose and shall  
not be used or viewed or relied  
upon as a final survey document

Matthew Raabe, R.P.L.S. #6402 Date

STATE OF TEXAS §  
COUNTY OF DENTON §

BEFORE ME, the undersigned authority, on this day personally appeared **MATTHEW RAABE**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF THE OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Notary Public in and for the State of Texas

**CERTIFICATE OF FINAL APPROVAL**

**APPROVED**

Town Official  
Town of Little Elm, Texas

Date

The undersigned, the Town Secretary of the Town of Little Elm, Texas, hereby certifies that the foregoing Final Plat of the BRACHA ADDITION Subdivision or Addition to the Town of Little Elm was submitted to the Planning and Zoning Commission on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, and the Commission, by formal action, then and there accepted the Final Plat and hereby authorizes the developer to proceed with the construction of public works improvements and infrastructure as indicated on the accompanying construction plans, and said Commission further authorizes the Town Official to note the acceptance thereof by signing his/her name as hereinabove subscribed.

Witness by hand this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Town Secretary  
Town of Little Elm, Texas

**FINAL PLAT  
BRACHA ADDITION  
LOT 1, BLOCK A**

BEING 1.585 ACRES OF LAND OUT OF THE  
HENRY KENDALL SURVEY, ABSTRACT NO. 713  
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

DATE OF PREPARATION: 02/19/2024

Project	2310.020		<b>EAGLE SURVEYING, LLC</b> 222 S. Elm Street, Suite: 200 Denton, TX 76201 (940) 222-3009 TX Firm #10194177
Date	02/19/2024		
Drafter	DJJ		

**SURVEYOR**  
Eagle Surveying, LLC  
Contact: Brad Eubanks  
Brad@eaglesurveying.com  
222 S. Elm Street, Suite: 200  
Denton, TX 76201  
(940) 222-3009

**OWNER**  
BRACHA, A Texas General Partnership  
Contact: Sayra Carpenter  
sayra@wearbracha.com  
12342 Harvest Meadow Drive  
Frisco, Texas 75033  
(214) 929-1978

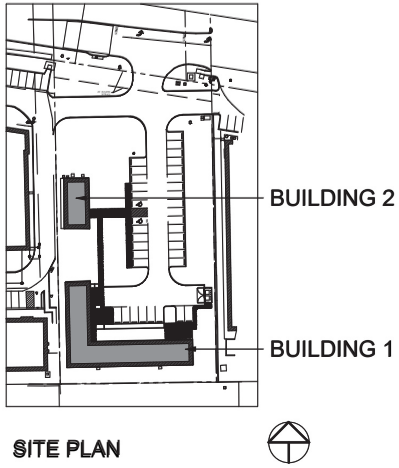




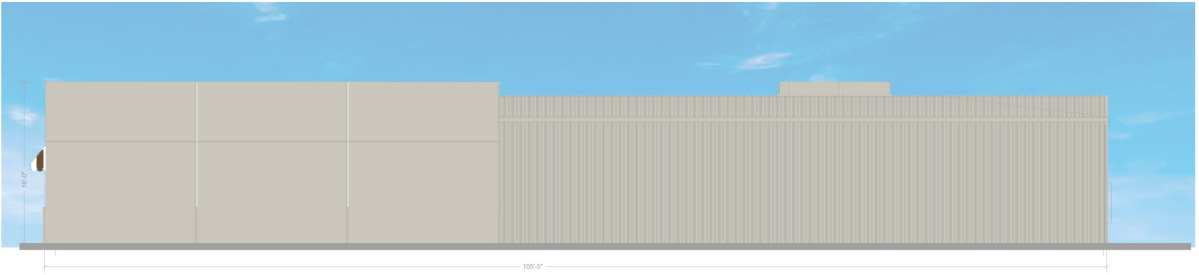




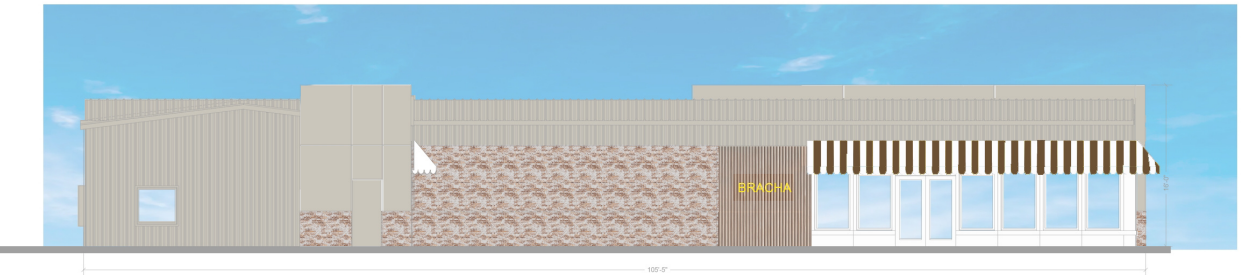




MATERIAL CALCULATIONS TABLE						
ELEVATION	GLAZING	STUCCO	CORRUGATED MTL PANEL SW IRON ORE	MASONRY	SIDING	TOTAL AREA
BUILDING 1 NORTH ELEVATION	200 SF (10%)	1183 SF (59%)	150 SF (8%)	456 SF (23%)		1989 SF
BUILDING 1 SOUTH ELEVATION	70 SF (4%)		1752 SF (96%)			1822 SF
BUILDING 1 'EAST' ELEVATION	300 SF (24%)	156 SF (12%)	420 SF (33%)	300 SF (24%)	94 SF (7%)	1,270 SF
BUILDING 1 WEST ELEVATION		715 SF (49%)	730 SF (51%)			1,445F
BUILDING 2 NORTH ELEVATION	104 SF (16%)	160 SF (26%)	35 SF (6%)	205 SF (33%)	120 SF (19%)	624 SF
BUILDING 2 SOUTH ELEVATION			296 SF (73%)	108 SF (27%)		404 SF
BUILDING 2 EAST ELEVATION	358 SF (42%)		160 SF (19%)	337 SF (39%)		855 SF
BUILDING 2 WEST ELEVATION			439 SF (60%)	171 SF (23%)	121 SF (17%)	731 SF



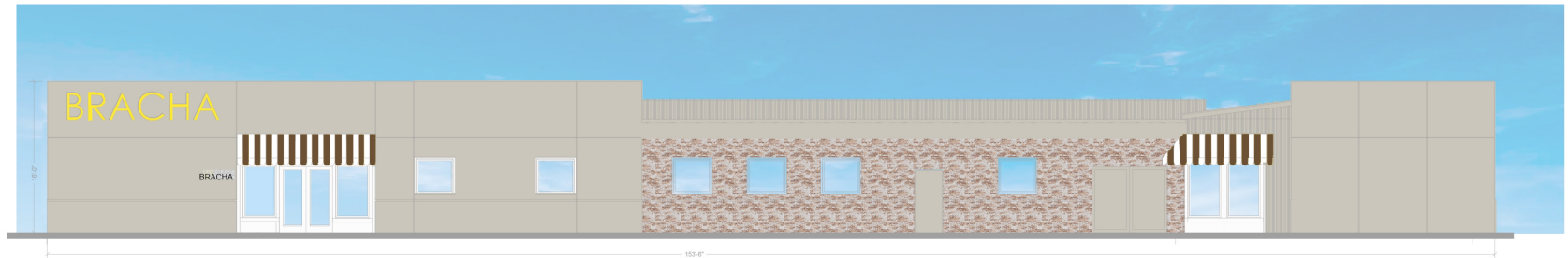
4 BUILDING 1 WEST ELEVATION  
SCALE: 1/8" = 1'-0"



3 BUILDING 1 EAST ELEVATION  
SCALE: 1/8" = 1'-0"



2 BUILDING 1 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"

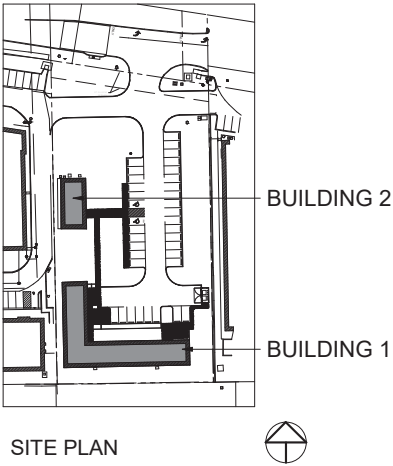


1 BUILDING 1 NORTH ELEVATION  
SCALE: 1/8" = 1'-0"

BUILDING 1 ELEVATION

BRACHA MIXED-USED HEADQUARTERS

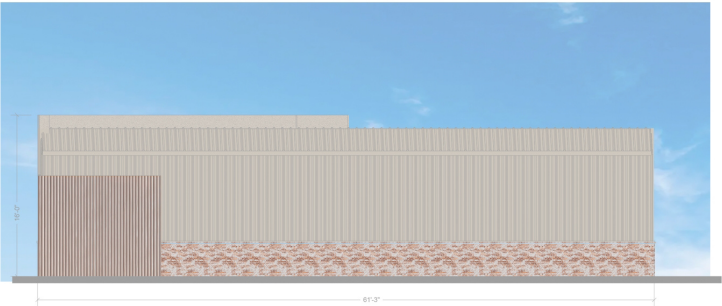
JUNE 20, 2024



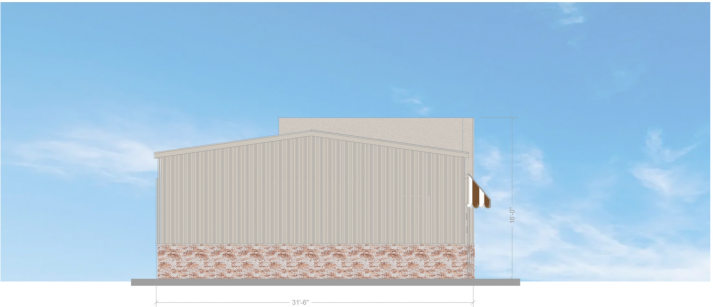
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4 BUILDING 2 EAST ELEVATION  
SCALE: 1/8" = 1'-0"



3 BUILDING 2 WEST ELEVATION  
SCALE: 1/8" = 1'-0"



2 BUILDING 2 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



1 BUILDING 2 NORTH ELEVATION  
SCALE: 1/8" = 1'-0"











Existing Conditions





Existing Conditions



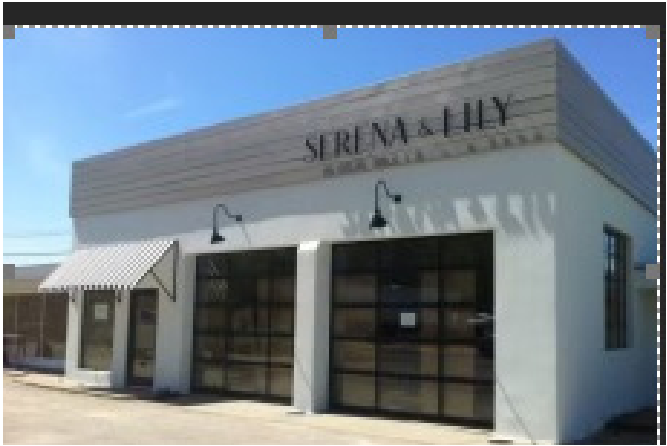












































**Date:** 07/16/2024  
**Agenda Item #:** 5. C.  
**Department:** Development Services  
**Strategic Goal:** Promote and expand Little Elm's identity  
**Staff Contact:** Olga Chernomorets, Planning Manager

---

**AGENDA ITEM:**

Present, Discuss, and Consider Action on a **Development Agreement between the Town of Little Elm and Bracha LLC.**

**DESCRIPTION:**

The attached agreement is to solidify the Planned Development and the intended design of the proposed redevelopment as outlined in the associated development documents and plans for Bracha Planned Development.

**BUDGET IMPACT:**

This item has no budget impact.

**RECOMMENDED ACTION:**

Staff recommends Council to consider the attached agreement.

---

**Attachments**

Development Agreement - Bracha PD

STATE OF TEXAS           §  
                                     §  
COUNTY OF DENTON   §

**DEVELOPMENT AGREEMENT  
FOR BRACHA PD**

This Development Agreement for the Bracha Planned Development Amendment (“**Agreement**”) is entered into between Sayra Carpenter and Michelle Nigaglioni (“**Developer**”), whose address for purposes of this Agreement is 122 Rose Lane, Suite 805, Frisco TX 75036 and the Town of Little Elm, Texas (“**Town**”), whose address for purposes of this Agreement is 100 W. Eldorado Parkway, Little Elm, TX 75068. Developer and the Town are sometimes referred herein together as the “**Parties**” and individually as a “**Party**.”

**Recitals:**

1. Developer is the owner of approximately 1.35 acres located on the north side of Main Street at East Park Drive, in the Town of Little Elm, Texas (the “**Property**”), which Property is more particularly described in **Exhibit A** attached hereto.

2. In furtherance of the development of the Property, the Parties have negotiated certain matters regarding the Property as set forth in this Agreement.

3. The Parties seek to memorialize these negotiated matters and to include them in this contractually-binding Agreement.

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

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

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

**Section 3. Agreements.** The Parties agree as follows:

- A. The negotiated and agreed upon zoning and development standards contained in the Frisco Park Annex PD Ordinance No. 1762, which incorporate by reference the general zoning regulations of the Town’s zoning ordinance, are hereby adopted and incorporated into this Agreement as contractually-binding obligations of the Developer.
- B. All development plans, associated renderings, exhibits and documents attached to this agreement.

#### **Section 4. Miscellaneous.**

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

**B. Default/Mediation.** No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

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

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

**E. Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

**F. Cumulative Rights and Remedies.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law statute, ordinance, or otherwise. The failure by any Party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such Party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies any Party may have with respect to the other arising out of this

Agreement shall survive the cancellation, expiration or termination of this Agreement, except as otherwise expressly set forth herein.

**G. Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**H. Surviving Rights.** Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration.

**I. Applicable Laws.** This Agreement is made subject to the existing provisions of the Charter of the Town of Little Elm, its present rules, regulations, procedures and ordinances, and all applicable laws, rules, and regulations of the State of Texas and the United States.

**J. Authority to Execute.** The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

**K. Amendments.** This Agreement may be only amended or altered by written instrument signed by the Parties.

**L. Headings.** The headings and captions used in this Agreement are for the convenience of the Parties only and shall not in any way define, limit or describe the scope or intent of any provisions of this Agreement.

**M. Entire Agreement.** This Agreement is the entire agreement between the Parties with respect to the subject matters covered in this Agreement. There are no other collateral oral or written agreements between the Parties that in any manner relates to the subject matter of this Agreement, except as provided or referenced in this Agreement.

**N. Filing in Deed Records.** This Agreement shall be recorded in the real property records of Denton County, Texas. This Agreement and all of its terms, conditions, and provisions is and shall constitute a restriction and condition upon the development of the Property and all portions thereof and a covenant running with the Property and all portions thereof, and is and shall be binding upon Developer and all of Developer's heirs, successors, and assigns and the future owners of the Property and any portion thereof; provided, however, this Agreement shall not constitute an obligation of or be deemed a restriction or encumbrance with respect to any final platted residential lot upon which a completed home has been constructed.

**O. Notification of Sale or Transfer; Assignment of Agreement.** Developer shall notify the Town in writing of any sale or transfer of all or any portion of the Property, within ten (10) business days of such sale or transfer. Developer has the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Developer under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with Developer. Each assignment shall be in writing executed by

Developer and the Assignee and shall obligate the Assignee to be bound by this Agreement with respect to the portion of the Property transferred to Assignee. If the Property is transferred or owned by multiple parties, this Agreement shall only apply to, and be binding on, such parties to the extent of the Property owned by such successor owner, and if the Developer or any Assignee is in default under this Agreement, such default shall not be an event of default for any non-defaulting Assignee which owns any portion of the Property separate from the defaulting Developer or Assignee. A copy of each assignment shall be provided to the Town within ten (10) business days after execution. Provided that the successor developer assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement with respect to the Property transferred to the successor developer, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon receipt of the assignment by the Town. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment. Developer shall maintain true and correct copies of all assignments made by Developer to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

**P. Sovereign Immunity.** The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

**Q. Exactions/Infrastructure Costs.** Developer has been represented by legal counsel, or has had an opportunity to do so, in the negotiation of this Agreement, and been advised, or has had the opportunity to have legal counsel review this Agreement and advise Developer, regarding Developer's rights under Texas and federal law. Developer hereby waives any requirement that the Town retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the Town in this Agreement are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Developer specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code; however, notwithstanding the foregoing, Developer hereby releases the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.

**R. Waiver of Texas Government Code § 3000.001 et seq.** With respect to the improvements constructed on the Property pursuant to this Agreement, Developer hereby waives any right, requirement or enforcement of Texas Government Code §§ 3000.001-3000.005.

**S. Rough Proportionality.** Developer hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution with respect to infrastructure requirements imposed by this Agreement. Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this



Agreement, with respect to infrastructure requirements imposed by this Agreement.

**T. Form 1295 Certificate.** The Developer agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Developer agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the Town, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.

**U. Undocumented Workers Provision.** The Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement to Developer plus six percent (6.0%), not later than the 120<sup>th</sup> day after the date the Town notifies Developer of the violation.

**V. No Israel Boycott Provision.** In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this contract on behalf of Developer verifies by Developer's signature on this Agreement that the company does not boycott Israel and will not boycott Israel during the term of this contract

**W. Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

**X. Report Agreement to Comptroller's Office.** Town covenants and agrees to report this Agreement to the State Comptroller's office within fourteen (14) days of the Effective Date of this Agreement, in accordance with Section 380.004 of the Texas Government Code, as added by Texas House Bill 2404, 87<sup>th</sup> Tex. Reg. Session (2021) (effective September 1, 2021). [For Chapter 380 Agreements]

**Y. Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87<sup>th</sup> Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and

(2) the Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.

**Z Verification Against Discrimination Developer Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87<sup>th</sup> Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.

**EXECUTED** by the Parties on the dates set forth below, to be effective as of the date first written above.

**DEVELOPER**

**a \_\_\_\_\_ company**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**TOWN OF LITTLE ELM, TEXAS**

By: \_\_\_\_\_

Matt Mueller  
Town Manager

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

Caitlan Biggs  
Town Secretary

**STATE OF TEXAS           §**

**§**

**COUNTY OF DENTON   §**

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, 2024, personally appeared MATT MUELLER, Town Manager of the Town of Little Elm, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_

Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

(2) the Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.

**Z. Verification Against Discrimination Developer Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87<sup>th</sup> Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.

**EXECUTED** by the Parties on the dates set forth below, to be effective as of the date first written above.

**DEVELOPER**

a Bracha company

SAI

By: Soyea Carpenter

Date: July 10<sup>th</sup> 2024

**TOWN OF LITTLE ELM, TEXAS**

By: \_\_\_\_\_

Matt Mueller  
Town Manager

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Caitlan Biggs  
Town Secretary

**STATE OF TEXAS** §

§

**COUNTY OF DENTON** §

Before me, the undersigned authority, on this \_\_\_\_ day of \_\_\_\_\_, 2024, personally appeared MATT MUELLER, Town Manager of the Town of Little Elm, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_

Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

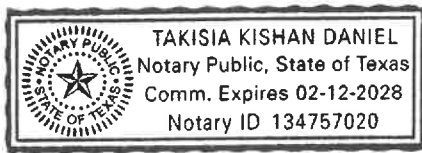
STATE OF TEXAS

§  
§  
§

COUNTY OF Denton

Before me, the undersigned authority, on this 10 day of July, 2024, personally appeared Sayra Carpenter, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity of a duly authorized representative of Bracha LLC.

[Seal]



By: Takisia Kishan Daniel  
Notary Public, State of Texas

My Commission Expires: 2-12-2028

**EXHIBIT A**  
Property Description



METES AND BOUNDS  
LOT 1, BLOCK A  
BRACHA ADDITION

**WHEREAS, BRACHA, A Texas General Partnership**, is the owner of a 1.585 acre tract of land out of the Henry Kendall Survey, Abstract Number 713, situated in Denton County, Texas, and being all of that certain tract of land described in a deed to BRACHA, A Texas General Partnership, as recorded in Instrument Number 2021-148212 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being more particularly described by metes & bounds as follows:

**BEGINNING** at a capped 1/2-inch iron rod stamped “KHA” found in the South Right-of-Way line of King Road, a variable width Right-of-Way, being the Northeast corner of said BRACHA tract, the Southeast corner of a tract of land described as 'Parcel 03' in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., the Southwest corner of tract of land described in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., and the Northwest corner of Lot 2 in Block 1 of Little Elm Retail Addition, a subdivision recorded in Cabinet V, Page 43 of the Plat Records of Denton County, Texas (P.R.D.C.T.);

**THENCE** South 01 degree 00 minutes 49 seconds East, along a common line between said BRACHA tract and said Lot 2, a distance of 354.10 feet to a point in the North line of Lot 1 in Block A of Witt Tower Addition, a plat recorded in Cabinet U, Page 672, P.R.D.C.T., being the Southeast corner of said BRACHA tract and the Southwest corner of said Lot 2, from which a 3-inch metal fence corner post found for reference bears South 49 degrees 37 minutes 12 seconds West, a distance of 0.50 feet, and a capped 1/2-inch iron rod stamped “KAZ” found for reference bears South 16 degrees 11 minutes 56 seconds East, 0.68 feet; **THENCE** South 89 degrees 14 minutes 11 seconds West, along the South line of said BRACHA tract and the North line of said Witt Tower Addition, a distance of 186.27 feet to a 3-inch metal fence corner post found in said North line, being the Southwest corner of said BRACHA tract and the Southeast corner of the remainder of a tract of land described in a deed to Pamela McPartland, as recorded in Document Number 2005-87757, O.R.D.C.T.;

**THENCE** North 01 degree 08 minutes 26 seconds West, along the West line of said BRACHA tract and the East line of said McPartland tract, a distance of 385.47 feet to a capped 1/2-inch iron rod stamped “EAGLE SURVEYING” set in the South Right-of-Way line of King Road, being the Northwest corner of said BRACHA tract, the Southeast corner of a tract of land described as 'Parcel 05' in a deed to the Town of Little Elm, recorded in Document Number 2007-129632, O.R.D.C.T, and the Southwest corner of a tract of land described as 'Parcel 04' in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., from which a capped 1/2-inch iron rod stamped “KAZ” found for reference bears South 02 degrees 17 minutes 41 seconds West, a distance of 1.80 feet;

**THENCE** South 81 degrees 15 minutes 13 seconds East, along the North line of said BRACHA tract and the South line of said Town of Little Elm Parcel 04 and said Town of Little Elm Parcel 03, a distance of 189.87 feet to the POINT OF BEGINNING, containing 1.585 acres, or 69,030 square feet of land, more or less.

**EXHIBIT B**

PD Ordinance

**TOWN OF LITTLE ELM  
ORDINANCE NO. 1766**

**AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, BY ESTABLISHING A NEW PLANNED DEVELOPMENT – LIGHT COMMERCIAL (PD-LC) DISTRICT BASED ON LIGHT COMMERCIAL STANDARDS, WITH MODIFIED DEVELOPMENT STANDARDS TO ALLOW FOR REDEVELOPMENT OF A 1.6 ACRE PROPERTY LOCATED WEST OF THE INTERSECTION OF KING ROAD AND FM 423; PROVIDING A SAVINGS CLAUSE; CORRECTING THE OFFICIAL ZONING MAP; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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

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

**WHEREAS**, a request to establish a Planned Development-Light Commercial (PD-LC) District based on Light Commercial district with modified development standards, on approximately 1.6 acres of land, more specifically described in the exhibits, attached hereto; and

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

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

**WHEREAS**, at its regular meeting held on June 20, 2024 the Planning & Zoning Commission considered and made recommendations on Case No. PD-24-000279; and

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

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

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

**SECTION 2. ZONING AMENDMENT.** That Ordinance No. 226 of the Town of Little Elm, Texas, the same being the Comprehensive Zoning Ordinance of the Town, is hereby amended by establishing a new Planned Development-Light Commercial (PD-LC) based on Light Commercial (LC) district requirements with modified development standards, on property located west of the intersection of King Road and FM 423, within Little Elm's town limits, on approximately 1.6 acres of land more particularly described in **Exhibit A**, and attached hereto, subject to all of the terms and conditions set forth herein, the terms and conditions of the Comprehensive Zoning Ordinance, and all other applicable ordinances, laws, rules, regulations, and standards.

**SECTION 3. CONDITIONS AND REGULATIONS.** The permitted standards shall be in accordance with the Light Commercial (LC), and all applicable provisions of Chapter 106 – Zoning Ordinance in general, plus as specified herein:

- a. The Zoning and Land Use Regulations, and all conditions set forth in **Exhibit B** attached hereto and made a part hereof for all purposes shall be adhered to in their entirety for the purposes of this Planned Development. In the event of conflict between the provisions of **Exhibit B** and provisions of any other exhibit, the provisions of **Exhibit B** control.
- b. Plans must be submitted for permitting for the redevelopment of Building 2 no later than 24 months after the issuance of a Certificate of Occupancy for Building 1.

**SECTION 4. PLANNED DEVELOPMENT MASTER PLAN.** The Concept Plan and related plans, images, and documents approved and described as **Exhibit B** attached

hereto and made a part hereof are approved. The subject property shall be improved in accordance with the plans set forth in Exhibit C.

- a. If, after two years from the date of approval of the Planned Development Master Plan, no substantial development progress has been made within the PD, then the Planned Development Master Plan shall expire. If the Planned Development Master Plan expires, a new Planned Development Master Plan must be submitted and approved according to the procedures within the Zoning Ordinance, Planned Development Districts. An extension of the two year expiration shall be granted if a development application for the PD has been submitted and is undergoing the development review process or if the Director of Development Services determines development progress is occurring.
- b. The Planned Development Master Plan shall control the use and development of the property, and all building permits and development requests shall be in accordance with the plan until it is amended by the City Council.
- c. If a change to the Concept Plan, if any, is requested, the request shall be processed in accordance with the development standards in effect at the time the change is requested for the proposed development.

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

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

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

**SECTION 7. SEVERABILITY.** The sections, paragraphs, sentences, phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid or unconstitutional, the adjudication shall not affect any other section or provision of this ordinance or the application of any other



section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of the ordinance without the valid parts and to this end the provisions of this ordinance shall remain in full force and effect.

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

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

**PASSED AND APPROVED** by the Town Council of the Town of Little Elm, Texas on the 16<sup>th</sup> day of July, 2024.

Town of Little Elm, Texas

---

Curtis Cornelious, Mayor

ATTEST:

---

Caitlan Biggs, Town Secretary

**Exhibit A**  
Property Description

METES AND BOUNDS  
LOT 1, BLOCK A  
BRACHA ADDITION

**WHEREAS, BRACHA, A Texas General Partnership**, is the owner of a 1.585 acre tract of land out of the Henry Kendall Survey, Abstract Number 713, situated in Denton County, Texas, and being all of that certain tract of land described in a deed to BRACHA, A Texas General Partnership, as recorded in Instrument Number 2021-148212 of the Official Records of Denton County, Texas (O.R.D.C.T.), and being more particularly described by metes & bounds as follows:

**BEGINNING** at a capped 1/2-inch iron rod stamped “KHA” found in the South Right-of-Way line of King Road, a variable width Right-of-Way, being the Northeast corner of said BRACHA tract, the Southeast corner of a tract of land described as 'Parcel 03' in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., the Southwest corner of tract of land described in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., and the Northwest corner of Lot 2 in Block 1 of Little Elm Retail Addition, a subdivision recorded in Cabinet V, Page 43 of the Plat Records of Denton County, Texas (P.R.D.C.T.);

**THENCE** South 01 degree 00 minutes 49 seconds East, along a common line between said BRACHA tract and said Lot 2, a distance of 354.10 feet to a point in the North line of Lot 1 in Block A of Witt Tower Addition, a plat recorded in Cabinet U, Page 672, P.R.D.C.T., being the Southeast corner of said BRACHA tract and the Southwest corner of said Lot 2, from which a 3-inch metal fence corner post found for reference bears South 49 degrees 37 minutes 12 seconds West, a distance of 0.50 feet, and a capped 1/2-inch iron rod stamped “KAZ” found for reference bears South 16 degrees 11 minutes 56 seconds East, 0.68 feet; **THENCE** South 89 degrees 14 minutes 11 seconds West, along the South line of said BRACHA tract and the North line of said Witt Tower Addition, a distance of 186.27 feet to a 3-inch metal fence corner post found in said North line, being the Southwest corner of said BRACHA tract and the Southeast corner of the remainder of a tract of land described in a deed to Pamela McPartland, as recorded in Document Number 2005-87757, O.R.D.C.T.;

**THENCE** North 01 degree 08 minutes 26 seconds West, along the West line of said BRACHA tract and the East line of said McPartland tract, a distance of 385.47 feet to a capped 1/2-inch iron rod stamped “EAGLE SURVEYING” set in the South Right-of-Way line of King Road, being the Northwest corner of said BRACHA tract, the Southeast corner of a tract of land described as 'Parcel 05' in a deed to the Town of Little Elm, recorded in Document Number 2007-129632, O.R.D.C.T, and the Southwest corner of a tract of land described as 'Parcel 04' in a deed to the Town of Little Elm, recorded in Document Number 2007-129634, O.R.D.C.T., from which a capped 1/2-inch iron rod stamped “KAZ” found for reference bears South 02 degrees 17 minutes 41 seconds West, a distance of 1.80 feet;

**THENCE** South 81 degrees 15 minutes 13 seconds East, along the North line of said BRACHA tract and the South line of said Town of Little Elm Parcel 04 and said Town of Little Elm Parcel 03, a distance of 189.87 feet to the POINT OF BEGINNING, containing 1.585 acres, or 69,030 square feet of land, more or less.

**Exhibit B**  
PD Exhibits

# PD ORDINANCE NO. 24-000279

Prepared for:

BRACHA

Bracha Addition

Lot 1, Block A

14085 King Road, Little Elm, Texas 75068

Denton County

Prepared by:



Texas Registered Engineering Firm No. F-23290  
4500 Mercantile Plaza Dr., Suite 228,  
Fort Worth, TX 76137  
Ph: (682) 268-2214

June 2024



## BRACHA PLANNED DEVELOPMENT DISTRICT STATEMENT OF INTENT AND PURPOSE

This zoning submittal encompasses approximately 1.585 acres of land situated within Denton County, more fully described on the legal description attached as Exhibit A (the “Property”). The planned development (“PD”) will allow for light commercial uses to improve the appearance of the overall community and existing structures. These elements will contribute to a mixed-use office and retail development that will significantly improve the existing use of the property, while providing a new and interactive use for the property based on its location in relation to existing thoroughfare.

It is the intent of this PD to primarily follow the Light Commercial (LC) zoning regulations as the base district, with modified development standards as outlined within this PD ordinance, therefore amending the existing Town of Little Elm, Texas zoning map. Any conflict between this PD and the Zoning Ordinance shall be resolved in favor of the regulations set forth in the PD, or as may be ascertained through the intent of this PD. As used herein, “Zoning Ordinance” means the comprehensive zoning of the Town of Little Elm, Texas, in effect on the effective date of this Agreement, except otherwise defined in this Agreement. Uses and development regulations specifically modified, designated or included in this PD shall not be subject to amendment after the date of the adoption of this PD (the “Effective Date”) (whether through the amendment of the Zoning Ordinance or otherwise), except through an amendment of this PD. Uses and development regulations which otherwise are not specifically modified, designated or included in this PD shall be controlled by the “Zoning Ordinance”, unless context provides to the contrary.

### Project Location

The proposed PD is located at 14085 King Road, West of the intersection of FM 423 and King Road. Legal Descriptions (Exhibit A) and PD Standards (Exhibit B) and Development Plans (Exhibit C) are provided. The property is surrounded by light commercial, light industrial and PD ordinance #1730.

### Site Plan Required

The Site Plan attached hereto within Exhibit C, and incorporated herein by reference, demonstrates locations of the resurfaced buildings and improvements within the Property. Any amendment to the site plan approved as a part of the ordinance establishing the planned development district is a change in zoning district classification and must follow the same procedures as set forth in Section 106.04.03, except that the director of planning and development may approve minor revisions which do not alter the basic relationship of the proposed development.

**GENERAL CONDITIONS FOR PD:**

1. Purpose.  
The primary purpose of this Planned Development is to allow for the resurfacing of the façade of existing building 1 and leaving building 2 in its existing condition. The secondary purpose (Phase II) of this Planned Development is to allow for the resurfacing of the façade of existing building 2 no later than 24 months after the issuance of CO for Phase I.
2. Use Regulations  
No building, structure, land or premises will be used, and no building or structure shall hereafter be erected, constructed, reconstructed, or altered, except for one or more of the uses specified under Light Commercial in section 106.05.01(b), “schedule of uses – Non-residential”.
3. Base Zoning District  
The permitted uses and standards will be in accordance with the Light Commercial District (LC) zoning as defined in the Zoning Ordinance, unless otherwise specified in the PD regulations.
4. Architectural Standards  
All provisions within Sec. 106.06.05 -Architectural Standards for Commercial Structures shall be met EXCEPT as specified below:
  - (b) Design Standards.
    - (4) All buildings shall be designed and constructed in tri-partite architecture so that they have a distinct base, middle and top, separated by horizontal elements.
    - (5) All buildings shall be constructed of 100 percent masonry finishes, as outlined in table B and in the proportions illustrated in table C.



## ARTICLE VI, TABLE B

### EXTERIOR CATEGORIES & MATERIALS FOR COMMERCIAL – BRACHA ADDITION Lot 1, Block A

Categories	Materials
A	Brick, stone, or manufactured stone
B	Architectural Metals, Cast Brick, Split-face CMU, stucco, cementitious fiber board, engineered wood, tilt-wall construction
C	Wood, tile, glass, EIFS, or other materials as approved by the director
Prohibited	Plain concrete block, aggregate, vinyl, plastic

**ARTICLE VI, TABLE C**
**Required Percentages of Exterior Materials For Commercial-  
BRACHA ADDITION Lot 1, Block A, Building 1**

	Facades	Percentage Breakdown	Definition
Buildings 15,000 square feet or less	Primary	Min. 15% Group A Min. 50% Group B Max. 15% Group C	Exterior walls on public street or along an active storefront
	Secondary	Min. 15% Group A Min. 50% Group B Max. 40% Group C	Exterior walls NOT clearly visible from a public street or along an active storefront

**ARTICLE VI, TABLE C\***
**Required Percentages of Exterior Materials For Commercial-  
BRACHA ADDITION Lot 1, Block A, Building 2**

	Facades	Percentage Breakdown	Definition
Buildings 15,000 square feet or less	Primary	Min. 20% Group B Max. 15% Group C	Exterior walls on public street or along an active storefront
	Secondary	Min. 20% Group B Max. 40% Group C	Exterior walls NOT clearly visible from a public street or along an active storefront

\*Resurfacing the façade of existing building 2 will follow the architectural standards as shown in this PD.



(f) Building Articulation Design Standards. Primary facades clearly visible from a public street or along an active storefront shall meet the following minimum standards for articulation:

- (1) Horizontal articulation shall be as depicted on Exhibit C – Development Plans.
- (2) Vertical articulation as depicted on Exhibit C – Development Plans.

(g) Design Standards.

(6) Building color

- i. Building design to articulate a modern building with building materials that articulate the Bracha brand using 3-coat Stucco, Thin Brick, Glass, canopies.
- ii. Architectural variation in volumes, towers, on main facades facing the street.
- iii. Integrated overall design with modern use of materials with glass and taller portals at entries with signage.
- iv. Variation on glass, storefront and window sizes, both horizontal and vertical.
- v. Inviting, lush landscapes.
- vi. New framed entries.

## 5. Site Development Standards

### 106.06.18 Commercial Landscape Requirements

All provisions within Sec. 106.06.18 - Commercial Landscape Requirements shall be met except as specified herein and shown on the plans.

### Division 3. – Screening Walls and Fences

All provisions within Division 3 shall be met except as specified herein and shown on the plans.

### Division 4. – Parking, Stacking, and Loading Standards

All provisions within Division 4 shall be met except as specified herein and shown on the plans.

## 6. Overhead Power Standards

### 106.06.07 Architectural Standards for Specific Structures

All provisions within Sec. 106.06.07 shall be met except 106.06.07(b)(3). Existing overhead service lead to building 2 to be installed underground, or as shown on site plan.



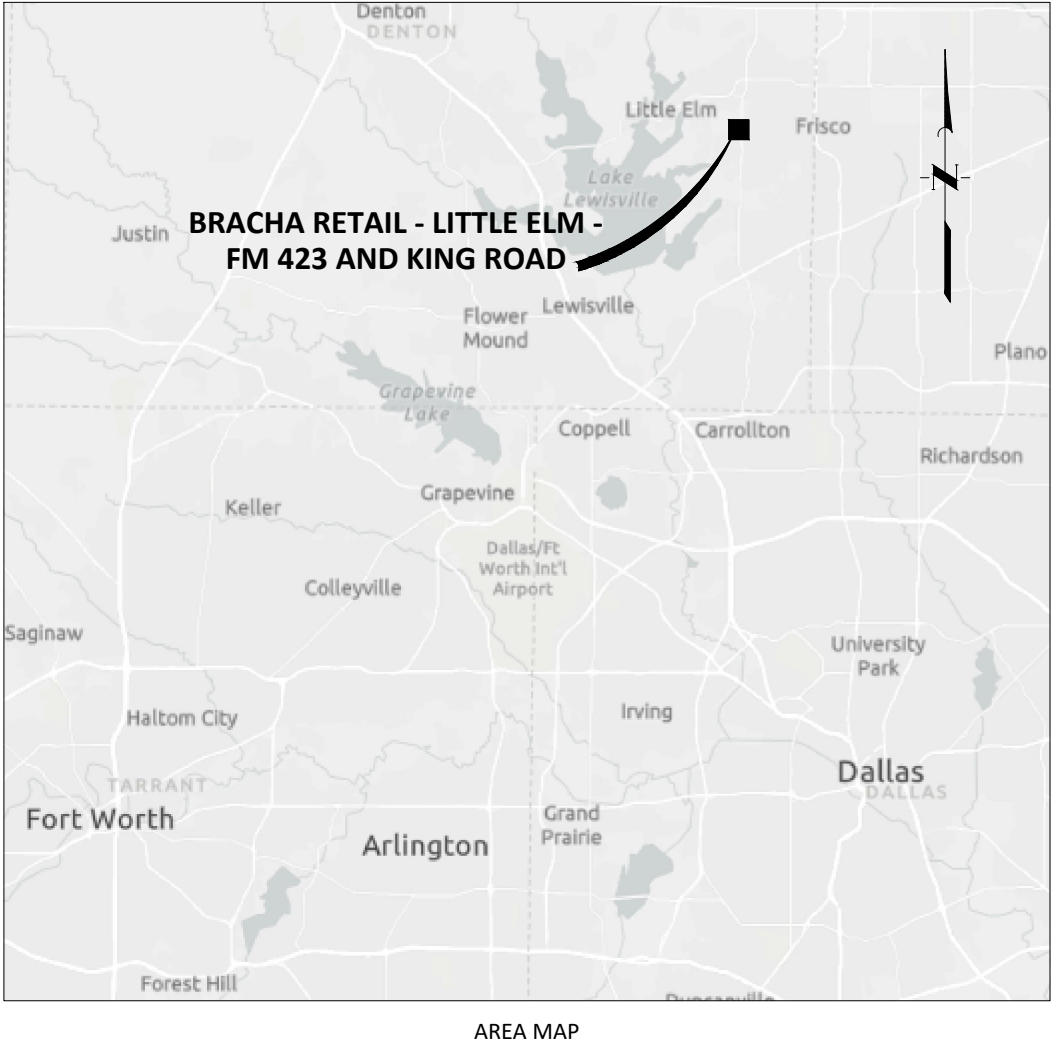
**WAIVERS FOR PD:**

1. Waiver to allow glazing below 30% on North, East, South, and West facades.
2. Waiver to allow 20' landscape setback.

**Exhibit C**  
Development Plans

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CONSTRUCTION  
OF  
CIVIL SITE WORK  
FOR  
BRACHA RETAIL - LITTLE ELM - FM 423  
AND KING ROAD  
FOR  
BRACHA  
14805 KING ROAD  
FRISCO, TEXAS 75036  
DENTON COUNTY, TEXAS



OWNER

BRACHA  
12342 HARVEST MEADOW DRIVE  
FRISCO, TEXAS 75033-2125  
TEL (214) 929-1978  
CONTACT: SAYRA CARPENTER

DEVELOPER

BRACHA  
12342 HARVEST MEADOW DRIVE  
FRISCO, TEXAS 75033-2125  
TEL (214) 929-1978  
CONTACT: SAYRA CARPENTER

ARCHITECT

STUDIO MAS ARCHITECTS  
10440 E NORTHWEST HIGHWAY,  
SUITE 301  
DALLAS, TEXAS 75238  
TEL (214) 669-4684  
CONTACT: SANTOS CATALAN

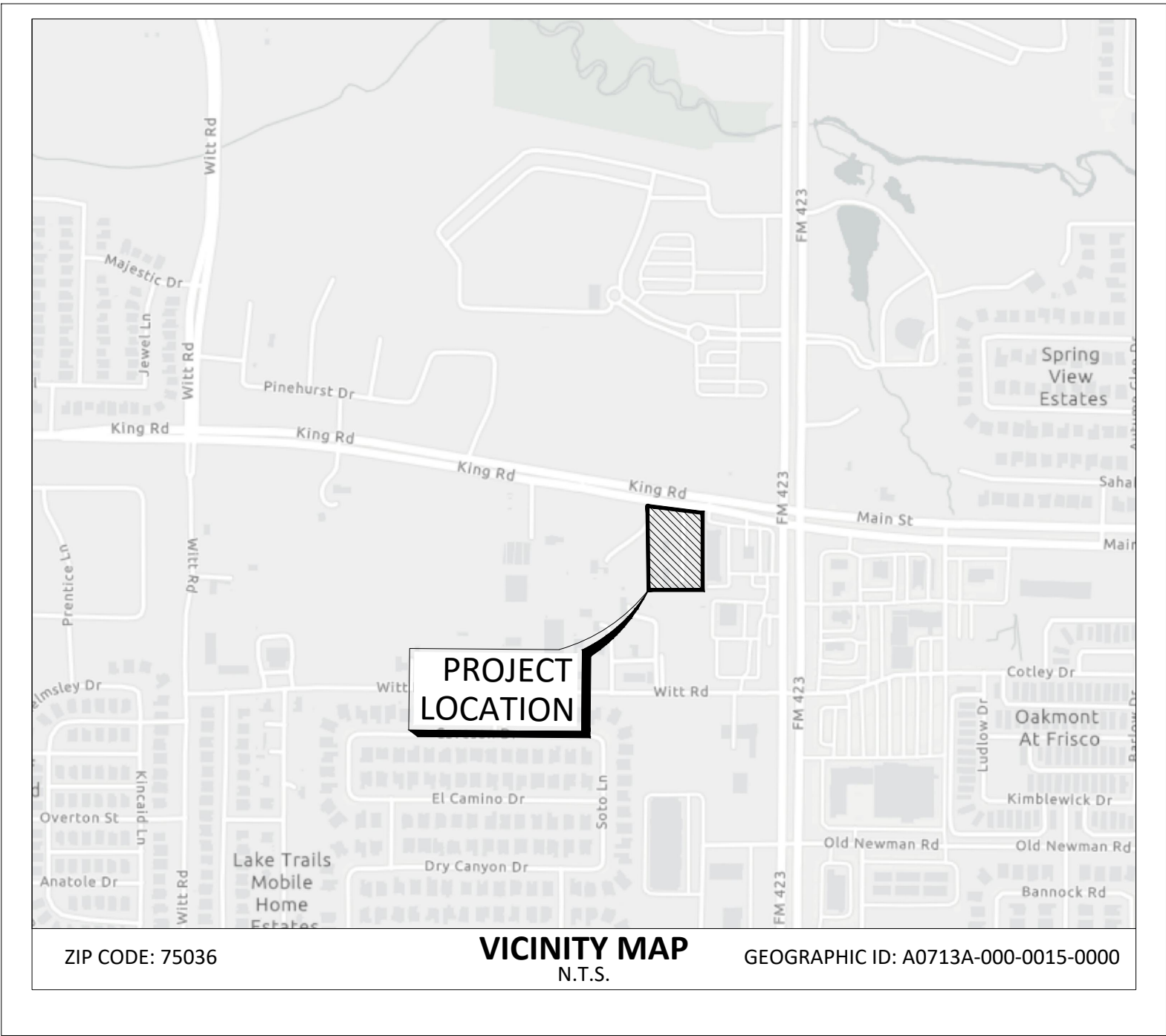
CIVIL ENGINEER

QUIDDITY ENGINEERING  
4500 MERCANTILE PLAZA DRIVE,  
SUITE 210  
FORT WORTH, TEXAS 76137  
TEL (682) 268-2200  
CONTACT: RYAN J. ALCALA, PE

LANDSCAPE

AWR DESIGNS, LLC  
P.O. BOX 1746  
ALED0, TEXAS 76008  
TEL (512) 517-5589  
CONTACT: AMANDA W. RICHARDSON

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APRIL 2024

PREPARED BY



QUIDDITY

Texas Board of Professional Engineers and Land Surveyors Reg. No. F-23290  
4500 Mercantile Plaza Drive, Suite 210 Fort Worth, Texas 76137 682.268.2200

JOB NUMBER 28763-0001-01

INDEX OF DRAWINGS

Sheet Number	Sheet Title
C-1	COVER
C-2	FINAL PLAT - BRACHA ADDITION LOT 1, BLOCK A
C-3	TOWN OF LITTLE ELM GENERAL CONSTRUCTION NOTES (1 OF 3)
C-4	TOWN OF LITTLE ELM GENERAL CONSTRUCTION NOTES (2 OF 3)
C-5	TOWN OF LITTLE ELM GENERAL CONSTRUCTION NOTES (3 OF 3)
C-6	SITE PLAN
C-7	EXISTING CONDITIONS AND DEMOLITION PLAN
C-8	EROSION CONTROL PLAN
C-9	TOWN OF LITTLE ELM EROSION CONTROL DETAILS (1 OF 2)
C-10	TOWN OF LITTLE ELM EROSION CONTROL DETAILS (2 OF 2)
C-11	DIMENSION CONTROL AND PAVING PLAN
C-12	UTILITY PLAN
C-13	EXISTING DRAINAGE AREA MAP
C-13.1	KINGS PLAZA PROPOSED DRAINAGE AREA MAP
C-14	PROPOSED DRAINAGE AREA MAP
C-15	GRADING AND DRAINAGE PLAN
C-16	PRIVATE PAVING DETAILS
C-17	TOWN OF LITTLE ELM BARRIER FREE RAMP DETAILS (2 OF 2)
C-18	TOWN OF LITTLE ELM MEDIAN AND SIDEWALK STAMPED CONCRETE DETAILS
C-19	TOWN OF LITTLE ELM WATER DETAILS (1 OF 4)
C-20	TOWN OF LITTLE ELM WATER DETAILS (2 OF 4)
C-21	TOWN OF LITTLE ELM WATER DETAILS (3 OF 4)
C-22	TOWN OF LITTLE ELM WATER DETAILS (4 OF 4)
C-23	TOWN OF LITTLE ELM SANITARY SEWER DETAILS (1 of 3)
C-24	TOWN OF LITTLE ELM SANITARY SEWER DETAILS (2 of 3)
C-25	TOWN OF LITTLE ELM SANITARY SEWER DETAILS (3 of 3)
C-26	TOWN OF LITTLE ELM MISCELLANEOUS DETAILS (1 of 2)
C-27	TOWN OF LITTLE ELM MISCELLANEOUS DETAILS (2 of 2)
L1.01	LANDSCAPE PLAN
L1.02	LANDSCAPE SPECIFICATIONS AND DETAILS
L2.01	IRRIGATION PLAN
L2.02	IRRIGATION SPECIFICATIONS AND DETAILS
A1-03	BUILDING 1 ELEVATIONS
A1-04	BUILDING 2 ELEVATIONS

INTERIM REVIEW

Not intended for construction,  
bidding or permit purposes.

Engineer: RYAN J. ALCALA, P.E.

P.E. Serial No.: 137823

Date: APRIL 2024

SHEET NO.

OF C-27



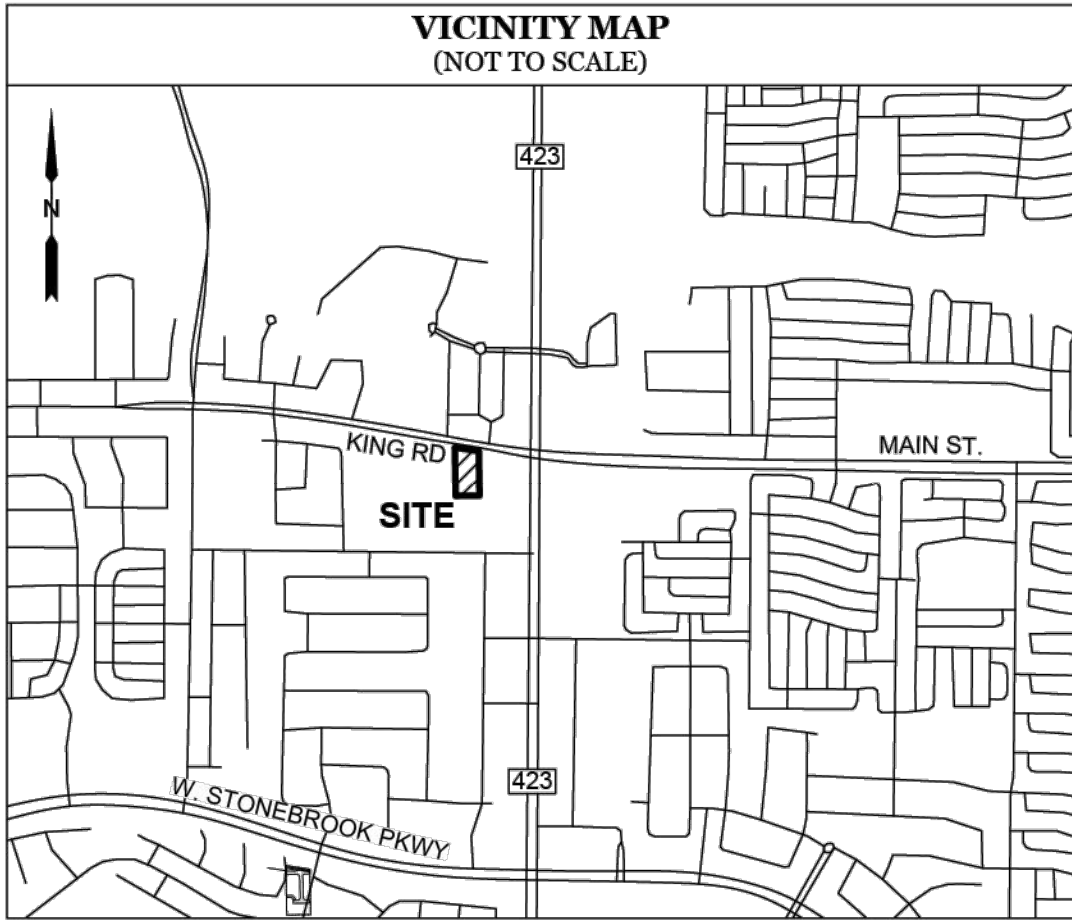
QUIDDITY  
FORT WORTH, TEXAS

JOB NUMBER 28763-0001-01

CIVIL SITE WORK - BRACHA RETAIL - LITTLE ELM - FM 423 AND KING ROAD

C-1



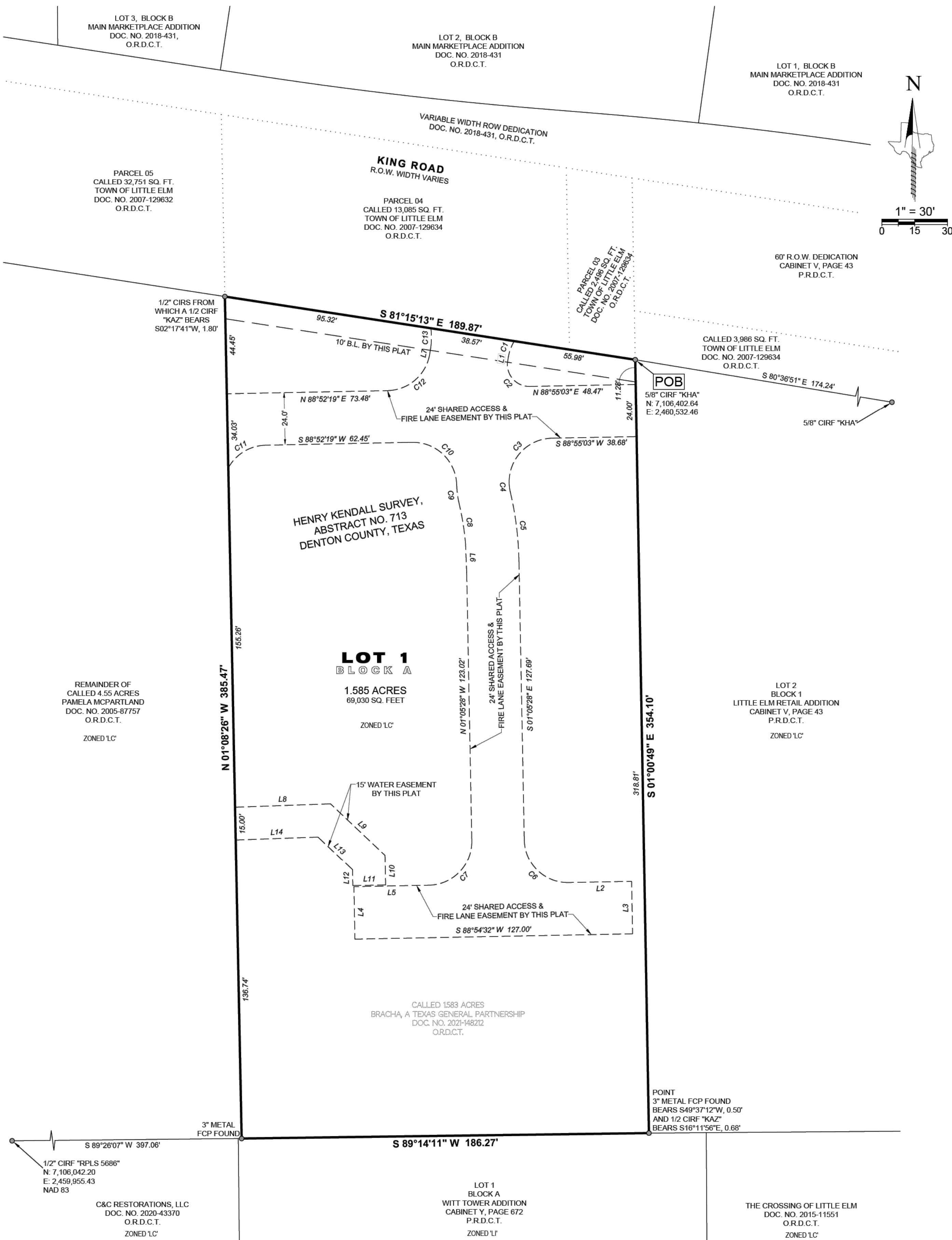


- GENERAL NOTES**
- The subject property lies within Non-Shaded Zone X according to Community Panel No. 48121C0420G, dated April 18, 2011, and is located in the Town of Little Elm, Community Number 481152 of the National Flood Insurance rate Maps for Denton County, Texas. The location of the Flood Zone shown hereon is approximate. For additional information regarding flood zone designation, please contact 1-(877) FEMA MAP.
  - The purpose of this plat is to create one (1) lot of record from an unplatted tract of land.
  - Minimum finished floor elevations are at least 2 feet above the 100 year flood plain.
  - The grid coordinates shown on this plat are based on GPS observations utilizing the AllTerra RTK Network - North American Datum of 1983 (Adjustment Realization 2011). Texas North Central Zone (4202).
  - Notice - selling a portion of this addition by metes and bounds is a violation of Town ordinance and state law and is subject to fines and withholding of utilities and building permits.
  - All interior property corners are marked with a 1/2-inch iron rod with a green plastic cap stamped "EAGLE SURVEYING" unless noted otherwise.
  - The bearings shown on this plat are based on GPS observations utilizing the AllTerra RTK Network - North American Datum of 1983 (Adjustment Realization 2011).
  - This property may be subject to charges related to impact fees and the applicant should contact the Town regarding any applicable fees due.
  - All lots comply with the minimum size requirements of the zoning district.
  - This plat does not alter or remove existing deed restrictions, if any, on this property.
  - The subject property shown hereon is zoned LC (Light Commercial) per Town of Little Elm Zoning.

LINE TABLE			
LINE	BEARING	DISTANCE	
L1	S 08°41'33" W	1.31'	
L2	N 88°54'32" E	26.71'	
L3	S 01°05'28" E	24.00'	
L4	N 01°05'28" W	24.00'	
L5	N 88°54'32" E	34.29'	
L6	N 02°20'07" W	13.21'	
L7	N 08°41'33" E	3.26'	
L8	S 87°47'56" W	43.70'	
L9	N 46°33'46" W	34.34'	
L10	N 01°05'28" W	13.61'	
L11	N 88°54'32" E	15.00'	
L12	S 01°05'28" E	7.32'	
L13	S 46°33'46" E	21.76'	
L14	N 01°05'28" E	37.64'	

CURVE TABLE				
CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING
C1	8.45'	21.50'	22°30'42"	S 19°31'14" W
C2	17.41'	10.00'	89°46'30"	S 41°11'42" E
C3	30.52'	20.00'	87°22'16"	S 45°12'24" W
C4	5.14'	20.00'	14°43'53"	S 05°42'13" E
C5	31.80'	150.00'	12°08'42"	S 07°08'48" E
C6	31.47'	19.85'	90°02'53"	S 46°16'31" E
C7	31.39'	20.00'	89°56'06"	N 43°56'29" E
C8	18.21'	126.00'	8°16'43"	N 88°54'48" W
C9	8.67'	44.00'	11°52'54"	N 07°27'42" W
C10	31.22'	20.00'	89°26'24"	N 48°24'27" W
C11	20.57'	20.00'	60°45'07"	S 58°45'48" E
C12	27.99'	20.00'	80°10'46"	N 48°46'58" E
C13	8.32'	35.00'	13°36'44"	N 00°06'56" W

LEGEND	
POB	=POINT OF BEGINNING
IRF	=IRON ROD FOUND
CIRF	=CAPPED IRON ROD FOUND
CIRS	=CAPPED IRON ROD SET
FCP	=FENCE CORNER POST
DOC. NO.	=DOCUMENT NUMBER
P.R.D.C.T.	=PLAT RECORDS, DENTON COUNTY, TEXAS
O.R.D.C.T.	=OFFICIAL RECORDS, DENTON COUNTY, TEXAS



**OWNER'S ACKNOWLEDGEMENT & DEDICATION**

STATE OF TEXAS §  
COUNTY OF DENTON §

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**NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS:**

THAT, BRACHA, A Texas General Partnership, does hereby adopt this plat, designating herein described property as **BRACHA ADDITION**, an addition to the Town of Little Elm, Denton County, Texas, and does hereby dedicate to public use forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the drainage and utility easements as shown. Said drainage and utility easements being hereby reserved for the mutual use and accommodation of all public utilities desiring to use same. All and any public utility shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of its respective system on the drainage and utility easement and all public utilities shall at all times have the full right of ingress and egress to or from and upon the said drainage and utility easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or parts of its respective systems without the necessity at any time of procuring the permission of anyone.

OWNER: BRACHA

BY: \_\_\_\_\_  
Sayra Carpenter Date

STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority, on this day personally appeared Sayra Carpenter, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF THE OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Notary Public in and for the State of Texas

**CERTIFICATE OF SURVEYOR**

STATE OF TEXAS §  
COUNTY OF DENTON §

I, **MATTHEW RAABE**, Registered Professional Land Surveyor, do hereby certify that this plat was prepared from an actual survey made on the ground and that the monuments shown hereon were found or placed with 1/2-inch iron rods with green plastic caps stamped "EAGLE SURVEYING" under my direction and supervision in accordance with the current provisions of the Texas Administrative Code and the Ordinances of the Town of Little Elm, Denton County, Texas.

**PRELIMINARY**  
This document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document

Matthew Raabe, R.P.L.S. #6402 Date

STATE OF TEXAS §  
COUNTY OF DENTON §

BEFORE ME, the undersigned authority, on this day personally appeared **MATTHEW RAABE**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF THE OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Notary Public in and for the State of Texas

**CERTIFICATE OF FINAL APPROVAL**

**APPROVED**

Town Official  
Town of Little Elm, Texas

Date

The undersigned, the Town Secretary of the Town of Little Elm, Texas, hereby certifies that the foregoing Final Plat of the BRACHA ADDITION Subdivision or Addition to the Town of Little Elm was submitted to the Planning and Zoning Commission on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, and the Commission, by formal action, then and there accepted the Final Plat and hereby authorizes the developer to proceed with the construction of public works improvements and infrastructure as indicated on the accompanying construction plans, and said Commission further authorizes the Town Official to note the acceptance thereof by signing his/her name as hereinabove subscribed.

Witness by hand this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Town Secretary  
Town of Little Elm, Texas

**FINAL PLAT  
BRACHA ADDITION  
LOT 1, BLOCK A**

BEING 1.585 ACRES OF LAND OUT OF THE  
HENRY KENDALL SURVEY, ABSTRACT NO. 713  
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

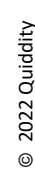
DATE OF PREPARATION: 02/19/2024

Project	2310.020		<b>EAGLE SURVEYING, LLC</b> 222 S. Elm Street, Suite: 200 Denton, TX 76201 (940) 222-3009 TX Firm #10194177
Date	02/19/2024		
Drafter	DJJ		

**SURVEYOR**  
Eagle Surveying, LLC  
Contact: Brad Eubanks  
Brad@eaglesurveying.com  
222 S. Elm Street, Suite: 200  
Denton, TX 76201  
(940) 222-3009

**OWNER**  
BRACHA, A Texas General Partnership  
Contact: Sayra Carpenter  
sayra@wearbracha.com  
12342 Harvest Meadow Drive  
Frisco, Texas 75033  
(214) 929-1978



4

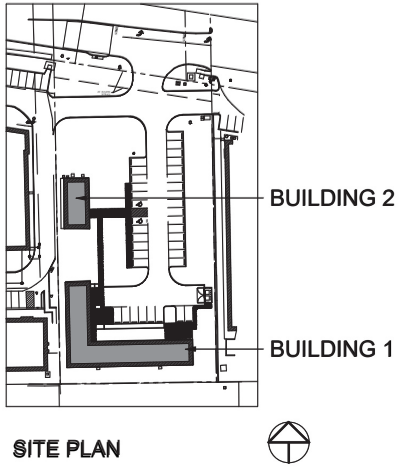
www.texas811.org  
Texas811 or 1-800-545-6005

OF C-27

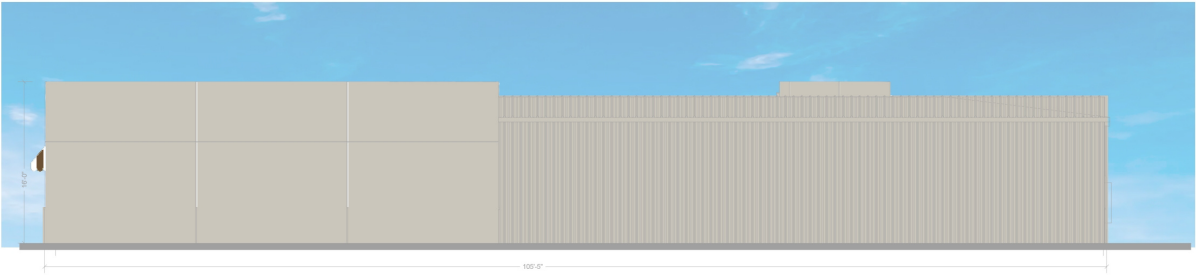
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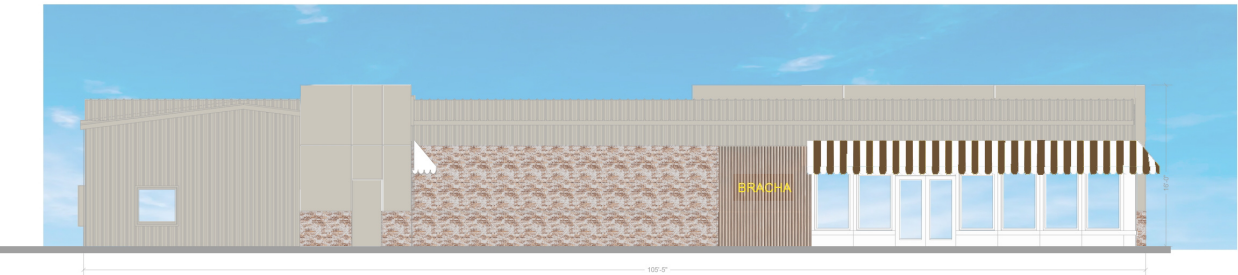




MATERIAL CALCULATIONS TABLE						
ELEVATION	GLAZING	STUCCO	CORRUGATED MTL PANEL SW IRON ORE	MASONRY	SIDING	TOTAL AREA
BUILDING 1 NORTH ELEVATION	200 SF (10%)	1183 SF (59%)	150 SF (8%)	456 SF (23%)		1989 SF
BUILDING 1 SOUTH ELEVATION	70 SF (4%)		1752 SF (96%)			1822 SF
BUILDING 1 'EAST' ELEVATION	300 SF (24%)	156 SF (12%)	420 SF (33%)	300 SF (24%)	94 SF (7%)	1,270 SF
BUILDING 1 WEST ELEVATION		715 SF (49%)	730 SF (51%)			1,445F
BUILDING 2 NORTH ELEVATION	104 SF (16%)	160 SF (26%)	35 SF (6%)	205 SF (33%)	120 SF (19%)	624 SF
BUILDING 2 SOUTH ELEVATION			296 SF (73%)	108 SF (27%)		404 SF
BUILDING 2 EAST ELEVATION	358 SF (42%)		160 SF (19%)	337 SF (39%)		855 SF
BUILDING 2 WEST ELEVATION			439 SF (60%)	171 SF (23%)	121 SF (17%)	731 SF



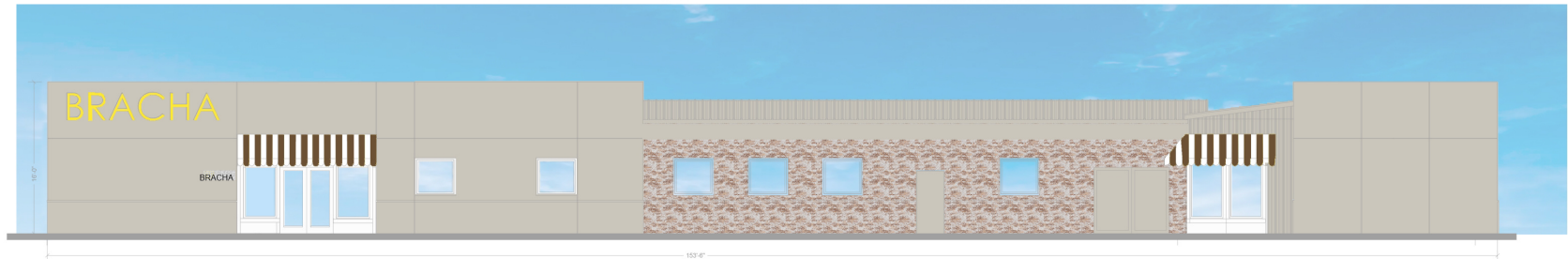
4 BUILDING 1 WEST ELEVATION  
SCALE: 1/8" = 1'-0"



3 BUILDING 1 EAST ELEVATION  
SCALE: 1/8" = 1'-0"



2 BUILDING 1 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



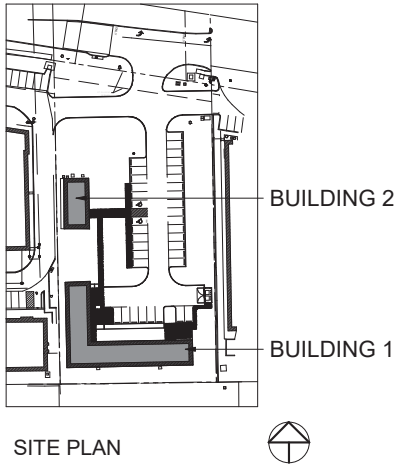
1 BUILDING 1 NORTH ELEVATION  
SCALE: 1/8" = 1'-0"

BUILDING 1 ELEVATION

BRACHA MIXED-USED HEADQUARTERS

JUNE 20, 2024

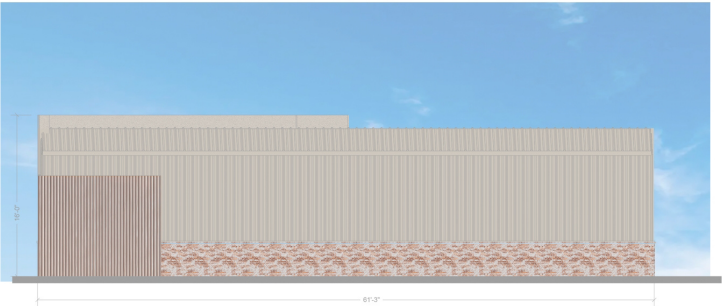




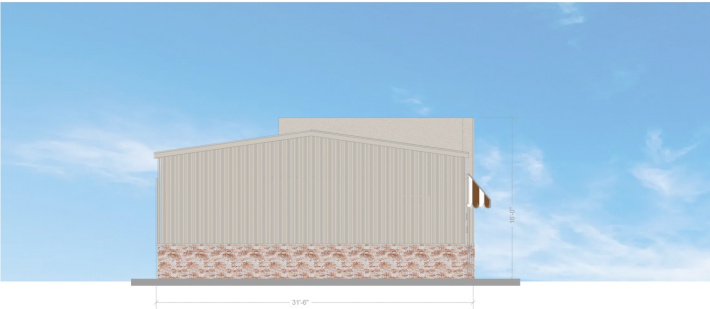
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4 BUILDING 2 EAST ELEVATION



3 BUILDING 2 WEST ELEVATION

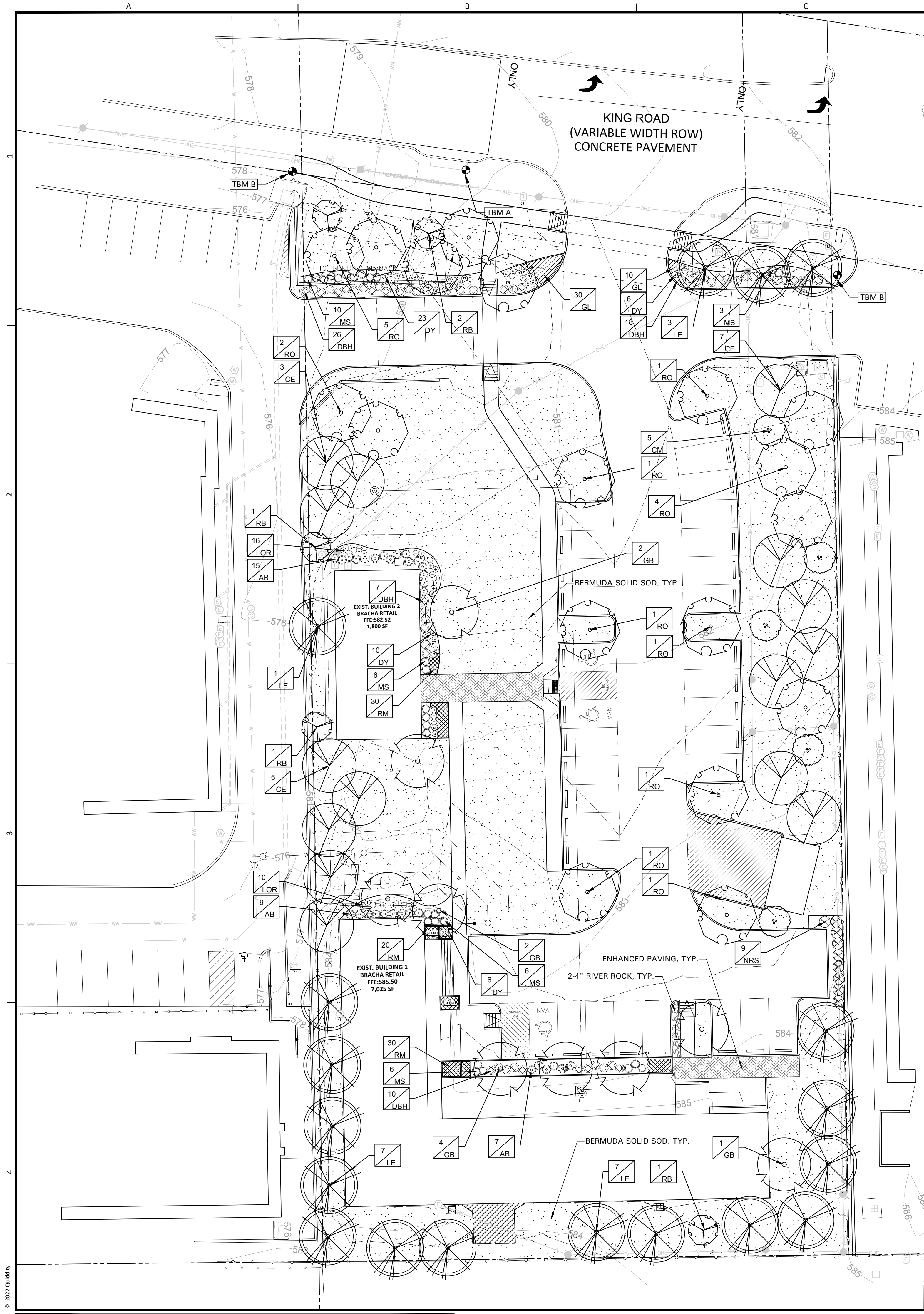


2 BUILDING 2 SOUTH ELEVATION



1 BUILDING 2 NORTH ELEVATION





LANDSCAPE TABULATIONS for LITTLE ELM, TEXAS	
SITE AREA	69,043 s.f.
INTERIOR LANDSCAPE REQUIREMENTS	
1. A min. of 10% of the gross vehicular use areas shall be devoted to living landscape.	
2. There shall be a min. of one large canopy tree for each 400 s.f. of required interior landscape area.	
3. Interior parking islands shall contain one canopy tree located at the end of all parking rows.	
4. One tree shall be provided for every 12 spaces. (36 spaces provided)	
REQUIRED	PROVIDED
1463 s.f. (10%)	3195 s.f. (21.8%)
4 trees	7 trees, 3" cal. (trees will have a canopy larger than 30')
PERIMETER LANDSCAPE REQUIREMENTS	
1. All vehicular use areas shall be screened from abutting properties and the public right-of-way with an evergreen hedge, berm or other durable landscape barrier. Shrubs shall be a min. of 36" tall at time of planting.	
2. For all nonresidential and multiple family parcels, a minimum twenty (20) foot landscape buffer adjacent to the right-of-way is required.	
3. Landscape buffers adjacent to the public right-of-way shall contain at least one (1) Large Canopy tree each thirty (25) linear feet or fraction thereof of street frontage, inclusive of driveways. Trees may be grouped or clustered to facilitate site design.	
4. A perimeter landscape buffer of at least ten (10) feet in width shall be maintained between adjacent properties. This landscaping can be reduced to five feet (5') when abutting property of the same zoning. Perimeter landscape buffers shall contain at least one (1) Large Canopy tree each fifty (25) linear feet or fraction thereof when adjacent to another commercial use	
5. For every five (5) large canopy trees or fraction thereof required along the street frontage and perimeter (1) Small Ornamental tree shall also be provided.	
REQUIRED	PROVIDED
screening	screening - 36" at the time of planting
King Road - 190 l.f.	
8 trees	8 shade trees
1 ornamental trees	2 ornamental trees
West property line - 386 l.f.	
15 trees	15 shade trees
2 ornamental trees	2 ornamental trees
South property line - 186 l.f.	
7 trees	7 shade trees
1 ornamental trees	1 ornamental trees
East property - 354 l.f.	
14 trees	14 shade trees
2 ornamental trees	5 ornamental trees
POINT SYSTEM	
REQUIRED	PROVIDED
25 points	5 points - enhanced landscape
	5 points - open space greater
	5 points - foundation planting
	5 points - enhanced hardscape (pavers)
	5 points - enhanced buffers

- GENERAL LAWN NOTES**
- CONTRACTOR SHALL COORDINATE OPERATIONS AND AVAILABILITY OF EXISTING TOPSOIL WITH ON-SITE CONSTRUCTION MANAGER
  - LAWN AREAS SHALL BE LEFT 1" BELOW FINAL FINISHED GRADE PRIOR TO TOPSOIL INSTALLATION
  - CONTRACTOR TO FIND GRADE AREAS TO ACHIEVE FINAL CONTOURS AS SHOWN ON CIVIL DRAWINGS. POSITIVE DRAINAGE SHALL BE PROVIDED AWAY FROM ALL BUILDINGS. ROUNDING AT TOP AND BOTTOM OF SLOPES SHALL BE PROVIDED AND IN OTHER BREAKS IN GRADE, CORRECT AREAS WHERE STANDING WATER MAY OCCUR
  - ALL LAWN AREAS SHALL BE FINE GRADED, IRRIGATION TRENCHES COMPLETELY SETTLED AND FINISH GRADE APPROVED BY THE OWNER'S CONSTRUCTION MANAGER OR LANDSCAPE ARCHITECT PRIOR TO LAWN INSTALLATION
  - CONTRACTOR SHALL REMOVE ALL ROCKS 3/4" IN DIAMETER AND LARGER, REMOVE ALL DIRT CLOUDS, STICKS, CONCRETE SPILLS, TRASH ETC PRIOR TO PLACING TOPSOIL AND GRASS INSTALLATION
  - CONTRACTOR SHALL MAINTAIN ALL LAWN AREAS UNTIL FINAL ACCEPTANCE.
  - CONTRACTOR SHALL GUARANTEE ESTABLISHMENT OF ACCEPTABLE TURF AREA AND SHALL PROVIDE REPLACEMENT IF NECESSARY.
- SOLID SOD:**
- SOLID SOD SHALL BE PLACED ALONG ALL IMPERVIOUS EDGES, AT A MINIMUM, THIS SHALL INCLUDE CURBS, WALKS, INLETS, MANHOLES AND PLANTING BED AREAS. SOD SHALL COVER OTHER AREAS COMPLETELY AS INDICATED BY PLAN
  - SOD SHALL BE STRONGLY ROOTED DROUGHT RESISTANT SOD, NOT LESS THAN 2 YEARS OLD, FREE OF WEEDS AND UNDESIRABLE NATIVE GRASS AND MACHINE CUT TO PAD THICKNESS OF 3/4" (+/-1/4"), EXCLUDING TOP GROWTH AND THATCH
  - LAY SOD BY HAND TO COVER INDICATED AREAS COMPLETELY, ENSURING EDGES ARE TOUCHING WITH TIGHTLY FITTING JOINTS, NO OVERLAPS WITH STAGGERED STRIPS TO OFFSET JOINTS
  - TOP DRESS JOINTS IN SOD BY HAND WITH TOPSOIL, TO FILL VOIDS IF NECESSARY
  - SOD SHALL BE ROLLED TO CREATE A SMOOTH EVEN SURFACE. SOD SHOULD BE WATERED THOROUGHLY DURING INSTALLATION PROCESS.
  - SHOULD INSTALLATION OCCUR BETWEEN OCTOBER 1ST AND MARCH 1ST, OVERSEED BERMUDAGRASS SOD WITH WINTER RYEGRASS AT A RATE OF 4 POUNDS PER 1000 S.F.
- HYDROMULCH:**
- SCARIFY AND LOOSEN ALL AREAS TO BE HYDROMULCHED TO A MINIMUM DEPTH OF 4" PRIOR TO TOPSOIL AND HYDROMULCH INSTALLATION
  - BERMUDA GRASS SEED SHALL BE EXTRA HULLED, TREATED LAWN TYPE, SEED SHALL BE DELIVERED TO THE SITE IN ITS ORIGINAL UNOPENED CONTAINER AND SHALL MEET ALL STATE/LOCAL LAW REQUIREMENTS
  - FIBER TACK SHALL BE 100% WOOD CELLULOSE FIBER, DELIVERED TO THE SITE IN ITS ORIGINAL UNOPENED CONTAINER AS MANUFACTURED BY "CONVEYER OR EQUAL"
  - FIBER TACK SHALL BE DELIVERED TO THE SITE IN ITS UNOPENED CONTAINER AND SHALL BE TERRO-TACK ONE; AS MANUFACTURED BY GROWERS, INC OR APPROVED EQUAL
  - HYDROMULCH WITH BERMUDA GRASS SEET AT A RATE OF 2 POUNDS PER 1000 S.F.
  - USE A BATTER BOARD AGAINST ALL BED AREAS TO PREVENT OVER SPRAY
  - IF INADEQUATE MOISTURE IS PRESENT IN SOIL, APPLY WATER AS NECESSARY FOR OPTIMUM MOISTURE FOR SEED APPLICATION
  - IF INSTALLATION OCCURS BETWEEN SEPTEMBER 1ST AND MAY 1ST, ALL HYDROMULCH AREAS SHALL BE OVER-SEED WITH WINTER RYE GRASS AT A RATE OF FOUR POUNDS PER ONE THOUSAND SQUARE FEET
  - CONTRACTOR SHALL BE REQUIRED TO RE-HYDROMULCH WITH BERMUDA GRASS THE FOLLOWING GROWING SEASON AS PART OF THIS CONTRACT
  - AFTER APPLICATION, NO EQUIPMENT SHALL OPERATE OVER APPLIED AREAS, WATER SEEDED AREAS IMMEDIATELY AFTER INSTALLATION TO SATURATION
  - ALL LAWN AREAS TO BE HYDROMULCHED SHALL ACHIEVE 100% COVERAGE PRIOR TO FINAL ACCEPTANCE.
- TOWN OF LITTLE ELM NOTES**
- A. THE OWNER, TENANT AND THEIR AGENT, IF ANY, SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE MAINTENANCE OF ALL LANDSCAPING. ALL REQUIRED LANDSCAPING SHALL BE MAINTAINED IN A NEAT AND ORDERLY MANNER AT ALL TIMES. THIS SHALL INCLUDE MOWING, EDGING, PRUNING, FERTILIZING, WATERING, WEEDING AND SUCH ACTIVITIES COMMON TO THE MAINTENANCE OF LANDSCAPING.
- B. LANDSCAPE AREAS SHALL BE KEPT FREE OF TRASH, LITTER, WEEDS AND OTHER SUCH MATERIALS OR PLANTS NOT A PART OF THE LANDSCAPING.
- C. NO SUBSTITUTIONS FOR PLANT MATERIALS IS ALLOWED WITHOUT WRITTEN AND STAMPED APPROVAL BY THE DIRECTOR ON A REVISED LANDSCAPE PLAN.
- D. THE RIGHT-OF-WAY ADJACENT TO REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY THE ADJACENT PROPERTY OWNER IN THE SAME MANNER AS THE REQUIRED LANDSCAPE AREA. ALL DRIVEWAYS WILL MAINTAIN VISIBILITY AS APPROVED BY THE DIRECTOR. ALL PLANTINGS INTENDED FOR EROSION CONTROL WILL BE MAINTAINED. THE TOWN MAY REQUIRE VEGETATION TO PREVENT EROSION OR SLIPPAGE.
- E. ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS APPROPRIATE FOR THE SEASON OF THE YEAR. PLANT MATERIALS WHICH DIE SHALL BE REPLACED WITH PLANT MATERIAL OF SIMILAR VARIETY AND SIZE, WITHIN THIRTY DAYS OR A DATE APPROVED BY THE DIRECTOR BASED ON CURRENT SEASONS AND WEATHER CONDITIONS.
- F. WHEN POWER LINES ARE PRESENT, TREES SHALL NOT BE PLANTED UNDERNEATH AND SHOULD BE ORIENTED IN A MANNER TO AVOID CONFLICT. SUBSTITUTION OF PLANT MATERIAL IS NOT ALLOWED WITHOUT PRIOR WRITTEN AUTHORIZATION FROM THE DIRECTOR.
- G. ALL REQUIRED LANDSCAPE AREAS SHALL BE PROVIDED WITH AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM WITH RAIN AND FREEZE SENSORS AND EVAPOTRANSPIRATION (ET) WEATHER BASED CONTROLLERS AND SAID IRRIGATION SYSTEM SHALL BE DESIGNED BY A QUALIFIED PROFESSIONAL AND INSTALLED BY A LICENSED IRRIGATOR.
- H. REQUIRED LANDSCAPED OPEN AREAS AND DISTURBED SOIL AREAS SHALL BE COMPLETELY COVERED WITH LIVING PLANT MATERIAL PER THE LANDSCAPE ORDINANCE.
- I. ALL STREETScape FURNITURE SHALL BE A CHIP AND FLAKE RESISTANT METAL, DECORATIVE AND GENERALLY BLACK "STORM CLOUD" IN COLOR.

PLANT SCHEDULE

QTY	LABEL	COMMON NAME	SCIENTIFIC NAME	SIZE	NOTES
SHADE TREES					
15	CE	Cedar Elm	Ulmus crassifolia	4" cal.	12' ht., 4' spread, matching
9	GB	Ginkgo	Ginkgo biloba	4" cal.	12' ht., 4' spread, matching
18	LE	Lacebark Elm	Ulmus parvifolia 'Sempervirens'	4" cal.	12' ht., 4' spread
18	RO	Texas Red Oak	Quercus texana	4" cal.	12' ht., 4' spread, matching
ORNAMENTAL TREES					
5	CM	Crepe Myrtle 'Tuscarora'	Lagerstromia indica 'Tuscarora'	30 gal.	8' ht. 3' spread, matching
5	RB	Oklahoma Redbud	Cercis reniformis 'Oklahoma'	30 gal.	8' ht., 4' spread, 3 trunk min.
SHRUBS					
31	AB	Abelia 'Twist of Lime'	Abelia x grandiflora 'Hopleys's'	3' ht.	full, 36" o.c.
61	DBH	Dwarf Burford Holly	Ilex cornuta 'Burford Nana'	3' ht.	full, 36" o.c.
45	DY	Dwarf Yaupon Holly	Ilex vomitoria 'Condeaux'	5 gal.	full, 24" sprd, 24" o.c.
26	LOR	Loropetalum 'Purple Pixie'	Loropetalum chinensis 'Purple Pixie'	5 gal.	full, 18" sprd, 30" o.c.
31	MS	Morning Light Miscanthus	Miscanthus sinensis 'Morning Light'	5 gal.	full, 20" spread, 36" o.c.
9	NRS	Nellie R. Stevens Holly	Ilex x 'Nellie R. Stevens'	4' ht.	full, 40" o.c.; 4' ht.
GROUND COVER/VINES/GRASS					
40	GL	Giant Liriope	Liriope gigantea	1 gal.	full, 18" o.c.
80	RM	Creeping Rosemary	Rosmarinus officinalis 'Prostratus'	1 gal.	full, 18" o.c.
		Bermuda Solid Sod	Cynodon dactylon		

Plant list is an aid to bidders only. Contractor shall verify all quantities on plan. All heights and spreads are minimums. Trees shall have a strong central leader and be of matching specimens. All plant material shall meet or exceed remarks as indicated.



AWR Designs, LLC  
P.O. Box 1746  
Aledo, Texas 76008  
amanda@awr-designs.com  
c. 512.517.5589

- LANDSCAPE NOTES**
- CONTRACTOR TO VERIFY AND LOCATE ALL PROPOSED AND EXISTING ELEMENTS. NOTIFY LANDSCAPE ARCHITECT OR DESIGNATED REPRESENTATIVE FOR ANY LAYOUT DISCREPANCIES OR ANY CONDITION THAT WOULD PROHIBIT THE INSTALLATION AS SHOWN. SURVEY DATA OF EXISTING CONDITIONS WAS SUPPLIED BY OTHERS
  - CONTRACTOR SHALL CALL 811 TO VERIFY AND LOCATE ANY AND ALL UTILITIES ON SITE PRIOR TO COMMENCING WORK. LANDSCAPE ARCHITECT SHOULD BE NOTIFIED OF ANY CONFLICTS. CONTRACTOR TO EXERCISE EXTREME CAUTION WHEN WORKING NEAR UNDERGROUND UTILITIES
  - A MINIMUM OF 2% SLOPE SHALL BE PROVIDED AWAY FROM ALL STRUCTURES
  - CONTRACTOR SHALL FINE GRADE AREAS TO ACHIEVE FINAL CONTOURS AS INDICATED. LEAVE AREAS TO RECEIVE TOPSOIL 3" BELOW FINAL FINISHED GRADE IN PLANTING AREAS AND 1" BELOW FINAL FINISHED GRADE IN LAWN AREAS
  - LANDSCAPE ISLANDS SHALL BE CROWNED, AND UNIFORM THROUGHOUT THE SITE
  - PLANTING AREAS AND SOD TO BE SEPARATED BY STEEL EDGING. NO STEEL EDGING SHALL BE INSTALLED ADJACENT TO BUILDINGS, WALKS OR CURBS. EDGING NOT TO BE MORE THAN 1/2" ABOVE FINISHED GRADE. EDGING SHALL BE CUT AT 45 DEGREE ANGLE WHERE IT INTERSECTS WALKS AND/OR CURBS
  - MULCH SHALL BE INSTALLED AT 1/2" BELOW THE TOPS OF SIDEWALKS AND CURBING
  - QUANTITIES ON THESE PLANS ARE FOR REFERENCE ONLY. THE SPACING OF PLANTS SHOULD BE AS INDICATED ON PLANS OR OTHERWISE NOTED. ALL TREES AND SHRUBS SHALL BE PLANTED PER DETAILS
  - CONTAINER GROWN PLANT MATERIAL IS PREFERRED. HOWEVER BALL AND BURLAP PLANT MATERIAL CAN BE SUBSTITUTED IF NEED BE AND IS APPROPRIATE TO THE SIZE AND QUALITY INDICATED ON THE PLANT MATERIAL LIST
  - TREES SHALL BE PLANTED AT A MINIMUM OF 5' FROM ANY UTILITY LINE. SIDEWALK OR CURB. TREES SHALL ALSO BE 10' CLEAR FROM FIRE HYDRANTS
  - 4" OF SHREDDED HARDWOOD MULCH (2" SETTLED THICKNESS) SHALL BE PLACED OVER WEED BARRIER FABRIC. MULCH SHALL BE SHREDDED HARDWOOD MULCH OR APPROVED EQUAL. FINE STRAW MULCH IS PROHIBITED
  - WEED BARRIER FABRIC SHALL BE USED IN PLANT BEDS AND AROUND ALL TREES AND SHALL BE MIRAFI 1405 WEED BARRIER OR APPROVED EQUAL. CONTRACTOR TO PROVIDE UNIT PRICING OF LANDSCAPE MATERIALS AND BE RESPONSIBLE FOR OBTAINING ALL LANDSCAPE AND IRRIGATION PERMITS
- IRRIGATION:**
- ALL REQUIRED LANDSCAPE AREAS SHALL HAVE AN AUTOMATIC IRRIGATION SYSTEM WITH A FREEZE/RAIN SENSOR. SYSTEM SHALL ALSO HAVE AN ET WEATHER BASED CONTROLLER AND BE DESIGNED AND INSTALLED BY A LICENSED IRRIGATOR.
- MAINTENANCE REQUIREMENTS:**
- VEGETATION SHOULD BE INSPECTED REGULARLY TO ENSURE THAT PLANT MATERIAL IS ESTABLISHING PROPERLY AND REMAINS IN A HEALTHY GROWING CONDITION APPROPRIATE FOR THE SEASON. IF DAMAGED OR REMOVED, PLANTS MUST BE REPLACED BY A SIMILAR VARIETY AND SIZE
  - MOWING, TRIMMING, EDGING AND SUPERVISION OF WATER APPLICATIONS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR UNTIL THE OWNER OR OWNER'S REPRESENTATIVE ACCEPTS AND ASSUMES REGULAR MAINTENANCE
  - ALL LANDSCAPE AREAS SHOULD BE CLEANED AND KEPT FREE OF TRASH, DEBRIS, WEEDS AND OTHER MATERIAL
- MISCELLANEOUS MATERIALS:**
- STEEL EDGING SHALL BE 3/16" X 4 X 16" DARK GREEN DURAEDGE STEEL LANDSCAPE EDGING UNLESS NOTED OTHERWISE ON PLANS/DETAILS
  - RIVER ROCK SHALL BE ARIZONA RIVER ROCK, 2" - 4" DIAMETER. RIVER ROCK SHALL BE COMPACTED TO A MINIMUM OF 3" DEPTH OVER FILTER FABRIC
  - DECOMPOSED GRANITE SHALL CONSIST OF A NATURAL MIX OF GRANITE AGGREGATE NOT TO EXCEED 1/8" IN DIAMETER AND COMPOSED OF VARIOUS STAGES OF DECOMPOSED EARTH BASE. DG SHALL BE PLACED OVER FILTER FABRIC AT A MINIMUM OF 3" DEPTH. BOULDERS SHALL BE ON AVERAGE 36" X 24" X 24" AND A MIN. OF 500LBS. BOULDER TO BE SET IN GROUND ON A 1" SAND SETTING BED, APPROXIMATELY 2" BELOW FINISH GRADE. BOULDER SHOULD HAVE A WEATHERED FINISH. EACH BOULDER HAS A NATURAL TOP AND BOTTOM. ENSURE THAT THE BOULDER IS POSITIONED CORRECTLY BEFORE INSTALLATION

App.

REVISIONS

No.

Date

DESIGNED BY: CPZ

CHECKED BY: RIA

DRAWN BY: CPZ

QUIDDITY

Professional Engineer and Land Surveyor Reg. No. 72190  
Civil/Geomatics/Professional Engineer, State of Texas, License No. 25240

SCALE: AS SHOWN

DATE: APRIL 2024

JOB NO.: 28763-0001-01

REGISTERED LANDSCAPE ARCHITECT  
AMANDA W. RICHARDS  
STATE OF TEXAS  
2754

1-19-24

BRACHA RETAIL - FRISCO - FM 423 AND KING ROAD

1408S KING ROAD, FRISCO, TX 75036

LANDSCAPE PLAN

SHEET NO.

L1.01

OF



© 2022 Quiddity

SECTION 32 9300 - LANDSCAPE  
PART 1 - GENERAL

1.1 QUALIFICATIONS OF THE LANDSCAPE CONTRACTOR.

- A. ALL LANDSCAPE WORK SHOWN ON THESE PLANS SHALL BE PERFORMED BY A SINGLE FIRM SPECIALIZING IN LANDSCAPE PLANTING

1.2 REFERENCE DOCUMENTS

- A. REFER TO LANDSCAPE PLANS, NOTES, SCHEDULES AND DETAILS FOR ADDITIONAL REQUIREMENTS

1.3 SCOPE OF WORK / DESCRIPTION OF WORK

- A. WORK COVERED BY THESE SECTIONS INCLUDES: FURNISH ALL SUPERVISIONS, LABOR, MATERIALS, SERVICES, EQUIPMENT AND APPLIANCES REQUIRED TO COMPLETE THE WORK COVERED IN CONJUNCTION WITH THE LANDSCAPING COVERED IN LANDSCAPE PLANS AND SPECIFICATIONS INCLUDING:

1. BED PREP AND FERTILIZATION  
2. NOTIFICATION OF SOURCES  
4. WATER AND MAINTENANCE UNTIL ACCEPTANCE  
5. GUARANTEE

- B. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE LAWS, CODES AND REGULATIONS REQUIRED BY AUTHORITIES HAVING JURISDICTION OVER SUCH WORK, INCLUDING ALL INSPECTIONS AND PERMITS REQUIRED BY FEDERAL, STATE AND LOCAL AUTHORITIES IN SUPPLY, TRANSPORTATION AND INSTALLATION OF MATERIALS

- C. THE LANDSCAPE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UNDERGROUND UTILITY LINES (WATER, SEWER, ELECTRICAL, TELEPHONE, GAS, CABLE, TELEVISION, ETC.) PRIOR TO THE START OF ANY WORK

1.4 REFERENCES

- A. AMERICAN STANDARD FOR NURSERY STOCK PUBLISHED BY AMERICAN ASSOCIATION OF NURSERYMEN, 27 OCTOBER 1980, EDITION, BY AMERICAN NATIONAL STANDARDS INSTITUTE (Z60.11) - PLANT MATERIAL  
B. AMERICAN JOINT COMMITTEE ON HORTICULTURE NOMENCLATURE, 1942 EDITION OF STANDARDIZED PLANT NAMES  
C. TEXAS ASSOCIATION OF NURSERYMEN, GRADES AND STANDARDS

1.5 SUBMITTALS

- A. PROVIDE REPRESENTATIVE QUANTITIES OF EACH SOIL, MULCH, BED MIX, GRAVEL AND STONE BEFORE INSTALLATION. SAMPLES TO BE APPROVED BY OWNER'S REPRESENTATIVE BEFORE USE.  
B. SOIL AMENDMENTS AND FERTILIZERS SHOULD BE RESEARCHED AND BASED ON THE SOILS IN THE AREA.  
C. BEFORE INSTALLATION, SUBMIT DOCUMENTATION THAT PLANT MATERIALS ARE AVAILABLE AND HAVE BEEN RESERVED. FOR ANY PLANT MATERIAL NOT AVAILABLE, SUBMIT REQUEST FOR SUBSTITUTION.

1.6 JOB CONDITIONS, DELIVERY, STORAGE AND HANDLING

- A. GENERAL: CONTRACTOR TO COMPLETE WORK BEFORE LANDSCAPE CONTRACTOR TO COMMENCE  
B. ALL PLANTING BED AREAS SHALL BE LEFT THREE INCHES BELOW FINAL GRADE OF SIDEWALKS, DRIVES AND CURBS. ALL AREAS TO RECEIVE SOLID SOD SHALL BE LEFT ONE INCH BELOW THE FINAL GRADE OF WALKS, DRIVES AND CURBS. CONSTRUCTION DEBRIS SHALL BE REMOVED PRIOR TO LANDSCAPE CONTRACTOR BEGINNING WORK  
C. STORAGE OF MATERIALS AND EQUIPMENT AT THE JOB SITE WILL BE AT THE RISK OF THE LANDSCAPE CONTRACTOR. THE OWNER CANNOT BE HELD RESPONSIBLE FOR THEFT OR DAMAGE.

1.7 SEQUENCING

- A. INSTALL TREES, SHRUBS, AND LINER STOCK PLANT MATERIALS PRIOR TO INSTALLATION OF LAWN/GRASS SOD  
B. WHERE EXISTING TURF AREAS ARE BEING CONVERTED TO PLANTING BEDS, THE TURF SHALL BE CHEMICALLY ERADICATED TO MINIMIZE RE-GROWTH IN THE FUTURE. AREAS SHALL BE PROPERLY PREPARED WITH AMENDED ORGANIC MATTER.

1.8 MAINTENANCE AND GUARANTEE

MAINTENANCE:

- A. THE LANDSCAPE CONTRACTOR SHALL BE HELD RESPONSIBLE FOR THE MAINTENANCE OF ALL WORK FROM THE TIME OF PLANTING UNTIL FINAL ACCEPTANCE BY OWNER  
B. NO TREES, GRASS, GROUNDCOVER OR GRASS WILL BE ACCEPTED UNLESS THEY SHOW HEALTHY GROWTH AND SATISFACTORY FOLIAGE CONDITIONS.  
C. MAINTENANCE SHALL INCLUDE WATERING OF TREES AND PLANTS, CULTIVATION, WEED SPRAYING, EDGING, PRUNING OF TREES, MOWING OF GRASS, CLEANING UP AND ALL OTHER WORK NECESSARY FOR MAINTENANCE.  
D. A WRITTEN NOTICE REQUESTING FINAL INSPECTION AND ACCEPTANCE

- SHOULD BE SUBMITTED TO THE OWNER AT LEAST 7 DAYS PRIOR TO COMPLETION. ON AN SITE INSPECTION BY THE OWNER'S AUTHORIZED REPRESENTATIVE WILL BE COMPLETED PRIOR TO WRITTEN ACCEPTANCE.  
E. NOTIFY OWNER OR OWNER'S REPRESENTATIVE SEVEN DAYS PRIOR TO THE EXPIRATION OF THE WARRANTY PERIOD.  
F. REMOVE DEAD, UNHEALTHY AND UNLIGHLY PLANTS DURING WARRANTY PERIOD  
G. REMOVE GUYING AND STAKING MATERIALS AFTER ONE YEAR  
H. ALL LANDSCAPE MUST BE MAINTAINED AND GRASS MOVED/EDGED ON A WEEKLY SCHEDULE UNTIL ACCEPTANCE BY OWNER. REMOVE CLIPPINGS AND DEBRIS FROM SITE PROMPTLY.  
I. REMOVE TRASH, DEBRIS, AND LITTER WATER, PRUNE, RESTAKE TREES, FERTILIZE, WEED AND APPLY HERBICIDES AND FUNGICIDES AS REQUIRED.  
J. COORDINATE THE OPERATION OF IRRIGATION SYSTEM TO ENSURE THAT PLANTS ARE ADEQUATELY WATERED. HAND WATER AREAS NOT RECEIVING ADEQUATE WATER FROM AN IRRIGATION SYSTEM  
K. THE LANDSCAPE CONTRACTOR SHALL MAINTAIN THE IRRIGATION SYSTEM IN ACCORDANCE TO THE MAINTENANCE SERVICE TO ENSURE THE SYSTEM IS IN PROPER WORKING ORDER WITH SCHEDULING ADJUSTMENTS BY SEASON TO MAXIMIZE WATER CONSERVATION.  
L. REAPPLY MULCH TO BARE AND THIN AREAS.  
M. SHOULD SEEDED AND/OR SODDED AREAS NOT BE COVERED BY AN AUTOMATIC IRRIGATION SYSTEM, THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR WATERING THESE AREAS AND OBTAINING A FULL, HEALTHY STAND OF GRASS AT NO ADDITIONAL COST TO THE OWNER.  
N. TO ACHIEVE FINAL ACCEPTANCE AT THE END OF THE MAINTENANCE PERIOD, ALL OF THE FOLLOWING CONDITIONS MUST OCCUR:

- a. THE LANDSCAPE SHALL SHOW ACTIVE, HEALTHY GROWTH (WITH EXCEPTIONS MADE FOR SEASONAL DORMANCY). ALL PLANTS NOT MEETING THIS CONDITION SHALL BE REJECTED AND REPLACED BY HEALTHY PLANT MATERIAL PRIOR TO FINAL ACCEPTANCE.  
b. ALL HARDSCAPE SHALL BE CLEANED PRIOR TO FINAL ACCEPTANCE.  
c. SODDED AREAS MUST BE ACTIVELY GROWING AND MUST REACH A MINIMUM HEIGHT OF 1 1/2 INCHES BEFORE FIRST MOWING.  
d. HYDROMULCHED AREAS SHALL SHOW ACTIVE, HEALTHY GROWTH BARE AREAS LARGER THAN TWELVE SQUARE INCHES MUST BE RESEDED OR RESEEDED (AS APPROPRIATE) PRIOR TO FINAL ACCEPTANCE. ALL SODDED TURF SHALL BE NEATLY MOWNED.

GUARANTEE:

- A. TREES, SHRUBS, GROUNDCOVER SHALL BE GUARANTEED (IN WRITING) FOR A 12 MONTH PERIOD (90 DAYS FOR ANNUAL PLANTING OR AT THE END OF THE SEASONAL COLOR GROWING SEASON, WHICHEVER COMES SOONER) AFTER FINAL ACCEPTANCE. THE CONTRACTOR SHALL REPLACE ALL DEAD MATERIALS AS SOON AS WEATHER PERMITS AND UPON NOTIFICATION OF THE OWNER.  
B. PLANTS INCLUDING TREES, WHICH HAVE PARTIALLY DIED SO THAT SHAPE, SIZE OR SYMMETRY HAVE BEEN DAMAGED SHALL BE CONSIDERED SUBJECT TO REPLACEMENT. IN SUCH CASES, THE OPINION OF THE OWNER SHALL BE FINAL.  
C. PLANTS USED FOR REPLACEMENT SHALL BE OF THE SAME SIZE AND KIND AS THOSE ORIGINALLY PLANTED OR SPECIFIED. ALL WORK INCLUDING MATERIALS, LABOR AND EQUIPMENT USED IN REPLACEMENTS SHALL CARRY A 12 MONTH GUARANTEE. ANY DAMAGE INCLUDING RUTS IN LAWN OR BED AREAS INCURRED AS A RESULT OF MAKING REPLACEMENTS SHALL BE IMMEDIATELY REPAIRED.  
D. WHEN PLANT REPLACEMENTS ARE MADE, PLANTS, SOIL MIX, FERTILIZER AND MULCH ARE TO BE UTILIZED AS ORIGINALLY SPECIFIED AND REINSPECTED FOR FULL COMPLIANCE WITH THE CONTRACT REQUIREMENTS. ALL REPLACEMENTS ARE INCLUDED UNDER "WORK OF THIS SECTION."  
E. THE OWNER AGREES THAT FOR THE ONE YEAR WARRANTY PERIOD TO BE EFFECTIVE, HE WILL WATER PLANTS AT LEAST TWICE A WEEK DURING DRY PERIODS.  
F. THE ABOVE GUARANTEE SHALL NOT APPLY WHERE PLANTS DIE AFTER ACCEPTANCE BECAUSE OF DAMAGE DUE TO ACTS OF GOD, VANDALISM, INSECTS, DISEASE, INJURY BY HUMANS, MACHINES, THEFT OR NEGLIGENCE BY OWNER.  
G. ACCEPTANCE FOR ALL LANDSCAPE WORK SHALL BE GIVEN AFTER FINAL INSPECTION BY THE OWNER PROVIDED THE JOB IS IN A COMPLETE, UNDAMAGED CONDITION AND THERE IS A STAND OF GRASS IN ALL LAWN AREAS. AT THAT TIME, THE OWNER WILL ASSUME MAINTENANCE ON THE ACCEPTED WORK.

1.9 QUALITY ASSURANCE

- A. COMPLY WITH ALL FEDERAL, STATE, COUNTY AND LOCAL REGULATIONS GOVERNING LANDSCAPE MATERIALS AND WORK.  
B. EMPLOY PERSONNEL EXPERIENCED AND FAMILIAR WITH THE REQUIRED WORK AND SUPERVISED BY A FORMAL TRAINED LANDSCAPE CONTRACTOR.  
C. MAKE CONTACT WITH SUPPLIERS IMMEDIATELY UPON OBTAINING NOTICE OF CONTRACT ACCEPTANCE TO SELECT AND BOOK MATERIALS.

- D. DEVELOP A PROGRAM OF MAINTENANCE (PRUNING AND FERTILIZATION) WHICH WILL ENSURE THE PURCHASED MATERIALS WILL MEET AND/OR EXCEED PROJECT SPECIFICATIONS.  
E. DO NOT MAKE PLANT MATERIAL SUBSTITUTIONS IF THE LANDSCAPE MATERIAL SPECIFIED IS NOT READILY AVAILABLE, SUBMIT PROOF TO LANDSCAPE ARCHITECT ALONG WITH THE PROPOSED MATERIAL TO BE USED IN LIEU OF THE SPECIFIED PLANT.  
F. AT THE TIME BIDS ARE SUBMITTED, THE CONTRACTOR IS ASSUMED TO HAVE LOCATED THE MATERIALS NECESSARY TO COMPLETE THE JOB AS SPECIFIED.  
G. OWNERS REPRESENTATIVE SHALL INSPECT ALL PLANT MATERIAL AND RETAINS THE RIGHT TO INSPECT MATERIALS UPON ARRIVAL TO THE SITE AND DURING INSTALLATION. THE OWNERS REPRESENTATIVE MAY ALSO REJECT ANY MATERIALS HE/SHE FEELS TO BE UNSATISFACTORY OR DEFECTIVE DURING THE WORK PROCESS. ALL PLANTS DAMAGED IN TRANSIT OR AT THE JOB SITE SHALL BE REJECTED.  
1.10 PRODUCT DELIVERY, STORAGE AND HANDLING

- A. PREPARATION  
1. BALLED AND BURLAPPED B&B PLANTS: DIG AND PREPARE SHIPMENT IN A MANNER THAT WILL NOT DAMAGE ROOTS, BRANCHES, SHAPE AND FUTURE DEVELOPMENT.  
2. CONTAINER GROWN PLANTS: DELIVER PLANTS IN RIGID CONTAINER TO HOLD BALL SHAPE AND PROTECT ROOT MASS.  
B. DELIVERY  
1. DELIVER PACKAGED MATERIALS IN SEALED CONTAINERS SHOWING WEIGHT, ANALYSIS AND NAME OF MANUFACTURER. PROTECT MATERIALS FROM DETERIORATION DURING DELIVERY AND WHILE STORED ON SITE.  
2. DELIVER ONLY PLANT MATERIALS THAT CAN BE PLANTED IN ONE DAY UNLESS ADEQUATE STORAGE AND WATERING FACILITIES ARE AVAILABLE ON SITE.  
3. PROTECT ROOT BALLS BY HEELING IN WITH SAWDUST OR OTHER APPROVED MOISTURE RETAINING MATERIAL IF NOT PLANTED WITHIN 24 HOURS OF DELIVERY.  
4. PROTECT PLANTS DURING DELIVERY TO PREVENT DAMAGE TO ROOT BALL OR DESICCATION OF LEAVES.  
5. KEEP PLANTS MOIST AT ALL TIMES. COVER ALL MATERIALS DURING TRANSPORT.  
6. NOTIFY OWNERS REPRESENTATIVE OF DELIVERY 72 HOURS PRIOR TO DELIVERY OF PLANT MATERIAL AT JOB SITE.  
7. REMOVE REJECTED PLANT MATERIAL IMMEDIATELY FROM JOB SITE.  
8. TO AVOID DAMAGE OR STRESS, DO NOT LIFT, MOVE, ADJUST TO PLUMB, OR OTHERWISE MANIPULATE PLANTS BY TRUNK OR STEMS.

3. PROTECT ROOT BALLS BY HEELING IN WITH SAWDUST OR OTHER APPROVED MOISTURE RETAINING MATERIAL IF NOT PLANTED WITHIN 24 HOURS OF DELIVERY.  
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6. NOTIFY OWNERS REPRESENTATIVE OF DELIVERY 72 HOURS PRIOR TO DELIVERY OF PLANT MATERIAL AT JOB SITE.  
7. REMOVE REJECTED PLANT MATERIAL IMMEDIATELY FROM JOB SITE.  
8. TO AVOID DAMAGE OR STRESS, DO NOT LIFT, MOVE, ADJUST TO PLUMB, OR OTHERWISE MANIPULATE PLANTS BY TRUNK OR STEMS.

PART 2 - PRODUCTS

2.1 PLANT MATERIALS

- A. GENERAL: WELL FORMED, NO. 1 GRADE OR BETTER NURSERY GROWN STOCK. LISTED PLANT HEIGHTS ARE FROM TOPS OF FOOT BALLS TO NOMINAL TOPS OF PLANTS. PLANT SPREAD REFERS TO NOMINAL OUTER WIDTH OF THE PLANT NOT THE OUTER LEAF TIPS. PLANTS SHALL BE INDIVIDUALLY APPROVED BY THE OWNERS REPRESENTATIVE AND THEIR DECISION AS TO THEIR ACCEPTABILITY SHALL BE FINAL.  
B. QUANTITIES: THE DRAWINGS AND SPECIFICATIONS ARE COMPLEMENTARY. ANYTHING CALLED FOR ON ONE AND NOT THE OTHER IS AS BINDING AS IF SHOWN AND CALLED FOR ON BOTH. THE PLANT SCHEDULE IS AN AID TO BIDDERS ONLY. CONFIRM ALL QUANTITIES ON PLAN.  
C. QUANTITIES AND SIZE: PLANT MATERIALS SHALL CONFORM TO THE SIZE GIVEN ON THE PLAN AND SHALL BE HEALTHY, WELL SHAPED, FULL BRANCHED AND WELL ROOTED. SYMMETRY IS ALSO IMPERATIVE. PLANTS SHALL BE FREE FROM INSECTS, INJURY, DISEASE, BROKEN BRANCHES, DISFIGUREMENTS, INSECT EGGS AND ARE TO BE OF SPECIMEN QUALITY.  
D. APPROVAL: ALL PLANTS WHICH ARE FOUND UNSUITABLE IN GROWTH OR ARE UNHEALTHY, BADLY SHAPED OR UNDERSIZED WILL BE REJECTED BY THE OWNERS REPRESENTATIVE EITHER BEFORE OR AFTER PLANTING AND SHALL BE REMOVED AT THE EXPENSE OF THE LANDSCAPE CONTRACTOR AND REPLACED WITH ACCEPTABLE SPECIMENS.  
E. TREES SHALL BE HEALTHY, FULL BRANCHED, WELL SHAPED AND SHALL MEET THE MINIMUM REQUIREMENTS AS SPECIFIED ON THE PLANT SCHEDULE. ALL TREES SHALL BE OBTAINED FROM SOURCES WITHIN 200 MILES OF THE PROJECT SITE IF POSSIBLE, AND WITH SIMILAR CLIMATIC CONDITIONS.  
F. PRUNING: ALL PRUNING OF TREES AND SHRUBS SHALL BE EXECUTED BY THE LANDSCAPE CONTRACTOR AT NO ADDITIONAL COST TO THE OWNER, PRIOR TO FINAL ACCEPTANCE.  
G. PLANTS SHALL CONFORM TO THE MEASUREMENTS SPECIFIED, EXCEPT THE PLANTS LARGER THAN THOSE SPECIFIED MAY BE USED. USE OF LARGER PLANTS SHALL NOT INCREASE THE CONTRACT PRICE.  
H. WHERE MATERIALS ARE PLANTED IN MASSES, PROVIDE PLANTS OF UNIFORM SIZE.  
I. ROOT SYSTEMS SHALL BE HEALTHY, DENSELY BRANCHED, FIBROUS ROOT SYSTEMS, NON-POT-BOUND, FREE FROM ENVELOPING AND/OR GIRDLING

2.3 MISCELLANEOUS MATERIALS

- A. STEEL EDGING - SHALL BE 3/16" X 4" X 16" DARK GREEN LANDSCAPE EDGING, DURAEDGE STEEL OR APPROVED EQUAL.  
B. TREE STAKING - TREE STAKING SOLUTIONS OR APPROVED SUBSTITUTE; REFER TO DETAILS.  
C. FILTER FABRIC - MIRAFI 1405 BY MIRAFI INC. OR APPROVED SUBSTITUTE. AVAILABLE AT LONE STAR PRODUCTS, INC. (469-523-0444)  
D. SAND - UNIFORMLY GRADED, WASHED, CLEAN, BANK RUN SAND.  
E. GRAVEL - WASHED NATIVE PEA GRAVEL, GRADED 1" TO 1.5"  
F. DECOMPOSED GRANITE - BASE MATERIAL OF NATURAL MATERIAL MIX OF GRANITE AGGREGATE NOT TO EXCEED 1/8" IN DIAMETER COMPOSED OF VARIOUS STAGES OF DECOMPOSED EARTH BASE.  
G. RIVER ROCK - LOCALLY AVAILABLE NATIVE RIVER ROCK BETWEEN 2"-4" IN DIAMETER.  
H. PRE-EMERGENT HERBICIDES: ANY GRANULAR, NON-STAINING

- ROOTS, AND FREE FROM ANY OTHER ROOT DEFECTS (SUCH AS J-SHAPED ROOTS).  
J. ALL TREES SHALL BE STANDARD IN FORM, UNLESS OTHERWISE SPECIFIED, TREES WITH CENTRAL LEADERS WILL NOT BE ACCEPTED IF LEADER IS DAMAGED OR REMOVED. PRUNE ALL DAMAGED TWIGS AFTER PLANTING.  
K. TREE TRUNKS TO BE STURDY, EXHIBIT HARDENED SYSTEMS AND VIGOROUS AND FIBROUS ROOT SYSTEMS, NOT ROOT OR POT BOUND.  
L. TREES WITH DAMAGED OR CROOKED LEADERS, BARK ABRASIONS, SUNSCALD, DISFIGURING KNOTS, OR INSECT DAMAGE WILL BE REJECTED.  
M. CALIPER MEASUREMENTS FOR STANDARD (SINGLE TRUNK) TREES SHALL BE AS FOLLOWS: SIX INCHES ABOVE THE ROOT FLARE FOR TREES UP TO AND INCLUDING FOUR INCHES IN CALIPER, AND TWELVE INCHES ABOVE THE ROOT FLARE FOR TREES EXCEEDING FOUR INCHES IN CALIPER.  
N. MULTI-TRUNK TREES SHALL BE MEASURED BY THEIR OVERALL HEIGHT, MEASURED FROM THE TOP OF THE ROOT BALL.  
O. ANY TREE OR SHRUB SHOWN TO HAVE EXCESS SOIL PLACED ON TOP OF THE ROOT BALL, SO THAT THE ROOT FLARE HAS BEEN COMPLETELY COVERED, SHALL BE REJECTED.  
P. SOD: PROVIDE WELL-ROOTED SOD OF THE VARIETY NOTED ON THE PLANS. SOD SHALL BE CUT FROM HEALTHY, MATURE TURF WITH SOIL THICKNESS OF 3/4" TO 1". EACH PALLET OF SOD SHALL BE ACCOMPANIED BY A CERTIFICATE FROM SUPPLIER STATING THE COMPOSITION OF THE SOD.

2.2 SOIL PREPARATION MATERIALS

- A. SANDY LOAM:  
1. FRIABLE, FERTILE, DARK, LOAMY SOIL, FREE OF CLAY LUMPS, SUBSOIL, STONES AND OTHER EXTRANEUS MATERIAL, AND REASONABLY FREE OF WEEDS AND FOREIGN GRASSES. LOAM CONTAINING DALLASSGRASS OR NUTGRASS SHALL BE REJECTED.  
2. PHYSICAL PROPERTIES AS FOLLOWS:  
a. CLAY - BETWEEN 7-27%  
b. SILT - BETWEEN 15-25%  
c. SAND - LESS THAN 52%  
3. ORGANIC MATTER SHALL BE 3%-10% OF TOTAL DRY WEIGHT.  
4. IF REQUESTED, LANDSCAPE CONTRACTOR SHALL PROVIDE A CERTIFIED SOIL ANALYSIS CONDUCTED BY AN APPROVED SOIL TESTING LABORATORY VERIFYING THAT SANDY LOAM MEETS THE ABOVE REQUIREMENTS.

- B. ORGANIC MATERIAL: COMPOST WITH A MIXTURE OF 80% VEGETATIVE MATTER AND 20% ANIMAL WASTE. INGREDIENTS SHOULD BE A MIX OF COARSE AND FINE TEXTURED MATERIAL.  
C. PREMIXED BEDDING SOIL AS SUPPLIED BY VITAL EARTH RESOURCES, GLADEWATER, TEXAS; PROFESSIONAL BEDDING SOIL AS SUPPLIED BY LIVING EARTH TECHNOLOGY, DALLAS, TEXAS OR ACID GRO MUNICIPAL MIX AS SUPPLIED BY SOIL BUILDING SYSTEMS, DALLAS, TEXAS OR APPROVED EQUAL.  
D. SHARP SAND: SHARP SAND MUST BE FREE OF SEEDS, SOIL PARTICLES AND WEEDS.  
E. MULCH: DOUBLE SHREDDED HARDWOOD MULCH, PARTIALLY DECOMPOSED, DARK BROWN.  
F. ORGANIC FERTILIZER: FERTILIAID, SUSTANE, OR GREEN SENSE OR EQUAL AS RECOMMENDED FOR REQUIRED APPLICATIONS. FERTILIZER SHALL BE DELIVERED TO THE SITE IN ORIGINAL, UNOPENED CONTAINERS, EACH BEARING THE MANUFACTURER'S GUARANTEED STATEMENT OF ANALYSIS.  
G. COMMERCIAL FERTILIZER: 10-20-10 OR SIMILAR ANALYSIS. NITROGEN SOURCE TO BE A MINIMUM 8% RELEASE ORGANIC NITROGEN (SCU OR UFI) WITH A MINIMUM 8% SULFUR AND 4% IRON, PLUS MICROINUTRIENTS.  
H. PEAT - COMMERCIAL SPAGNUM PEAT MOSS OR PARTIALLY DECOMPOSED SHREDDED PINE BARK OR OTHER APPROVED ORGANIC MATERIAL.

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- B. ORGANIC MATERIAL: COMPOST WITH A MIXTURE OF 80% VEGETATIVE MATTER AND 20% ANIMAL WASTE. INGREDIENTS SHOULD BE A MIX OF COARSE AND FINE TEXTURED MATERIAL.  
C. PREMIXED BEDDING SOIL AS SUPPLIED BY VITAL EARTH RESOURCES, GLADEWATER, TEXAS; PROFESSIONAL BEDDING SOIL AS SUPPLIED BY LIVING EARTH TECHNOLOGY, DALLAS, TEXAS OR ACID GRO MUNICIPAL MIX AS SUPPLIED BY SOIL BUILDING SYSTEMS, DALLAS, TEXAS OR APPROVED EQUAL.  
D. SHARP SAND: SHARP SAND MUST BE FREE OF SEEDS, SOIL PARTICLES AND WEEDS.  
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- PRE-EMERGENT HERBICIDE THAT IS LABELED FOR THE SPECIFIC ORNAMENTALS OR TURF ON WHICH IT WILL BE UTILIZED. PRE-EMERGENT HERBICIDES SHALL BE APPLIED PER THE MANUFACTURER'S LABELED RATES.

PART 3 - EXECUTION

3.1 PREPARATION

- A. LANDSCAPE CONTRACTOR TO INSPECT ALL EXISTING CONDITIONS AND REPORT ANY DEFICIENCIES TO THE OWNER.  
B. ALL PLANTING AREAS SHALL BE CONDITIONED AS FOLLOWS:  
1. PREPARE NEW PLANTING BEDS BY SCRAPING AWAY EXISTING GRASS AND WEEDS AS NECESSARY. TILL EXISTING SOIL TO A DEPTH OF SIX (6") INCHES PRIOR TO PLACING COMPOST AND FERTILIZER. APPLY FERTILIZER AS PER MANUFACTURER'S RECOMMENDATIONS. ADD SIX (6") INCHES OF COMPOST AND TILL INTO A DEPTH OF SIX (6") INCHES OF SPECIFIED MULCH (SETTLED THICKNESS).  
2. BACKFILL FOR TREE PITS SHALL BE AS FOLLOWS: USE EXISTING TOP SOIL ON SITE. USE IMPORTED TOPSOIL AS NECESSARY. FREE FROM LARGE CLUMPS, ROCKS, DEBRIS, CALICHE, SUBSOILS, ETC., PLACED IN NINE (9") INCH LAYERS AND WATERED IN THOROUGHLY.

- C. GRASS AREAS:  
1. BLOCKS OF SOD SHOULD BE LAID JOINT TO JOINT (STAGGERED JOINTS) AFTER FERTILIZING THE GROUND FIRST. ROLL GRASS AREAS TO ACHIEVE A SMOOTH, EVEN SURFACE. THE JOINTS BETWEEN THE BLOCKS OF SOD SHOULD BE FILLED WITH TOPSOIL. WHERE THEY ARE GAFFED OPEN, THEN WATERED THOROUGHLY.

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Existing Conditions





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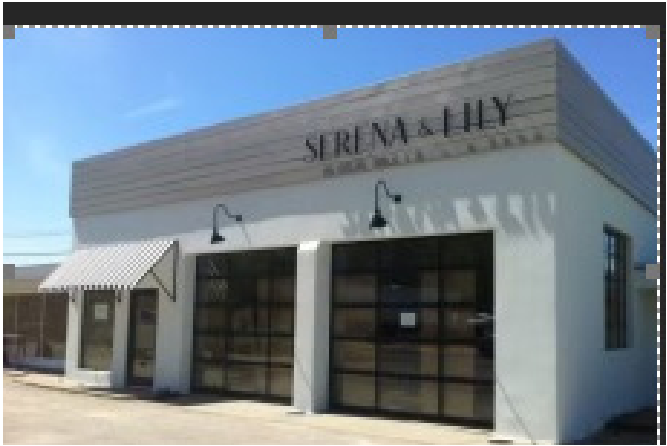










































**Date:** 07/16/2024  
**Agenda Item #:** 5. D.  
**Department:** Community Services  
**Strategic Goal:** Provide a safe and welcoming environment for Little Elm residents and visitors  
**Staff Contact:** Drew Bailey, Managing Director of Business Development and Tourism

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**AGENDA ITEM:**

Present, Discuss, and Consider Action on a **Special Events Permit Application for Diwali at Beach.**

**DESCRIPTION:**

Staff will present the special event application from the Little Elm Angels Foundation for Diwali at Beach. Per the Special Events Policy, this event is a Category 4 and requires Town Council approval.

**BUDGET IMPACT:**

There is no budget impact for this item.

**RECOMMENDED ACTION:**

Staff requests direction from Town Council.

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**Attachments**

Diwali Agreement - Unsigned



**FACILITY USE AGREEMENT  
TOWN OF LITTLE ELM – COMMUNITY SERVICES DEPARTMENT  
LITTLE ELM ANGELS FOUNDATION CONCESSION  
AT LITTLE ELM PARK**

This Agreement is made by and between Little Elm Angels Foundation (hereinafter referred to as the “Concessionaire”), and the Town of Little Elm, Texas (hereinafter referred to as the “Town”). Wherever in this Agreement the term “Concessionaire” is used, it shall include Concessionaire and any of its employees, servants, agents, or representatives.

1. Purpose. The Concessionaire is to provide Diwali Festival at Little Elm Park to celebrate a cultural celebration for the community.

2. Use of Park. The Town hereby agrees to assign the concession at Little Elm Park on a non-exclusive basis and for the purpose herein expressed to the Concessionaire for the period September 28, 2024 (set up) through September 29, 2024 (event date). During such period, the Concessionaire shall have the right to use the park and lake upon such hours as may be set by the Town from time to time after presentation and approval of a proposed schedule by the Concessionaire. The Concessionaire agrees to allow the Town 100% of the revenue associated with parking to cover hard cost of police, fire, medics, professional parking lot sweep, porters, parks facility team, and beach ambassadors expenses. Upon the Town accumulating \$18,000 in parking revenue, designated for offsetting the event's hard costs, the Town will then equitably share its 60% parking revenue share, splitting it equally (50/50) with the Concessionaire. The 50/50 split will begin at \$18,001 of the Town's collected revenue. The facility use agreement may be extended in one-year (1) increments twice with the mutual consent of both parties. The total length of this agreement will not exceed three (3) years. The Town and the Concessionaire expressly understand and agree that this agreement is subject to all the terms, conditions, privileges and obligations incorporated in the lease granted to the Town of Little Elm by the Secretary of the Army under Lease No. DACW 63-1-97-0617 and such terms are binding on the Concessionaire as if they were set forth herein.

3. Termination. The Concessionaire may terminate this Agreement upon submission of a 30-day written notice to the Town. The Town may terminate this Agreement: A) Upon submission of 30-day written notice “without cause”; or B) Immediately upon submission of written notice “for cause”. All notices must be written and transmitted by certified mail.

4. Independent Contractor. The Concessionaire hereby agrees and acknowledges that it is an independent contractor and that its programs offered and services performed shall be and are independent of the Town’s supervision, oversight, direction, or control.

5. Concessionaire Obligations.

- A. Provide all equipment, materials, labor, tools, and personnel necessary for proper operation and execution of event.

1. Concessionaire shall permit no glass containers on park property and must enforce said rule with customers.
  2. All material and services provided by the Concessionaire shall comply with all current Federal, State and Local boating laws and regulations, as well as Town of Little Elm ordinances, rules and regulations.
- B. The Concessionaire shall schedule a number of people sufficient to meet the demands of the public at the contract premises. The staff shall be uniformed in a manner consistent with a quality operation acceptable to the Town.
- C. The Concessionaire will send each vendor the town's vendor link to complete and each vendor is to complete the link 30 days prior to event date. If a vendor has neglected to complete the vendor link by September 16, 2024, it is up to the discretion of The Town, if they are allowed to vendor during the September 29, 2024 event. The Concessionaire will provide a final list of all vendors and emails to the Managing Director of Tourism and Business Development at minimum of 30 days prior to event day. If the Concessionaire would like to complete or have input in the vendor site map, it must be completed and submitted to the Managing Director of Tourism and Business Development by September 16, 2024. If the Concessionaire doesn't complete the site map, the Town will complete it without input from the concessionaire.
- D. The Concessionaire will send the Managing Director of Tourism and Business Development a list of attendees and vendors who get one complimentary parking pass, by September 23, 2024. Any vendor not on the list, will be subject to parking fee. The Concessionaire cannot exceed 109 complimentary parking passes.
- E. Provide a staff member dedicated to communicating with all vendors associated with the event. This staffer must be present during vendor load in and vendor load out.
- F. Remove trash generated by the program from the park, lake and adjacent areas at the conclusion of set up and event date. The Concessionaire will staff the appropriate amount of people for clean up during the event and at the conclusion.
- G. Timely investigate and promptly report to the Community Services Director or Managing Director of Tourism and Business Development any and all injuries or damages to persons or property at the park and lake during the hours of the Concessionaire's use.
- H. Do not sublet the use of the park or lake to any person or group of persons, unless approved in advance and in writing by the Town.
- I. Do not deny the general public access to the park or lake.

- J. Designate and identify a contact person who will represent the Concessionaire before the Town's Community Service Department regarding this Agreement.
- K. Concessionaire must submit to a criminal background check prior to any agreement.
- L. The Concessionaire shall not make any structural alterations, repairs, or improvements of the premises, without the written permission from the Director Community Services.
- M. Provide additional trash receptacles.
- N. Provide portable restrooms to match the quantity of guests attending the event.

6. Town Obligations.

- A. Secure event space during rental time frame; amplettheatre, pavilion, playground pavilion parking lot, and circle drive.
- B. Designate and identify a contact person who will represent the Town regarding this Agreement.
- C. Assign parking fees to Little Elm Park, Lobo Stadium, Town Hall and any other parking lot that may be associated with the event. The Town will coordinate the execution of parking with the hired parking company.
- D. Create a vendor link and send to The Concessionaire by July 1, 2024.
- E. Create a site map, if one is not submitted by September 16, 2024.
- F. Manage on site vendor load in and on site vendor load out.
- G. Hold all vendors accountable to the same standard Little Elm event vendors are held too.
- H. Send vendors site map and load in time by September 26, 2024.
- I. Provide staff from Public Safety Department, Parks Department, Tourism Department, and Public Works Departments, in exchange for 100% of parking fee revenue.
- J. In case of park closure, the Town will make every effort to notify the Concessionaire.

7. Pricing Requirements. Parking prices and locations are up to the discretion of The Town. The Town is proposing \$25 parking inside Little Elm Park, \$20 for Town Hall parking lot, \$20 for Lakeside Sports

Complex, and \$20 The Rec/Cove parking lot. The Concessionaire will sponsor the Lobo Stadium Lot at \$2,000 to The Town of Little Elm, allowing parking at LOBO stadium to be complimentary for attendees. If the concessionaire decides to purchase the softball parking lot for sponsors/VIPs, the Town agrees to sell it the concessionaire for \$5,500. The \$2,000 and \$5,500 payments are due to The Town of Little Elm by November 20, 2024.

8. Complaints. The Concessionaire shall assume full and complete responsibility for handling and resolving any and all complaints concerning the Concessionaire's operations, sales or service provided.

9. INDEMNITY. THE CONCESSIONAIRE AGREES TO INDEMNIFY AND HOLD HARMLESS THE TOWN OF LITTLE ELM, ITS MAYOR, TOWN COUNCIL, EMPLOYEES, AGENTS, SERVANTS, AND REPRESENTATIVES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND OR CHARACTER, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO ANY PROPERTY ARISING IN TORT, OUT OF OR IN CONNECTION WITH THE CONCESSIONAIRE'S USE OF THE PARK OR LAKE PURSUANT TO THIS AGREEMENT, WHERE SUCH CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, OR LIABILITY OF ANY KIND OR CHARACTER ARISE, IN WHOLE OR IN PART, FROM THE ACTS, CONDUCT, OR OMISSIONS OF THE CONCESSIONAIRE AND/OR ITS EMPLOYEES, SERVANTS, AGENTS OR REPRESENTATIVES.

10. Insurance. The Concessionaire shall procure and maintain in force for the duration of this contract liability insurance against any claim for injury to a person or damage to property which may arise from, or in connection with, the use of the park or lake by the Concessionaire and its agents, representatives, volunteers, employees, subcontractors, invitees, and all enrollees in the Concessionaire's program. Such liability insurance shall be in an amount not less than \$300,000 per person and \$1,000,000 per occurrence. The Concessionaire shall procure and maintain such insurance coverage at its own expense. The Concessionaire shall provide proof of insurance prior to the execution of this Agreement and at such other times as demanded by the Town. The Concessionaire shall ensure that the Town is named as an additional insured on such policy. The Concessionaire shall provide a Certificate of Insurance with the types and amounts of coverage within 14 calendar days of notification of award.

11. Notice. Notices required by this Agreement shall be submitted to the persons and/or organizations, as follows:

A. Notices to the Town shall be directed to:

Town of Little Elm  
Director of Community Services  
100 W. Eldorado Parkway  
Little Elm, TX 75068

B. Notices to the Concessionaire shall be directed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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The Parties may later designate in writing any other individual or entity to whom notices or referrals shall be submitted.

12. Closure of Park and Lake. The Town reserves the right to close the Park at any time and under any conditions deemed necessary for public safety. The Concessionaire hereby waives, releases, discharges and disclaims any and all claims, causes of action, losses, liability, damages or injuries relating to any closure of the park by the Town and further agrees to indemnify and hold harmless the Town, its Mayor, Town Council, employees, agents, servants, and representatives from any and all claims, losses, damages, causes of action, suits, and liability of any kind or character, including all expenses of litigation, court costs and attorney's fees, resulting from any closure of the park by the Town. Every effort will be used to notify the Concessionaire when a closure occurs.

13. Retention of Improvements. Should the Town terminate this Agreement resulting from the Concessionaire's breach, the Town shall be entitled to keep any improvements made by the Concessionaire. Concessionaire shall be given credit against the minimum amount that would have been due to the Town for the balance of the term of the Agreement.

14. Governing Law & Venue. This Agreement shall be governed by and is to be construed, interpreted and enforced in accordance with the laws of the State of Texas and of the United States of America. The Concessionaire and the Town agree and consent to the exclusive jurisdiction of the District Courts and County Courts at Law of Denton County, Texas, and of the United States District Court for the Northern District of Texas (Dallas Division) and acknowledge that such courts shall constitute proper and convenient forums for the resolution of any actions between the Concessionaire and the Town and agree that such courts shall be the exclusive forums for the resolution of any actions between the Concessionaire and the Town.

15. Severability. If any provision of this Agreement is found to be invalid, illegal, or unenforceable for any reason, the Concessionaire and the Town intend and agree that such provision is fully severable and that the remaining parts of the Agreement shall be effective and fully operative.

16. Entire Agreement. This Agreement sets forth the entire understanding and agreement of the parties. All other oral agreements by the parties hereto are hereby merged into this Agreement, which shall not be amended or altered except by a written document signed by the parties hereto.

17. Representations and Warranties by Concessionaire. If Concessionaire is a corporation, partnership or a limited liability company, Concessionaire warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement,

and the individual executing the Agreement on behalf of Concessionaire has been duly authorized to act for and bind Concessionaire.

18. Franchise Tax Certification. A corporate or limited liability company Concessionaire certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the Texas Tax Code, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

19. Eligibility Certification. Concessionaire certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.

20. Payment of Debt or Delinquency to the State or Political Subdivision of the State. Concessionaire agrees that any payments owed to Concessionaire under the Agreement may be applied directly toward any debt or delinquency that Concessionaire owes the Town of Little Elm, State of Texas or any political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

21. Texas Family Code Child Support Certification. Concessionaire certifies that no owner, partner or officer of the company is delinquent in child support obligations and therefore is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

TOWN OF LITTLE ELM

By: \_\_\_\_\_  
Matt Mueller, Town Manager  
100 W. Eldorado Parkway  
Little Elm, TX 75068  
214-975-0405

Date: \_\_\_\_\_

CONCESSIONAIRE

By: \_\_\_\_\_

Date: \_\_\_\_\_