

ORDINANCE NO. 18-1530

AN ORDINANCE OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A LANDSCAPE MAINTENANCE AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF PROVIDING ALL REQUIRED MAINTENANCE OF CERTAIN LANDSCAPE IMPROVEMENTS LOCATED WITHIN THE RIGHT OF WAY OF STATE HIGHWAY ROUTES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Green Ribbon is a program established by the Texas state legislature in 1999 to allocate funding for landscaping and other enhancement activities in Texas Department of Transportation (“TXDOT”) districts that have air quality non-attainment and near non-attainment counties, of which Denton County is one, with the program goal to establish trees and plants in state highway rights-of-way to help mitigate the effects of air pollution; and

WHEREAS, The City provided concept designs to TXDOT in early June 2018 to upgrade the landscaping on the University Drive (US 380) from Elm Street (US 77) to Masch Branch Road medians; and

WHEREAS, the proposed Landscape Maintenance Agreement (“LMA”) affirms that TXDOT will provide funding for the installation for all landscape materials including trees, plants, irrigation, and concrete mow strips, and after installation, the City will assume all maintenance responsibilities and the financial obligation attendant to the maintenance; and

WHEREAS, TXDOT shall install landscape elements including but not limited to trees, shrubs, grasses, sidewalks, irrigation systems, and hardscape features not to exceed Six Hundred Sixty-Seven Thousand Two Hundred Eighty-Five Dollars (\$667,285.00); and

WHEREAS, the City shall maintain all landscape elements within the limits of the right-of-way, including all median and island areas but excluding paved areas intended for vehicular travel; and landscape maintenance shall include but not be limited to plant maintenance, plant replacement, mowing and trimming, hardscape element maintenance, and irrigation system operation and maintenance wherein all landscape elements must be maintained in a functional and aesthetically pleasing condition; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference as true and as if fully set forth in the body of this ordinance.

SECTION 2. The City Manager of the City of Denton, or his designee, is hereby authorized to execute on behalf of the City the Landscape Maintenance Agreement with TXDOT, a copy of which is attached hereto as Exhibit “A” and made a part hereof for all purposes.

SECTION 3. The City Manager, or his designee, is further authorized to carry out all duties and obligations to be performed by the City under the Agreement, including, but not limited to, the expenditure of funds.

SECTION 4. This ordinance shall become effective immediately upon its passage and approval.

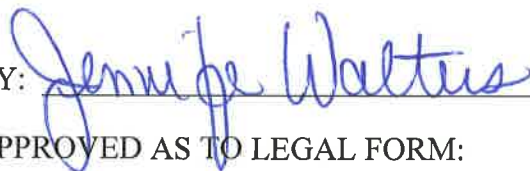
The motion to approve this ordinance was made by JOHN RYAN and seconded by KEELY BRIGGS; the ordinance was passed and approved by the following vote [6 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Gerard Hudspeth, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Keely G. Briggs District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Don Duff, District 3:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
John Ryan, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Deb Armintor, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, At Large Place 6:	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>

PASSED and APPROVED this the 18th day of September, 2018


CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 
APPROVED AS TO LEGAL FORM:

AARON LEAL, CITY ATTORNEY

BY: 



Form 2043
(Rev. 04/12)
Page 1 of 3

LANDSCAPE MAINTENANCE AGREEMENT

THE STATE OF TEXAS

THE COUNTY OF TRAVIS

This AGREEMENT made this _____ day of September, 2018, by and between the Texas Department of Transportation, hereinafter referred to as the "State," and the City of Denton, Texas County, Texas, acting by and through its duly authorized officers, hereinafter called the "City".

WITNESSETH

WHEREAS, Chapter 311 of the Transportation Code gives the City exclusive dominion, control, and jurisdiction over and under the public streets within its corporate limits and authorizes the City to enter into agreements with the State to fix responsibilities for maintenance, control, supervision, and regulation of State highways within and through its corporate limits; and

WHEREAS, Section 221.002 of the Transportation Code authorizes the State, at its discretion, to enter into agreements with cities to fix responsibilities for maintenance, control, supervision, and regulation of State highways within and through the corporate limits of such cities; and

WHEREAS, the State and the City have entered into a Municipal Maintenance Agreement dated June 4, 2015, **the provisions of which are incorporated herein by reference**, and wherein the City has agreed to retain all functions and responsibilities for maintenance and operations which are not specifically described as the responsibility of the department; and

WHEREAS, the State has existing and proposed landscape improvements, such as, but not limited to, the installation of tree, shrub, and turf plantings, irrigation systems, and other aesthetic elements for areas within the right of way of state highway routes within the City as shown on Attachment "A"; and

WHEREAS, the State will provide such landscape improvements, provided that the City agrees to be responsible for all required maintenance of the landscape improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed, it is agreed as follows:

Contract Period

This Agreement becomes effective upon the date of final execution by the State, and shall remain in effect until terminated or modified as hereinafter provided.

Coverage

This agreement prescribes the responsibilities of the State and the City relating to the installation and maintenance of landscape elements on non-controlled access state highways, as defined in the Municipal Maintenance Agreement, and described and graphically shown as "State Maintained and Operated" in that agreement.

Amendment

The parties agree that this agreement may be amended. Such amendments, to be effective, must be in writing and signed by both parties.

State's Responsibilities

The State shall install landscape elements including but not limited to trees, shrubs, grasses, sidewalks, irrigation systems, and hardscape features through its employees or duly appointed agents.

City's Responsibilities

The City may install landscape elements including but not limited to trees, shrubs, grasses, sidewalks, irrigation systems, and hardscape features through its employees or duly appointed agents. Any installations shall be performed in accordance with Texas Department of Transportation specifications and standards, and must be approved by the State in writing prior to any work being performed.

The City shall maintain all landscape elements within the limits of the right of way including all median and island areas but excluding paved areas intended for vehicular travel. Landscape maintenance shall include but not be limited to plant maintenance, plant replacement, mowing and trimming, hardscape element maintenance, and irrigation system operation and maintenance. All landscape elements must be maintained in a functional and aesthetically pleasing condition.

TERMINATION

It is understood and agreed between the parties hereto that should either party fail to properly fulfill its obligations as herein outlined, the other party may terminate this agreement upon thirty days written notice. Additionally, this agreement may be terminated by mutual agreement and consent of both parties.

Should the City terminate this agreement, as prescribed here above, the City shall, at the option of the State, reimburse any reasonable costs incurred by the State.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures, the City of Denton on the 19th day of September, year 2018, and the Texas Department of Transportation, on the _____ day of _____, year _____.

ATTEST:



CITY OF Denton

By Todd Hileman, City Manager
(Title of Signing Official)

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, and the established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____
District Engineer

District

ATTEST:

CITY SECRETARY
CITY OF DENTON, TEXAS
BY: 

THIS AGREEMENT HAS BEEN BOTH REVIEWED AND APPROVED as to financial and operational obligations and business terms.

Signature
DIRECTOR
Title
PARKS AND RECREATION
Department
Date Signed: 9-14-18

APPROVED AS TO FORM:
CITY ATTORNEY
CITY OF DENTON, TEXAS

BY: 



LOCATION 1 - US380

FY 2019 GREEN RIBBON PROJECT

Attachment A

LOCATION: US 380 from Masch Branch Rd to Elm St. (US77).

City maintained: Landscape, Planting, Groundcover and Irrigation