

THE STATE OF TEXAS §
 §
 COUNTY OF DENTON §

**WATER MAIN COST PARTICIPATION AGREEMENT
 BETWEEN THE CITY OF DENTON, TEXAS
 AND LOVE'S TRAVEL STOP**

WHEREAS, Love's Travel Stops & Country Stores, Inc., hereinafter referred to as "Developer", whose business address is 10601 N. Pennsylvania, Oklahoma City, Oklahoma 73120, wishes to develop and improve certain real property named the "Love's Travel Stop Addition" (as shown in **Exhibit A**, attached hereto and incorporated herein by reference), located in the City of Denton, Texas; and is required to provide such real property with adequate collection capacity by designing, constructing and installing a water line of an inside diameter of twelve inches (12"), hereinafter referred to as the "Required Facilities"; and

WHEREAS, the City of Denton, Texas, a Texas home rule municipal corporation with its offices located at 215 East McKinney Street, Denton, Texas 76201, hereafter referred to as the "City," in accordance with its ordinances, wishes to participate in the cost of the construction and installation of said water main to provide for an "oversized" water main to expand its utility system and insure adequate utility service to other customers;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein the Developer and the City do hereby AGREE as follows:

1. Developer shall design, install, and construct, approximately 2,532 linear feet of sixteen inch (16") water distribution line, and all necessary appurtenances thereto, hereafter referred to as the "Oversized Facilities" as shown on **Exhibit B**, attached hereto and incorporated herein by reference.

2. As required by Subchapters 35.21.9, 35.21.9.1 and 35.21.9.2 of the Denton Development Code, Developer will enter into a Development Contract with the City prior to the beginning of construction of the Oversized Facilities. This Development Contract is attached hereto as **Exhibit C** and is incorporated herewith by reference. This Agreement is subject to and governed by said Development Contract and any other applicable ordinances of the City of Denton, Texas.

3. Prior to beginning of construction of the Oversized Facilities, Developer shall obtain, at Developer's sole cost and expense, all necessary permits, licenses and easements. The easements, deeds, and plats therefor obtained by Developer shall be reviewed and approved as to form and substance by City prior to the beginning of construction. If Developer is unable to acquire needed easements, Developer shall provide City with any requested documentation of efforts to obtain such easements, including evidence of negotiations and reasonable offers made to the affected property owners. Any easements for the Oversized Facilities obtained by the Developer shall be assigned to City, if not taken in City's name, prior to acceptance of the Oversized Facilities, and Developer warrants clear title to such easements and will defend City against any adverse claim made against such title.

4. City's share in the cost of the Oversized Facilities is based upon the difference in the cost of installing Required Facilities, as determined by City, and the cost of the Oversized Facilities, as determined by City, shall be in an amount not to exceed **Eighty-Thousand Three-Hundred Twenty Two and 16/100 Dollars (\$80,322.16)**, the maximum participation cost allowed herein.

5. The Director of Water Utilities, or his designee, shall determine the appropriate level of cost participation by the City based upon the incremental cost between the Developer Required Facilities and the City's requested oversized facilities. This cost determination shall be based upon recent bids for similar facilities and/or cost estimates prepared by the City's engineering staff. If the City cannot justify the costs involved in any such contract where City funds or pro-rata repayment is involved, the City shall have the option and right to submit the proposal for sealed bids, and the Developer shall pay his proportionate share of the acceptable bid. Final approval of all oversize participation agreements between the City and the Developer shall come from the City Council after recommendation from the Public Utilities Board unless the participation amount is less than the expenditure level authorized by the City Manager.

6. The City shall not, in any case, be liable for any additional cost because of delays in beginning, continuing, or completing construction; changes in the price or cost of materials, supplies, or labor; unforeseen or unanticipated cost because of topography, soil, subsurface, or other site conditions; differences in the calculated and actual per linear feet of pipe or materials needed for the Oversized Facilities; Developer's decision as to the contractors or subcontractors used to perform the work; or any other reason or cause, specified or unspecified, relating to the construction of the Oversized Facilities.

7. Final payment to the Developer for oversize participation by the City shall occur within sixty (60) days of the City's final acceptance of the installed Oversized Facilities.

8. To determine the actual cost of the Oversized Facilities, City shall have the right to inspect any and all records of Developer, its agents, employees, contractors or subcontractors, and shall have the right to require Developer to submit any necessary information, documents, invoices, receipts or other records to verify the actual cost of the Oversized Facilities.

9. All notices, payments or communications to be given or made pursuant to this Agreement by the parties hereto, shall be sent to Developer at the business address given above and to the Manager for Water Utilities for City at the address given above.

10. Developer shall indemnify and hold City harmless from any and all claims, damages, loss or liability of any kind whatsoever, by reason of injury to property or person occasioned by any act or omission, neglect or wrongdoing of Developer, its officers, agents, employees, invitees, contractors or other persons with regard to the performance of this Agreement; and Developer shall, at its own cost and expense, defend and protect City against any and all such claims and demands.

11. If Developer does not begin construction of the Oversized Facilities within twelve (12) months of the date of execution of this Agreement, this Agreement shall automatically terminate without further action of either party.

12. This instrument embodies the entire agreement of the parties hereto and there are no promises, terms, conditions or obligations other than those contained or incorporated herein. This Agreement shall supersede all previous communications, representations or agreements, whether verbal or written, between the parties hereto with respect to the subject matter of this Agreement.

13. This Agreement shall not be assigned by Developer without the express written consent of the City.

14. This Agreement is entered into and performable in Denton County, Texas. Any and all suits for any breach of this Agreement, or any other suit pertaining to or arising out of this Agreement, shall be brought in a court of competent jurisdiction in Denton County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Nothing in this Agreement shall be deemed to, or is intended to, waive any defense a party may have at law, including but not limited to immunity.

EXECUTED in duplicate original counterparts by the undersigned duly-authorized officials and officers of the City and the Developer, on this the _____ day of _____, 2017.


CITY OF DENTON, TEXAS
A Texas Home Rule Municipal Corporation

By: _____
TODD HILEMAN, CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

By:  _____

LOVE’S TRAVEL STOPS & COUNTRY STORES, INC.

By: _____

STATE OF TEXAS §

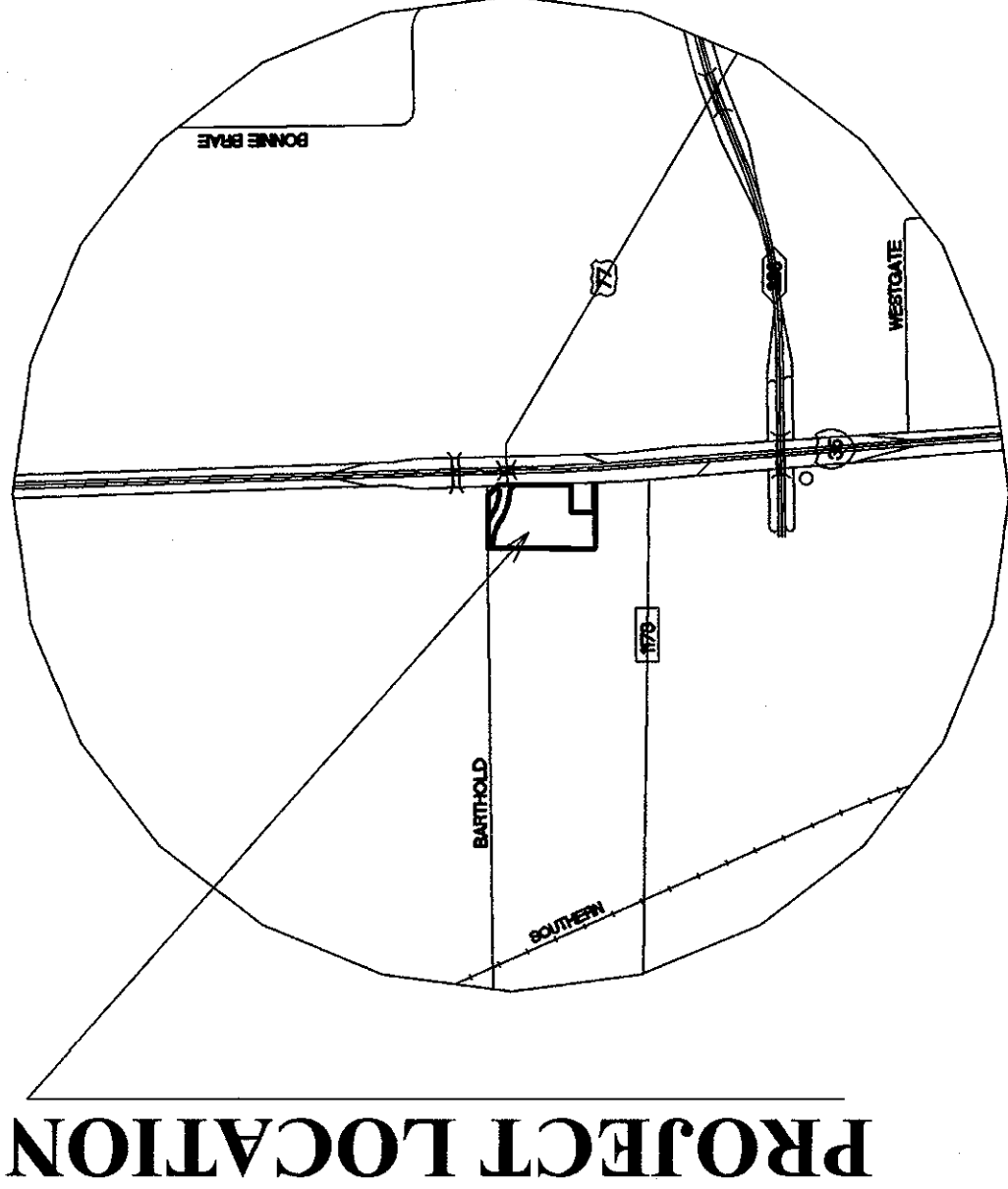
§

COUNTY OF _____ §

 This instrument was acknowledged before me, the undersigned authority on this _____ day
of _____, 2017, by _____, the _____ of Love’s Travel
Stops & Country Stores, Inc., in the capacity herein stated and as an act of the company.

[L.S.]

Notary Public in and for the State of Texas

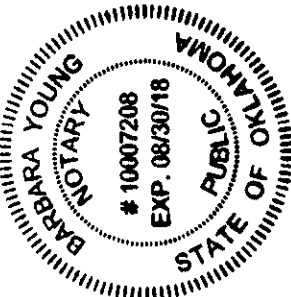


VICINITY MAP
SCALE 1" = 2000'

WITNESS MY HAND this 24 day of November 2016

Greg Love
Greg Love, Owner

STATE OF OKLAHOMA
COUNTY OF OKLAHOMA
This instrument was acknowledged before me on *24 November* 2016 by Greg Love.



Notary Public
NOTARY PUBLIC
STATE OF OKLAHOMA
My commission expires *3/31/18*

CERTIFICATE OF APPROVAL

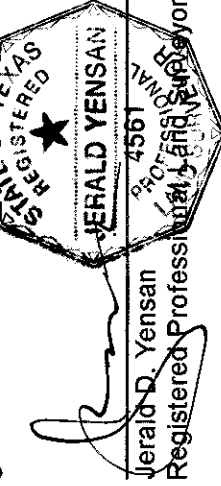
Approved this *8th* day of *June*, A. D. 2016
By the Planning and Zoning Commission, City of Denton



Chris Strong
Chairperson, Planning and Zoning Commission
ATTEST
Quelchickson, Aut.
City Secretary

CERTIFICATE OF SURVEYOR

I, the undersigned, a registered professional land surveyor in the State of Texas, do hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision on the ground.



- NOTES:
1. The purpose of this plat is to plat previously unplatted land, for commercial use.
 2. The City of Denton has adopted the National Electric Safety Code (The "CODE"). The CODE generally prohibits structures within 17.5 feet on either side of the centerline of overhead transmission lines and within 30 feet on either side of the centerline of overhead transmission lines. In some instances the CODE requires that structures be set back from the centerline of overhead transmission lines. The CODE does not prohibit structures from being located within these clearance areas. Contact the building official with specific questions.
 3. All property corners are set 1/2" iron rods marked RPLS 4561, unless otherwise noted.

GRAPHIC SCALE



FP16-0011

FINAL PLAT
LOT 1, BLOCK A AND LOT 1, BLOCK B OF
LOVE'S TRAVEL STOP ADDITION
BEING 15.811 ACRES IN THE
B.B.B. & C.R.R. CO. SURVEY A-141
CITY OF DENTON, DENTON COUNTY, TEXAS

LANDMARK SURVEYORS, LLC.
DENTON, TEXAS 76207
(940) 382-4016
FAX (940) 387-5784

DRAWN BY: EHL SCALE: 1"=60' DATE: 28 MARCH 2016 JOB NO.: 132511

NUM	BEARING	DISTANCE
L1	S 88°57'36" E	12.17
L2	S 88°07'06" E	32.16
L3	S 43°44'02" E	56.33
L4	S 44°28'00" W	53.84
L5	S 85°07'06" E	65.71

NUM	DELTA	ARC	RADIUS	BEARING	DISTANCE
C1	28°07'14"	294.48'	600.00'	N 71°57'29" W	291.53'
C2	24°30'41"	256.68'	600.00'	N 70°09'13" W	254.73'
C3	6°57'40"	79.58'	655.00'	N 61°22'42" W	79.53'

OWNER'S CERTIFICATE AND DEDICATION

STATE OF TEXAS
COUNTY OF DENTON: WHEREAS VIE, Love's Travel Stops and Country Stores, Inc. are the owners of all that certain lot, tract, or parcel of land situated in the B.B.B. and C.R.R. Company Survey Abstract Number 141 in the City of Denton, Denton County, Texas, being all that certain tract of land conveyed by deed from Anjum Investment, LP to Love's Travel Stops and Country Stores, Inc. recorded under Document Number 2014-53372 Real Property Records, Denton County, Texas, and being all that certain tract of land conveyed by deed from Kelsae Tractor Company, Inc. to Love's Travel Stops and Country Stores, Inc. recorded under Document Number 2015-14134, Real Property Records, Denton County, Texas, and being all that certain tract of land conveyed by deed from Kelsae Tractor Company, Inc. to Love's Travel Stops and Country Stores, Inc. recorded under Document Number 2015-14134, Real Property Records, Denton County, Texas, and being all that certain tract of land conveyed by deed from Kelsae Tractor Company, Inc. to Love's Travel Stops and Country Stores, Inc. recorded under Document Number 2014-51286, Real Property Records, Denton County, Texas, and being more particularly described as follows:

BEGINNING at a P.K. nail found for corner in Barthold Road, a public roadway, said point being the northeast corner of that certain tract of land conveyed by deed from County 20 Storage and Transfer, Inc. to Deeper Life Bible Church recorded under Document Number 2009-56685, Real Property Records, Denton County, Texas;
THENCE S 89° 29' 00" E, 559.13 feet with said Barthold Road to an iron rod found for corner at the beginning of a right-of-way flare;
THENCE S 45° 22' 00" E, 144.55 feet with said right-of-way flare to an iron rod set for corner in the west line of Interstate Highway Number 35, a public roadway having a variable width right-of-way;

THENCE S 01° 01' 08" E, 557.44 feet with said west line of said Interstate Highway to an iron rod found for corner;
THENCE S 00° 32' 41" E, 199.63 feet with said west line of said Interstate Highway to an iron rod found for corner, said point being the northeast corner of that certain tract of land conveyed by deed from Foster Real Estate, Ltd. To Mark D. Foster and wife, Madeline M. Foster recorded under Document Number 2012-48898, Real Property Records, Denton County, Texas;

THENCE N 89° 28' 27" W, 294.82 feet with the north line of said Foster tract to an iron rod found for corner, said point being the northwest corner of said Foster tract;
THENCE S 00° 24' 43" W, 241.30 feet with the west line of said Foster tract to an iron rod found for corner, said point being the southwest corner of said Foster tract;

THENCE S 89° 28' 16" E, 301.87 feet with the south line of said Foster tract to an iron rod found for corner in said west line of said Interstate Highway, said point being the southeast corner of said Foster tract;

THENCE S 02° 38' 07" E, 12.89 feet with said west line of said Interstate Highway to an iron rod found for corner, said point being the northeast corner of that certain tract of land conveyed by deed from Donnie Runions and Georgia Runions to Vantage Fort Worth Energy, LLC recorded under Document Number 2014-35016, Real Property Records, Denton County, Texas;

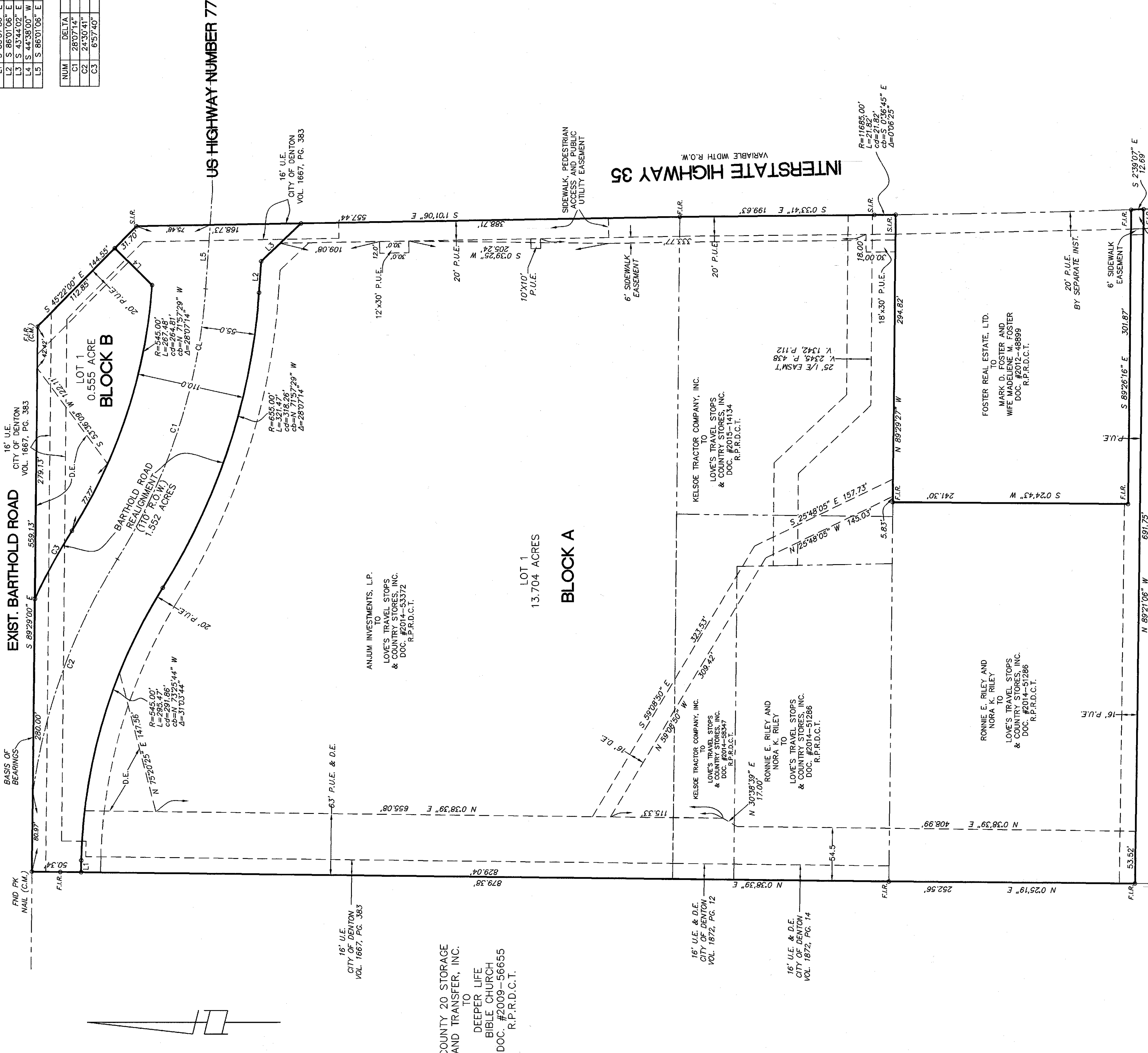
THENCE N 89° 21' 06" W, 691.75 feet with the north line of said Vantage Fort Worth Energy tract to an iron rod found for corner in the east line of said Deeper Life Bible Church tract;

THENCE N 00° 25' 19" E, 252.56 feet with said east line of said Deeper Life Bible Church tract to an iron rod found for corner;

THENCE N 00° 38' 39" E, 876.38 feet with said east line of said Deeper Life Bible Church tract to the PLACE OF BEGINNING and containing 15.811 acres of land, of which 1.552 acres is hereby dedicated for public roadway;

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT We, the aforesaid do hereby adopt this plat designating the herein above tract as LOT 1, BLOCK A AND LOT 1, BLOCK B, LOVE'S TRAVEL STOP ADDITION, an addition to the City of Denton, Texas, and do hereby dedicate to the public use forever all utility easements, drainage easements, and streets as shown hereon. All and any public utilities shall have the full right to remove and keep removed all growths which may endanger or interfere with the construction, maintenance, or efficiency of its respective system on the utility easement for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at anytime of procuring the permission of anyone.

LEGEND	
B.L.	= BUILDING LINE
C/W	= CONCRETE SIDEWALK
P.P.	= POWER POLE
S.P.	= SERVICE POLE
C.C.P.	= COVERED RATIO/PORCH
E.B.	= ELECTRIC BOX
S.W.M.	= SANITARY SEWER MANHOLE
C/W	= CABLE TV BOX
FENCE	= X
D.E.	= DRAINAGE EASEMENT
C/W	= CONCRETE SIDEWALK
S.I.R.	= SET CAPPED 1/2" RPLS 4561 IRON ROD
L.P.	= LIGHT POLE
C/D	= CULVERT
C/D	= SANITARY SEWER CLEANOUT
TEL. PED.	= TELEPHONE BOX
S.W.M.	= SANITARY SEWER MANHOLE
C/W	= CABLE TV BOX
OVERHEAD POWER LINE	= OH



COUNTY 20 STORAGE
AND TRANSFER, INC.
TO
DEEPER LIFE
BIBLE CHURCH
DOC. #2009-56685
R.P.R.D.C.T.

16' U.E. & D.E.
CITY OF DENTON
VOL. 1872, PG. 12

16' U.E. & D.E.
CITY OF DENTON
VOL. 1872, PG. 14

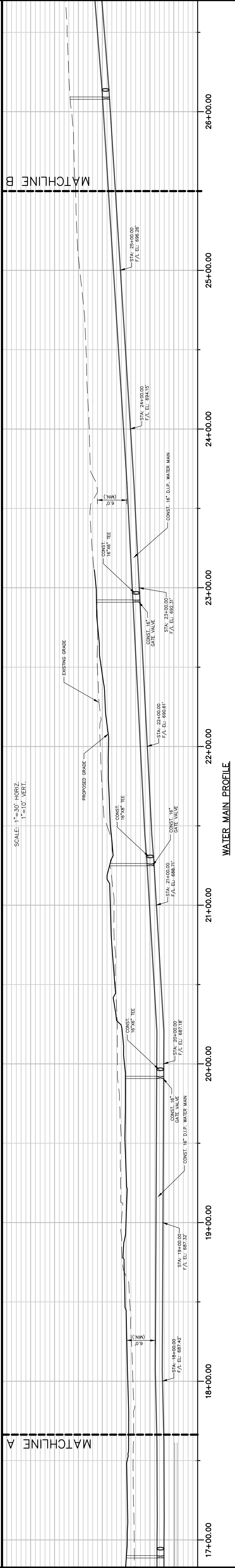
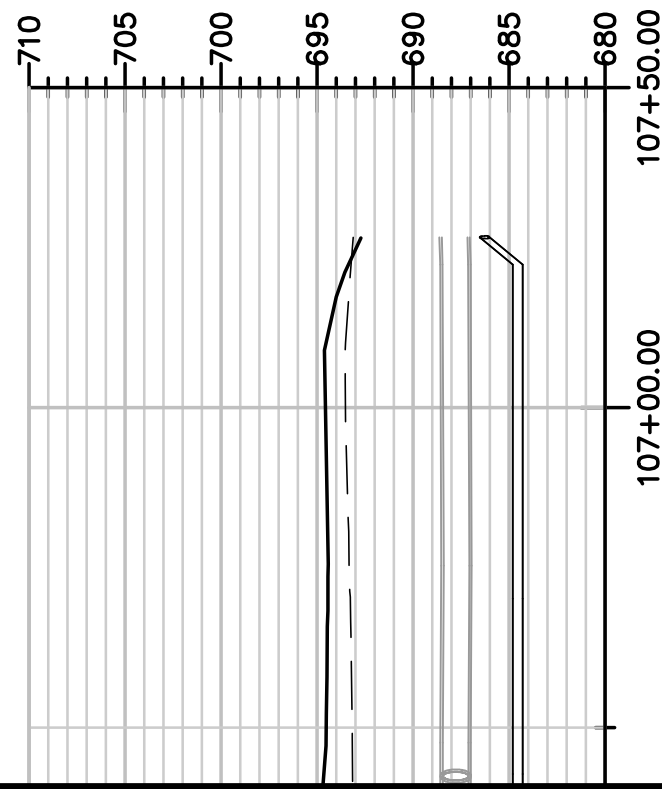
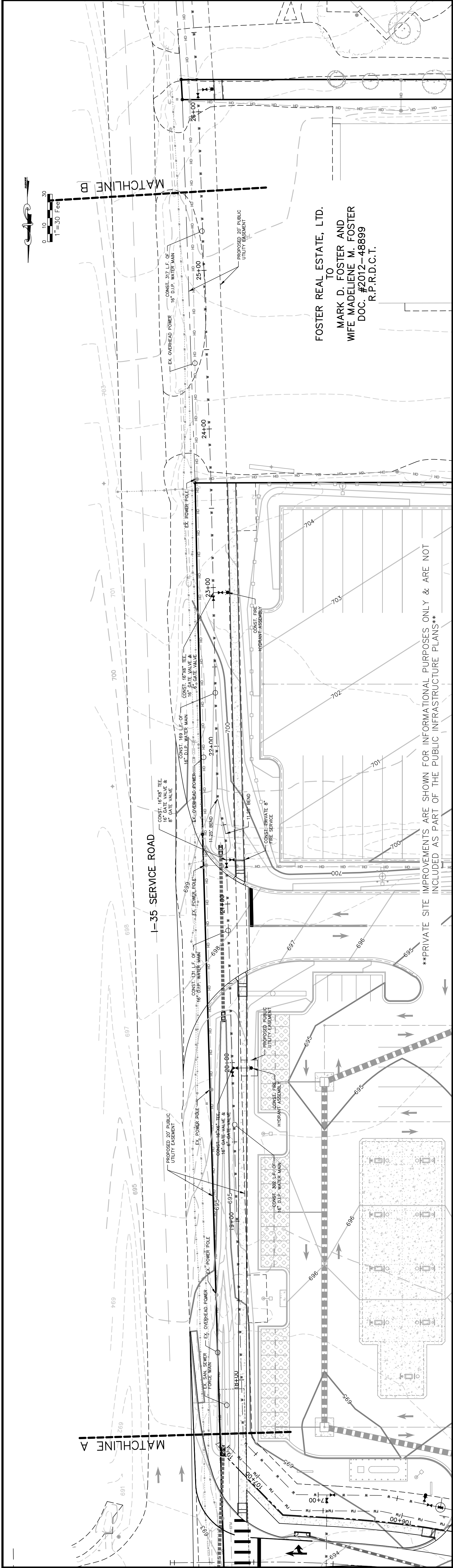
RONNIE E. RILEY AND
NORA K. RILEY
TO
LOVE'S TRAVEL STOPS
& COUNTRY STORES, INC.
DOC. #2014-51286
R.P.R.D.C.T.

FOSTER REAL ESTATE, LTD.
TO
MARK D. FOSTER AND
WIFE, MADELINE M. FOSTER
DOC. #2012-48898
R.P.R.D.C.T.

KELSEA TRACTOR COMPANY, INC.
LOVE'S TRAVEL STOPS
& COUNTRY STORES, INC.
DOC. #2015-14134
R.P.R.D.C.T.

KELSEA TRACTOR COMPANY, INC.
LOVE'S TRAVEL STOPS
& COUNTRY STORES, INC.
DOC. #2015-14134
R.P.R.D.C.T.

DONNIE RUNIONS AND
GEORGIA RUNIONS
TO
VANTAGE FORT WORTH
ENERGY, LLC
DOC. #2014-35016
R.P.R.D.C.T.



Chipola Engineering Group, Inc.

CIVIL ENGINEERING, DESIGN, PLANNING,
ENVIRONMENTAL PERMITTING, &
CONSTRUCTION SERVICES

4420 JACKSON STREET, MARIANNA, FL 32448
PHONE: (904) 21-4045 FAX: (904) 21-4045
E-MAIL: info@chipolaeng.com
FIRM REGISTRATION NO. 15996

DATE: 10/1/15
DRAWN BY: JDR

DATE: 10/1/15
CHECKED BY: HDW

DATE: 2012017-QP
DESIGNED BY: JDR

DATE: 5/30/16
AS NOTED

DESCRIPTION	INT.	DATE

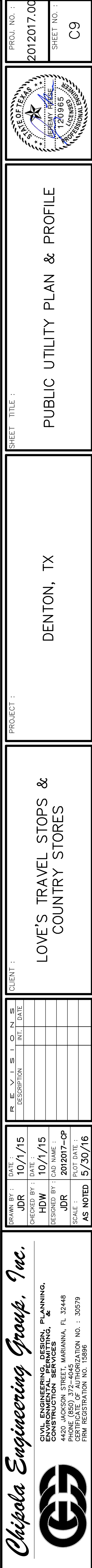
CLIENT : LOVE'S TRAVEL STOPS & COUNTRY STORES

PROJECT : DENTON, TX

SHEET TITLE : PUBLIC UTILITY PLAN & PROFILE

PROJ. NO. : 2012017.00

SHEET NO. : C8



PROJECT NO. FP16-0011CONTRACT TYPE SW, SS, UT, PV, DR

**DEVELOPMENT CONTRACT
FOR
PUBLIC IMPROVEMENTS**

WHEREAS, Love's Travel Stops & Country Stores, Inc., (the "Developer"), whose business address is 10601 N. Penn. Ave., Oklahoma City, OK 73120, is the owner and developer of real property located in the corporate limits of the City of Denton being described as see attached legal description, an addition to the City of Denton, Texas (the "Development"); and

WHEREAS, Developer wishes to enter into this agreement with the City of Denton, Texas (the "City") to provide for the construction of certain public improvements generally described as the Love's Travel Stop as further described in Exhibit A attached hereto and made a part hereof by reference (the "Public Improvements"), which, among other things, are necessitated by and will serve the Development; and

WHEREAS, this agreement is entered into pursuant to Subchapter C of Chapter 212 of the Texas Local Government Code as a condition of plat approval and the Public Improvements are roughly proportional to the benefits received and burdens imposed by the Development; and

WHEREAS, this agreement is required to ensure that the Public Improvements are constructed in accordance with the City's standard specifications for public works projects, applicable ordinances and design criteria manuals ("Standard Specifications"), and the plans and specifications prepared by Developer's engineer, Chipola Engineering Group, Inc. ("Developer's Engineer") dated October 18, 2016, which were approved by the City and are on file in the office of the City Engineer, which may be amended with the written approval of the City Engineer or his designee (the

DEVELOPMENT CONTRACT

“Project Specifications”), such Standard Specifications and Project Specifications being incorporated herein by reference and herein called the “Plans and Specifications”; and

WHEREAS, the Developer understands and agrees that it is responsible for and has retained at its sole expense, the Developer’s Engineer to design the Public Improvements in accordance with the Standard Specifications, taking into consideration the specific site conditions that may impact the Public Improvements; and

WHEREAS, the Developer shall provide for the construction of the Public Improvements by and through Harman Construction, Inc., whose address is 1633 Rogers Rd., Fort Worth, TX 76107 (the “Contractor”), a construction contractor experienced in the construction of improvements similar to the Public Improvements, and

WHEREAS, Developer and Contractor recognize that the City has an interest in ensuring that the Public Improvements, which will, upon completion and acceptance by the City, become public property, are properly constructed in accordance with the Plans and Specifications and that payment by Developer is provided therefor; NOW, THEREFORE,

The Developer, Contractor, and City (the “Parties”) in consideration of their mutual promises and covenants contained herein agree as follows:

1. **Covenants of Developer and Contractor.**

- (a) **Construction.** Contractor shall construct the Public Improvements in accordance with the Plans and Specifications and complete the Public Improvements on or before October 18, 2017. Developer shall be responsible for all monies due to the Contractor for construction of the Public Improvements. In no event shall the City be responsible for payment of any of the expenses or costs to construct the Public Improvements. The City

DEVELOPMENT CONTRACT

Engineer in his discretion may require the Developer to provide security for payments to the Contractor, which may be in the form of a cash deposit with the City, a letter of credit, a dedicated construction account with a lending institution approved by the City Engineer, or other security that the City Engineer in his discretion deems adequate to ensure that the Developer does not default in its payment obligations to the Contractor.

- (b) **Authority of City Engineer, Inspections, Tests and Orders, Developer and Contractor Warranty.** All work on the Public Improvements shall be performed in a good and workmanlike manner and to the satisfaction of the City Engineer or his representative. The City Engineer shall decide all questions, which arise as to the quality and acceptability of materials furnished, work performed, and the interpretation of the Plans and Specifications and may reject any work not performed in accordance with the Plans and Specifications. The Contractor, its surety on the performance bond required herein and the Developer, warrant that the Public Improvements will be free from defects in materials and workmanship and that they will pay to remedy same for a period of two years after the completion of the Public Improvements and final acceptance by the City. This warranty shall not constitute a limitation on the duty to remedy latent defects in construction that were not known at the time of final acceptance or within said two year warranty period.

The Contractor shall furnish the City Engineer or his representative with every reasonable facility for ascertaining whether or not the work performed was in

DEVELOPMENT CONTRACT

accordance with the Plans and Specifications applicable thereto. Any work done or materials used without suitable inspection by the City may be ordered removed and replaced at Contractor's expense.

The City Engineer or his designee shall perform periodic inspections of the work and shall perform a final inspection prior to final acceptance by the City and an inspection 30 days prior to the expiration of two years from the date of final completion and acceptance of the work by the City. Upon failure of the Contractor to allow for inspection, to test materials furnished, to satisfactorily repair, remove or replace, if so directed, rejected, unauthorized or condemned work or materials, or to follow any other request or order of the City Engineer or his representative, the City Engineer shall notify the Developer of such failure and may suspend inspections of such work until such failure is remedied. If such failure is not remedied to the satisfaction of the City Engineer, the City shall have no obligation under this agreement to approve or accept the Public Improvements and the City may withhold, suspend or revoke any permits or other approvals for the Development until such matter is remedied to the satisfaction of the City Engineer.

(c) **Insurance.** Contractor shall provide for insurance in form and in substance in accordance with the City's standard insurance requirements for public works projects, which are on file in the Office of the City Engineer and which are incorporated herein by reference.

(d) **Means and Methods of Construction.** The means and methods of construction shall be such as Contractor may choose; subject, however, to the

DEVELOPMENT CONTRACT

City's right to reject the Public Improvements for which the means or method of construction does not, in the judgment of the City Engineer, assure that the Public Improvements are constructed in accordance with Plans and Specifications.

- (e) **Books and Records.** All of the Developer's and the Contractor's books and other records related to the construction of the Public Improvements shall be available for inspection by the City.
- (f) **Performance Bonds.** The Contractor shall execute a performance bond in the full amount of the cost to construct the Public Improvements in favor of the City ensuring completion of the Public Improvements in accordance with the Plans and Specifications and warranting against defects in materials and workmanship for a period of two years from the date of final acceptance by the City as provided in 1(b) herein. The performance bond shall be executed by a corporate surety authorized to do business in Texas in accordance with Chapter 2253 of the Texas Government Code, shall be on the City's standard form, and shall contain a local resident agent for service of process. The Developer may be a co-obligee on the performance bond with regard to the Contractor's obligations.
- (g) **Payment Bonds.** The Contractor shall execute a payment bond in the full amount of the cost to construct the Improvements in favor of the City insuring against claims from suppliers and subcontractors. The payment bond shall be executed by a corporate surety authorized to do business in Texas in accordance with Chapter 2253 of the Texas Government Code, shall be on the

DEVELOPMENT CONTRACT

City's standard form, and shall contain a local resident agent for service of process. Owner and Developer may be co-obligees on the payment bond.

- (h) **Retainage: Final Payments.** As security for the faithful completion of the Public Improvements, Contractor and Developer agree that the Developer shall retain ten (10) percent of the total dollar amount of the contract price until after final approval or acceptance of the Public Improvements by the City. The Developer shall thereafter pay the Contractor the retainage, only after Contractor has furnished to the Developer satisfactory evidence including an affidavit that all indebtedness has been paid, that all indebtedness connected with the work and all sums of money due for labor, materials, apparatus, fixtures or machinery furnished for and used in the performance of the work have been paid or otherwise satisfied. In addition, Contractor shall provide Developer with a consent to final payment from the payment bond surety.
- (i) **Encumbrances.** Upon completion and final acceptance of the Public Improvements by the City, the Public Improvements shall become the property of the City free and clear of all liens, claims, charges or encumbrances of any kind. If, after acceptance of the Public Improvements, any claim, lien, charge or encumbrance is made, or found to exist, against the Public Improvements, or land dedicated to the City, to which they are affixed, the Developer and Contractor shall upon notice by the City promptly cause such claim lien, charge or encumbrance to be satisfied and released or promptly post a bond with the City in the amount of such claim, lien, charge or

DEVELOPMENT CONTRACT

encumbrance, in favor of the City, to ensure payment of such claim, lien, charge or encumbrance.

- (j) **INDEMNIFICATION.** THE DEVELOPER AND CONTRACTOR SHALL AND HEREBY DO INDEMNIFY, DEFEND AND SAVE HARMLESS, THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS OR CLAIMS OF ANY CHARACTER, NAME AND DESCRIPTION BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED AS SUSTAINED BY ANY PERSON, PERSONS OR PROPERTY ON ACCOUNT OF THE OPERATIONS OF THE CONTRACTOR, HIS AGENTS, EMPLOYEES OR SUBCONTRACTORS; OR ON ACCOUNT OF ANY NEGLIGENT ACT OF FAULT OF THE CONTRACTOR, HIS AGENTS, EMPLOYEES OR SUBCONTRACTORS IN CONSTRUCTION OF THE IMPROVEMENTS; AND SHALL PAY ANY JUDGMENT, WITH COSTS, WHICH MAY BE OBTAINED AGAINST THE CITY GROWING OUT OF SUCH INJURY OR DAMAGE.

- (k) **Agreement Controlling.** The provisions of this agreement shall control over any conflicting provision of any contract between the Developer and Contractor as to the construction of the Public Improvements.

2. **Covenants of City of Denton.** Upon proper completion of the Public Improvements in accordance with this agreement, the City agrees to accept the Public Improvements.

DEVELOPMENT CONTRACT

3. **Nexus and Rough Proportionality.** The Developer acknowledges and agrees that there is a reasonable nexus between the demands created by the Development and the Public Improvements, and that the costs associated with the construction and dedication of land for the Public Improvements is roughly proportional to the benefits received and the burdens imposed by the Development. The Developer shall indemnify and hold the City harmless against any claim by it or others claiming through it, that the required Public Improvements and associated dedication of land are unlawful exactions.
4. **Venue and Governing Law.** The Parties herein agree that this agreement shall be enforceable in Denton County, Texas, and if legal action is necessary in connection therewith, exclusive venue shall lie in Denton County, Texas. The terms and provisions of this agreement shall be construed in accordance with the laws and court decisions of the State of Texas.
5. **Successor and Assigns.** This contract shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

Executed in triplicate this, 18th day of October, 2016.

DEVELOPER

Name: Love's Travel Stops & Country Stores, Inc.

By: 

Name: J.T. Ross

Title: Vice President, Construction

Address 10601 N. Penn Ave.
Oklahoma City, OK 73120

DEVELOPMENT CONTRACT

CONTRACTOR

Name: Harman Construction, Inc.

By: _____

Name: Gabe Harman

Title: President

Address 1633 Rogers Rd.
Ft. Worth, TX 76107

CITY OF DENTON, TEXAS

BY: _____

Howard M. Fair
CITY MANAGER

ATTEST:

JENNIFER WALTERS, CITY SECRETARY

BY: _____

Jennifer Walters
APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY: _____

Anita Burgess