

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 17-46

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A UTILITY DISTRIBUTION/TRANSMISSION FACILITY, LOCATED ON A TRACT OF LAND CONSISTING OF 0.142 ACRE, MORE OR LESS, SITUATED IN THE W. LUMPKIN SURVEY, ABSTRACT NO. 730, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS; DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that Zoning Ordinance No. 05-20 should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Graham Associates, Inc. ("Applicant") for a Specific Use Permit (SUP) to allow for a Utility Distribution/Transmission Facility on a tract of land zoned Retail (R), consisting of 0.142 acre of land, more or less, situated in the W. Lumpkin Survey, Abstract No. 730, in the Town of Prosper, Denton County, Texas, and being particularly being described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

WHEREAS, the Town Council has investigated into and determined that the facts contained in the request are true and correct; and

WHEREAS, all legal notices required to grant a Specific Use Permit (SUP) have been given in the manner and form set forth by law, public hearings have been held, and all other requirements of notice and completion of such procedures have been fulfilled; and

WHEREAS, the Town Council has further investigated into and determined that it will be advantageous and beneficial to the Town of Prosper and its inhabitants to rezone this property as set forth below.

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

**SECTION 1**

Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2**

Specific Use Permit Granted. Zoning Ordinance No. 05-20 is amended as follows: Applicant is granted a Specific Use Permit (SUP) to allow the operation of a Utility Distribution/Transmission Facility, on a tract of land zoned Retail (R), consisting of 0.142 acre of land, more or less, situated in the W. Lumpkin Survey, Abstract No. 730, in the Town of Prosper, Denton County, Texas, and being particularly being described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim.

The property shall continue to be used in a manner consistent with the conditions expressly stated in the concept site plan, attached hereto as Exhibit "B," the concept landscape plans, attached hereto as Exhibit "C"; and the conceptual elevations, attached hereto as Exhibit "D," which are incorporated herein for all purposes as if set forth verbatim.

Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

Three original, official and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

- a. Two (2) copies shall be filed with the Town Secretary and retained as original records and shall not be changed in any matter.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

### **SECTION 3**

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

### **SECTION 4**

Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

### **SECTION 5**

Penalty. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

### **SECTION 6**

Severability. 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. Prosper 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.

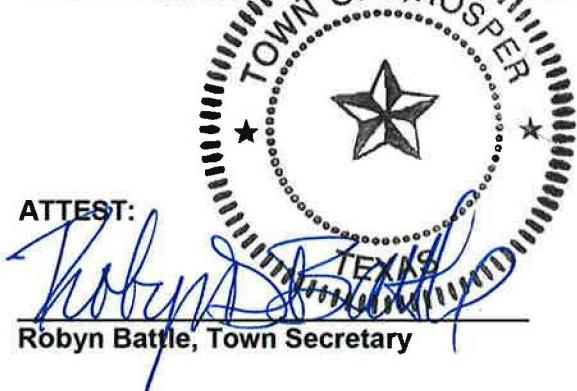
### SECTION 7

Savings/Repealing Clause. Prosper's Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

### SECTION 8

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

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE  
TOWN OF PROSPER, TEXAS, ON THIS 13TH DAY OF JUNE, 2017.



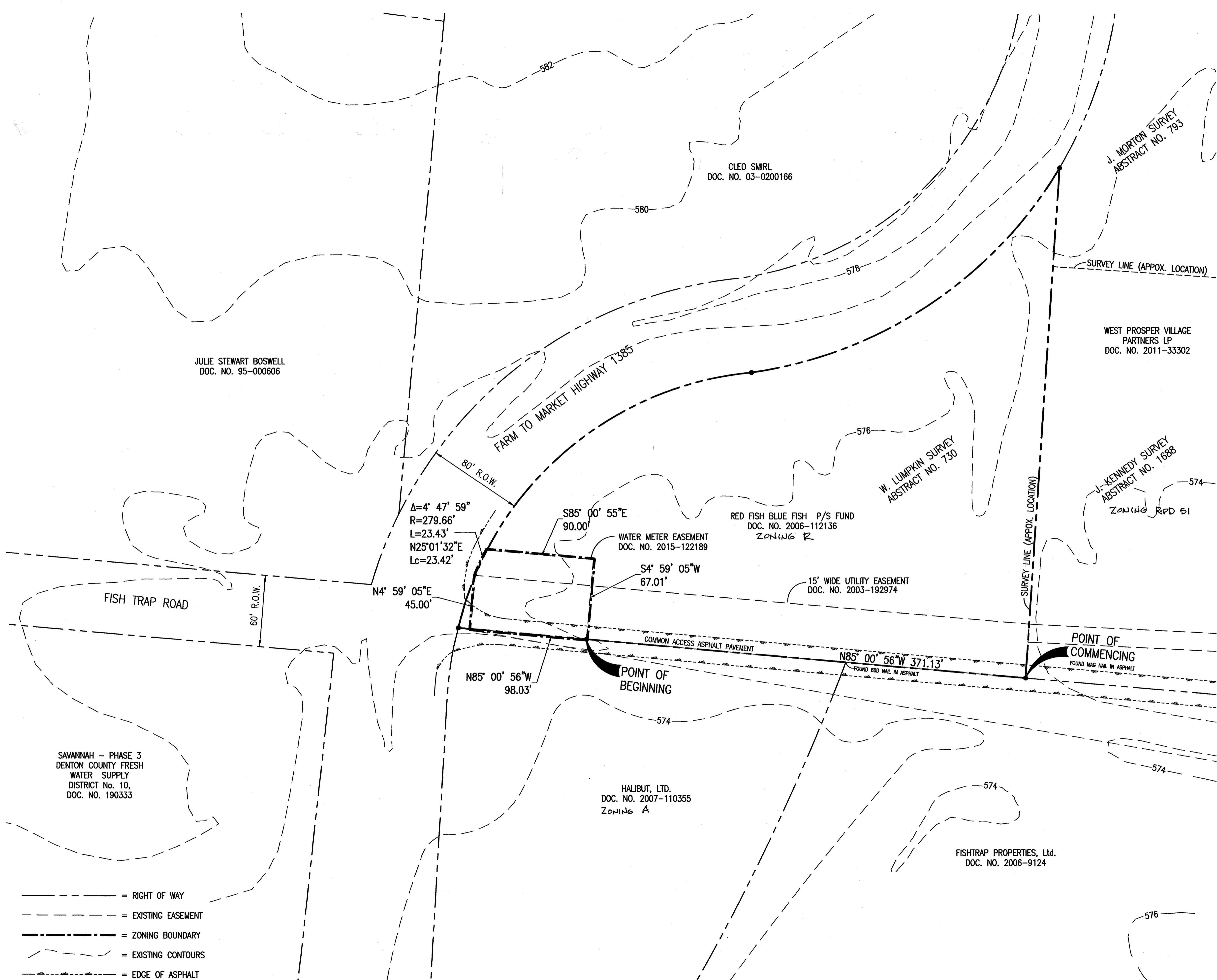
  
Ray Smith, Mayor

ATTEST:

  
Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

  
Terrence S. Welch, Town Attorney



VICINITY MAP  
(NOT TO SCALE)

## SUP LIMITS

Being a portion a tract or parcel of land situated in the W. Lumpkin Survey, Abstract No. 370 in Denton County, Texas, being a portion of that certain tract of land conveyed to Red Fish Blue Fish P/S Fund as recorded in Document Number 2006-112136, Real Property Records, Denton County, Texas, being more particularly described by metes and bounds as follows:

**COMMENCING** at a point at the southeast corner of said Red Fish Blue Fish P/S Fund tract, and being the southwest corner of a tract of land conveyed to West Prosper Village Partners LP as recorded in Document Number 2011-33302, Real Property Records, Denton County, Texas, and also being in the north line of a tract of land conveyed to Fishtrap Properties, Ltd. as recorded in Document Number 2006-9124, Real Property Records, Denton County, Texas;

**THENCE** North 85° 00' 56" West, departing the southeast corner of said Red Fish Blue Fish tract, along the north line of said Fishtrap Properties, Ltd. tract, and along the north line of a tract of land conveyed to Halibut, LTD. as recorded in Document Number 2007-110355, Real Property Records, Denton County, Texas, a distance of 371.13 feet to the **POINT OF BEGINNING**:

**THENCE** North 85° 00' 56" West, along the south line of said Red Fish Blue Fish tract, and along the north line of said Halibut tract, being a common line, a distance of 98.02 feet to a point;

**THENCE** North 04° 59' 05" East, departing said common line, a distance of 45.00 feet to a point, said point being in the east right-of-way line of Farm to Market Highway 1385 (80' Right-Of-Way) for the beginning of a non-tangent curve to the right having a radius of 279.66 feet, central angle of 04° 47' 59",

**THENCE**, along said non-tangent curve to the right, a distance of 23.43 feet to a point;

**THENCE** South 85° 00' 55" East, departing the east right-of-way line of said Highway 1385, a distance of 90.00 feet to a point;

**THENCE** South 04° 59' 05" West, a distance of 67.01 feet to the **POINT OF BEGINNING** and  
**CONTAINING** 6484 square feet, 0.142 acres of land, more or less.

**SURVEYOR'S CERTIFICATE:**

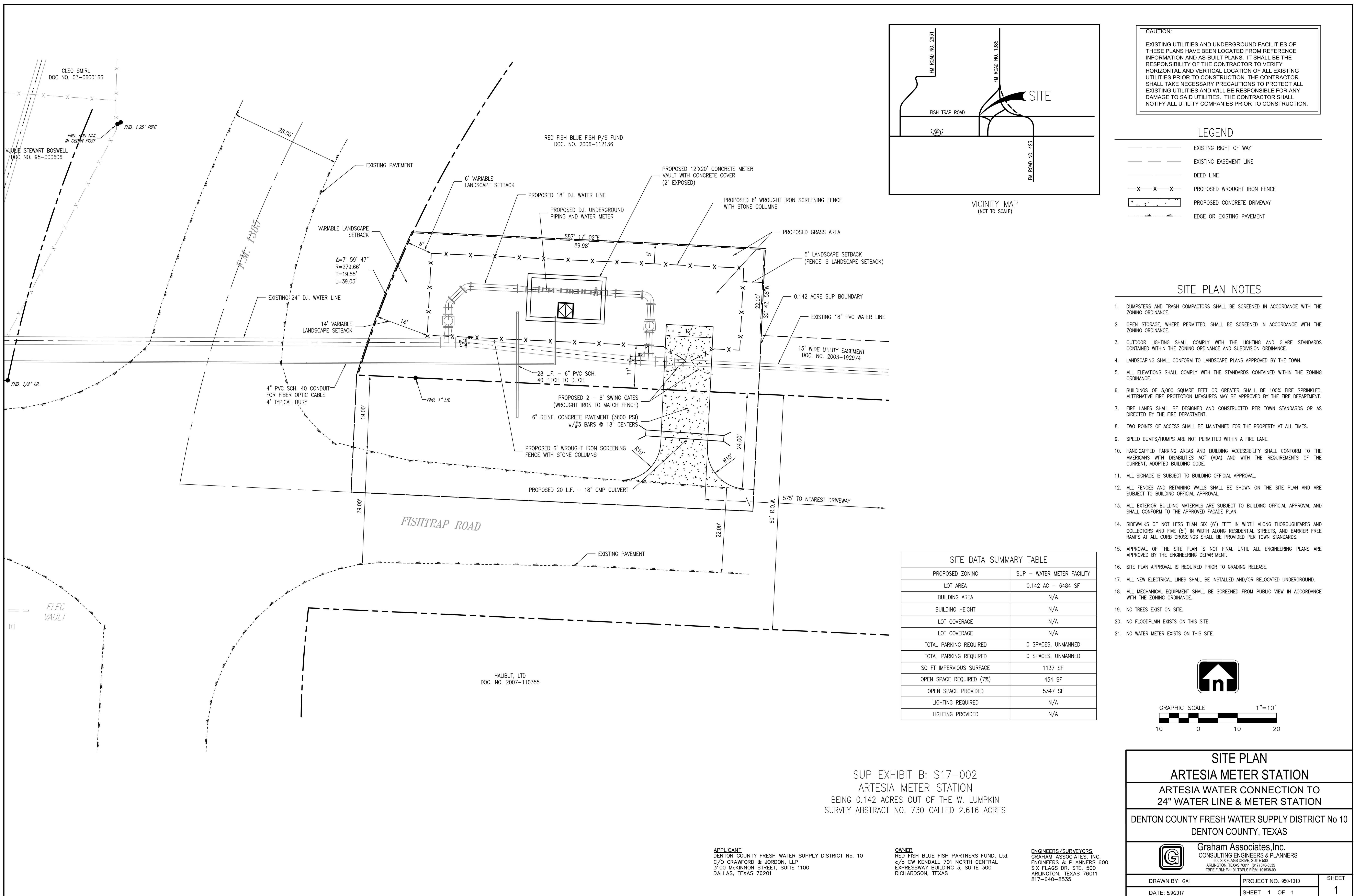
This is to certify that I, Michael Peterson, a Registered Public Land Surveyor of the State of Texas, have prepared this survey from an actual survey on the ground, and that this map correctly represents that survey made by me or under my direction and supervision.

Michael L. Peterson 01/11/2017  
Michael Peterson, Surveyor



**SUP EXHIBIT A**  
**WATER METER STATION**

**WATER METER STATION**  
0.142 ACRES - (6484 SQUARE FEET)  
TRACT OF LAND IN THE W. LUMPKIN SURVEY,  
ABSTRACT NO. 730, TOWN OF PROSPER,  
DENTON COUNTY, TEXAS  
TOWN PROJECT NUMBER \_\_\_\_\_  
SUBMITTED \_\_\_\_\_



Date APR 18, 2017  
Drawn By GAC  
Checked By JRF  
Revisions

The seal is circular with a rope-like outer border. Inside, a five-pointed star is centered. The words "REGISTERED LANDSCAPE ARCHITECT" are written in a circular arc at the top, and "STATE OF TEXAS" are at the bottom. In the center of the star, the name "GREGORY A. CUPPETT" is written, and the year "2672" is at the bottom of the star.

THIS ELECTRONIC DRAWING FILE IS RELEASED UNDER THE AUTHORITY OF GREGORY A. CUPPETT, LANDSCAPE ARCHITECT REGISTRATION NUMBER 2672 ON 05/09/17, WHO MAINTAINS THE ORIGINAL FILE. THIS ELECTRONIC DRAWING FILE MAY BE USED AS A BACKGROUND DRAWING. PURSUANT TO RULE 3.103(F) OF THE RULES AND REGULATIONS OF THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS, THE USER OF THIS ELECTRONIC DRAWING FILE AGREES TO ASSUME ALL RESPONSIBILITY FOR ANY MODIFICATION TO OR USE OF THIS DRAWING FILE THAT IS INCONSISTENT WITH THE REQUIREMENTS OF THE RULES AND REGULATIONS OF THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS. NO PERSON MAY MAKE MODIFICATIONS TO THIS ELECTRONIC DRAWING FILE WITHOUT THE LANDSCAPE ARCHITECT'S EXPRESS WRITTEN PERMISSION.

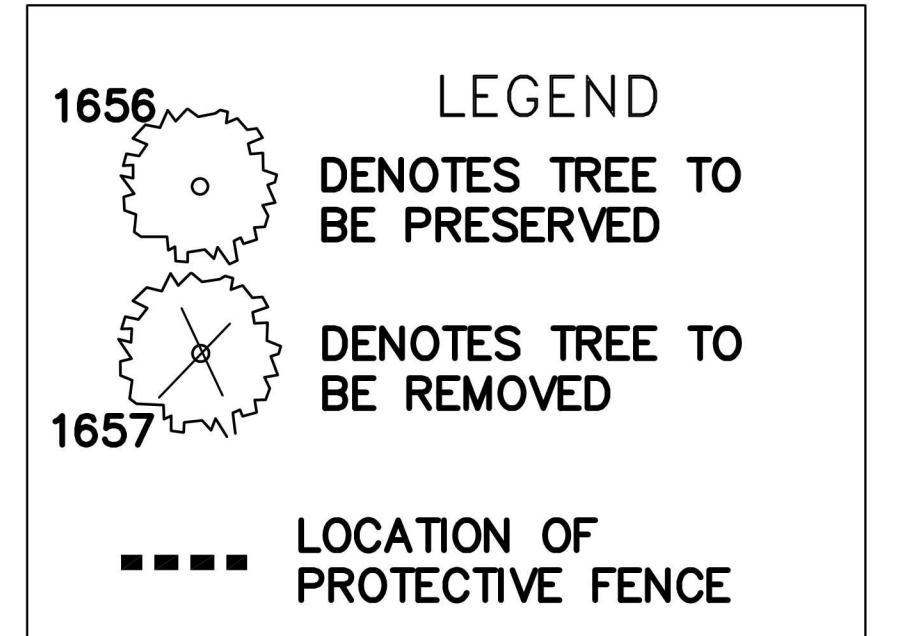
**ARTESIA WATER METER STATION  
TOWN OF PROSPER  
COLLIN COUNTY TEXAS**

Sheet No.  
**L-1**  
OF 9

## PLANTING NOTES:

1. PLANT SIZE, TYPE, AND CONDITION SUBJECT TO APPROVAL OF OWNER'S REPRESENTATIVE.
2. ALL PLANT MATERIAL TO BE NURSERY GROWN STOCK.
3. CONTRACTOR RESPONSIBLE FOR MAINTENANCE OF ALL PLANT MATERIAL UNTIL PROJECT ACCEPTANCE.
4. ALL CONTAINER GROWN PLANTS TO HAVE FULL, VIGOROUS ROOT SYSTEM, COMPLETELY ENCOMPASSING CONTAINER.
5. ALL PLANTS WELL ROUNDED AND FULLY BRANCHED. ALL TREES WITH SPREAD 2/3 OF HEIGHT.
6. CONTRACTOR TO PROVIDE OWNER WITH PREFERRED MAINTENANCE SCHEDULE OF ALL PLANTS AND LAWNS.
7. MAINTAIN/PROTECT VISIBILITY TRIANGLE WITH PLANT MATERIAL PER CITY STANDARDS AT ALL ENTRANCES TO SITE.
8. PREP ENTIRE WIDTH OF ALL DEFINED PLANTING BEDS WITH MIX AS OUTLINED IN SPECS. WHERE SHRUBS ARE LOCATED ALONG CURB, SET SHRUBS BACK FROM CURB 3 FT.
9. SEE DETAIL SHEET FOLLOWING FOR PLANTING DETAILS.
10. CONTRACTOR RESPONSIBLE FOR LOCATION OF ALL UTILITIES, INCLUDING BUT NOT LIMITED TO TELEPHONE, TELECABLE, ELECTRIC, GAS, WATER AND SEWER. ANY DAMAGE TO UTILITIES TO BE REPAIRED BY CONTRACTOR AT NO COST TO OWNER.
11. IF EXISTING TREES ARE SHOWN TO REMAIN, CONTRACTOR SHALL PRUNE AS DIRECTED BY OWNER'S REPRESENTATIVE. WORK TO INCLUDE REMOVAL OF ALL SUCKER GROWTH; DEAD AND DISEASED BRANCHES AND LIMBS; VINES, BRIARS AND OTHER INVASIVE GROWTH; AND ALL INTERFERING BRANCHES. MAKE ALL CUTS FLUSH TO REMAINING LIMB. RETAIN NATURAL SHAPE OF PLANT. ALL WORK SUBJECT TO APPROVAL OF OWNER'S REPRESENTATIVE.
12. QUANTITIES ARE PROVIDED AS A COURTESY AND NOT INTENDED FOR BID PURPOSES. CONTRACTOR TO VERIFY PRIOR TO PRICING.
13. INSTALL EDGING BETWEEN LAWN AND PLANTING BEDS. REFER TO SPECIFICATIONS. FILE ALL CORNERS SMOOTH.
14. INSTALL CURLEX BLANKET (OR EQUAL) PER MANUFACTURES INSTRUCTIONS ON ALL GROUNDCOVER/SHRUB BEDS WITH A SLOPE OF 4:1 OR GREATER.
15. AT TIME OF PLAN PREPARATION, SEASONAL PLANT AVAILABILITY CANNOT BE DETERMINED. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO SECURE AND RESERVE ALL B&B PLANTS WHEN AVAILABLE IN CASE ACTUAL INSTALLATION OCCURS DURING THE OFF-SEASON. PURCHASE AND HOLD B&B PLANTS FOR LATE SEASON INSTALLATION.
16. CONTRACTOR SHALL STAKE TREES FOR OWNER'S APPROVAL PRIOR TO INSTALLATION.

PERIMETER BUFFER	5' PERIMETER BUFFER ON ALL OTHER PERIMETERS	
	REQUIRED	PROVIDED
	5'	5'
PERIMETER BUFFER	REQUIRED (ADJ NON-RESIDENTIAL)	PROVIDED
	268 / 15 = 18 ORNAMENTALS 268 / 15 = 18 SHRUBS	19 ORNAMENTALS 30 SHRUBS
REQUIRED PARKING LOT LANDSCAPING	15 SF LANDSCAPE AREA REQUIRED PER EVERY SPACE	
	REQUIRED	PROVIDED
	N/A	N/A
REQUIRED PARKING LOT TREES	1 TREE PER TERMINUS OF EACH ROW-NA	
	1 TREE LOCATED WITHIN 150 LF OF EVERY PARKING SPACE-NA	
FOUNDATION LANDSCAPING	1 TREE PER AT 10,000 SF	PROVIDED
	N/A	N/A



# TREE SURVEY

THERE ARE NO EXISTING TREES ON THIS SITE

## PLANT LIST

Item	Qty	Code	Scientific Name	Common Name	Planting Size	Comments
1	19	Ilvo	<i>Ilex vomitoria</i>	Yaupon holly	3"-Cal/8' Min Ht.	Tree form, three cane min.
1	30	Mypu	<i>Myrica pusilla</i>	Dwarf Wax Myrtle	5-Gal	36" O.C.
1	2	Ulpa	<i>Ulmus parvifolia</i>	Lacebark elm	3"-Cal/12' Min Ht	B & B, Single straight trunk
			<i>Cynodon dactylon</i>	Bermuda grass	Solid sod	

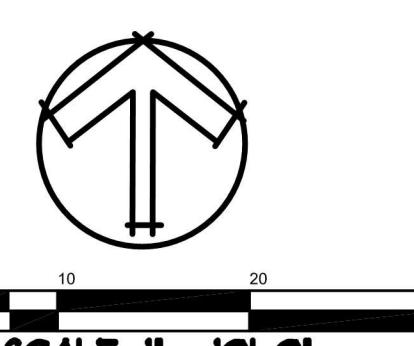
NOTE: IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR  
TO CONFIRM TREE CALIPER CALIPER MEASUREMENT  
HEIGHT ABOVE GRADE AS REQUIRED BY CITY.

SUP EXHIBIT C: S17-002  
ARTESIA METER STATION  
0.142 ACRES OUT OR THE W. LUMPKIN  
ABSTRACT NO. 730 CALLED 2.616 ACRES  
TOWN PROJECT NO. S17-002

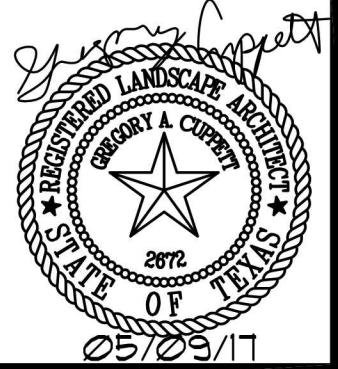
APPLICANT  
DENTON COUNTY FRESH WATER SUPPLY DISTRICT No. 10  
C/O CRAWFORD & JORDON, LLP  
3100 MCKINNON STREET, SUITE 1100  
DALLAS, TEXAS 75201

OWNER  
RED FISH BLUE FISH PARTNERS FUND, Ltd.  
c/o CW KENDALL 701 NORTH CENTRAL  
EXPRESSWAY BUILDING 3, SUITE 300  
RICHARDSON, TEXAS

ENGINEERS / SURVEYORS  
RAHAM ASSOCIATES, INC.  
ENGINEERS & PLANNERS 600  
X FLAGS DR. STE. 500  
RLINGTON, TEXAS 76011  
7-612-2575



# TREE PRESERVATION/ LANDSCAPE PLAN

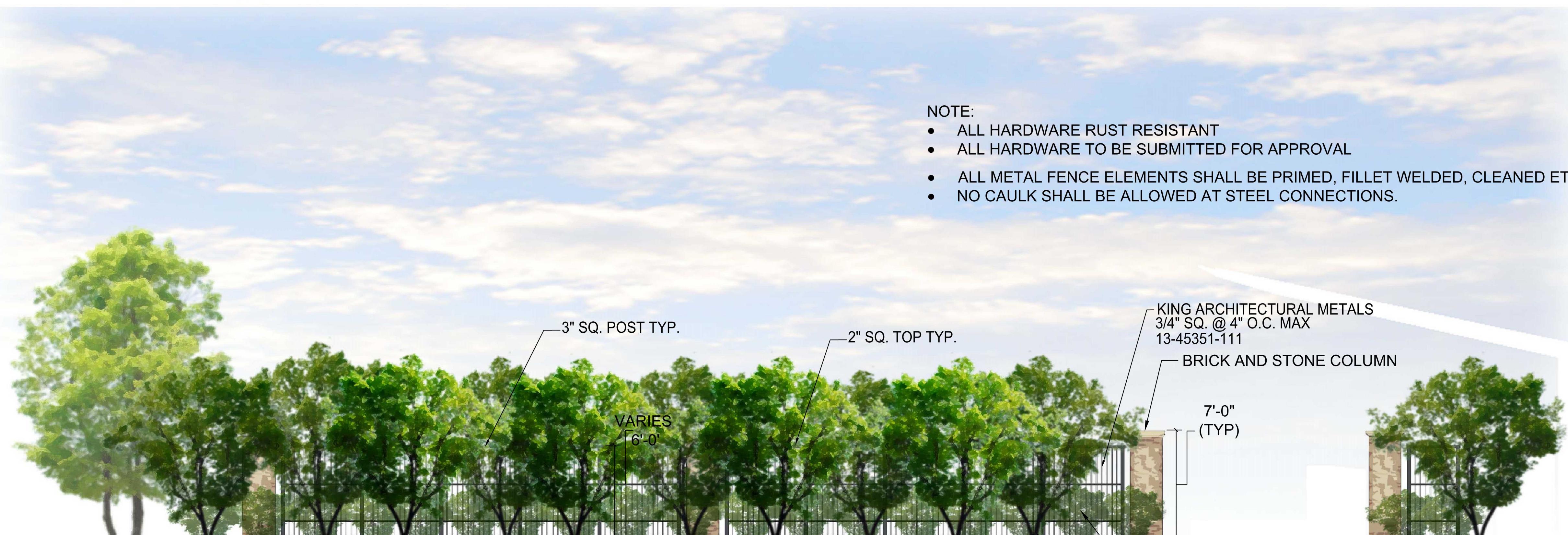


**ARTESIA WATER METER STATION**  
**TOWN OF PROSPER**  
**COLLIN COUNTY TEXAS**

Sheet No.

L-5

OF 5



SUP EXHIBIT D: S17-002  
ARTESIA METER STATION  
BEING 0.142 ACRES OUT OF THE W. LUMPKIN  
SURVEY ABSTRACT NO. 730 CALLED 2.616 ACRES  
TOWN PROJECT NO. S17-0002

APPLICANT  
DENTON COUNTY FRESH WATER SUPPLY DISTRICT No  
C/O CRAWFORD & JORDON, LLP  
3100 MCKINNON STREET, SUITE 1100  
DALLAS, TEXAS 76201

OWNER  
RED FISH BLUE FISH PARTNERS FUND, Ltd  
c/o CW KENDALL 701 NORTH CENTRAL  
EXPRESSWAY BUILDING 3, SUITE 300  
RICHARDSON, TEXAS

ENGINEERS/SURVEYORS  
GRAHAM ASSOCIATES, INC.  
ENGINEERS & PLANNERS 600  
SIX FLAGS DR. STE. 500  
ARLINGTON, TEXAS 76011  
DCE 812-3777



# FENCE RENDERING