

ORDINANCE NO. 29747

An ordinance providing for the abandonment and relinquishment of two storm sewer easements, located in City Block 13/5492 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to CG Partners, Inc.; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a new easement to the City of Dallas and the relocation of existing facilities; providing for the indemnification of the City of Dallas against damages arising out of the abandonments herein; providing for the consideration to be paid to the City of Dallas; providing a future effective date for the abandonment, relinquishment and quitclaim made herein; providing for the payment of the publication fee; and providing an effective date for this ordinance.

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WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of CG Partners, Inc., a Texas corporation; hereinafter referred to as **GRANTEE**, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said easements are no longer needed for municipal use, and same should be abandoned, relinquished and quitclaimed to **GRANTEE** as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms and conditions hereinafter more fully set forth. **Now, Therefore,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City of Dallas hereby abandons and relinquishes all of its right, title and interest in and to the tracts of land described in Exhibit A, attached hereto and made a part hereof; subject, however, to the conditions and future effective date hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **FIVE THOUSAND FOUR HUNDRED AND NO/100 (\$5,400.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 8 and 10, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, future effective date and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all its right, title and interest in and to those certain tracts or parcels of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 4. That the Chief Financial Officer is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction - Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment, relinquishment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment, relinquishment and quitclaim provided for herein shall extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon, relinquish and quitclaim.

SECTION 8. That as a condition of this abandonment and as a part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold harmless the City of Dallas as to any claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the property described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the areas set out in Exhibit A, (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas described in Exhibit A, which **GRANTEE**, its successors and assigns agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the areas set out in Exhibit A. **GRANTEE**, its successors and assigns hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., as amended; (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended; (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils; (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

SECTION 9. That this abandonment, relinquishment and quitclaim of the City's right, title and interest in and to said easements shall not become effective until and unless: (i) the existing installations and facilities are relocated, at **GRANTEE's** expense, to the new easement to be provided by **GRANTEE** and acceptable to the Director of Department of Sustainable Development and Construction, as is hereinafter provided; and (ii) plans for the construction and relocation of installations within the new easement are approved by the Director of Department of Sustainable Development and Construction; and (iii) said construction and relocation of installations are completed, approved and accepted in writing by the Director of Department of Sustainable Development and Construction. All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 10. That as a condition of this abandonment and relinquishment as part of the consideration for the quitclaim made herein, **GRANTEE** shall convey to the City of Dallas an easement for drainage purposes, within 90 days of the effective date of this ordinance, in, under, through, across and along certain properties located in City Block 13/5492. Said property to be conveyed shall be acceptable to the Director of Sustainable Development and Construction of the City of Dallas and contain approximately 1,320 square feet of land as described in Exhibit B, attached hereto and made a part hereof. Failure to convey the above described easement as set forth shall render this ordinance null and void and of no further effect.

SECTION 11. That at such time as the instrument described in Section 10 above is executed and delivered to the City of Dallas and has been approved as to form by the City Attorney it be accepted, and thereafter, the Director of Department of Sustainable Development and Construction is authorized and directed to record said instrument in the Deed Records of Dallas County, Texas; and the recorded instrument shall be forwarded to the City Secretary for permanent record.



SECTION 12. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee.

Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee shall deliver to **GRANTEE** a certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 13. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:
WARREN M. S. ERNST
City Attorney

DAVID COSSUM
Director of Department of Sustainable
Development and Construction

BY  BY 
Assistant City Attorney Assistant Director

Passed MAY 27 2015 .

DRAINAGE EASEMENT ABANDONMENT
 PART OF THE WEST ½ OF LOT 10
 BLOCK 13/5492 PRESTON ROAD ESTATES
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

Tract 1:

BEING part of the west one-half of lot 10, block 13/5492 Preston Road Estates an addition to the City of Dallas, Texas, according to the plat recorded Volume 3 Page 298 Map Records Dallas county Texas; situated in the James A. Smith Survey, Abstract number 1339, described in special warranty deed with vendor's lien to C G Partners Inc., from Elizabeth Mack Williams to CG Partners Inc. recorded in instrument number 201400102769 Official Public Records of Dallas County, Texas. Easement was created by Volume 3307 Page 578 Deed Records Dallas County Texas.

BASIS OF BEARING is the North Right of Way line of Aberdeen Avenue North 89 degrees 56 minutes 00 Seconds West as described in the Aberdeen and Mimosa Addition recorded in instrument number 200900234049 O.P.R.D.C.T.;

The Center Line of the 15-inch pipe storm sewer crossing a part of the west one-half of lot 10, block 13/5492, is shown on map of same record the office of the City Engineer of Dallas, Texas, in File 421Q, No. 374 and is described as Follows:

BEGINNING at a point on the north line of lot 10, Block 13/5492, said point of beginning being easterly a distance of 92 feet more or less from the northwest corner of lot 10;

THENCE in a southwesterly direction along a curve to the left, radius of 100.0 feet, a distance of 40.8 feet more or less to end of said curve;

THENCE south 22 degrees 30 minutes west a distance of 43.0 feet more or less to end of 15 inch pip storm sewer and the location of a headwall.

Tract 2:

BEING part of the west one-half of lot 10, block 13/5492 Preston Road Estates an addition to the City of Dallas, Texas, according to the plat recorded Volume 3 Page 298 Map Records Dallas county Texas; situated in the James A. Smith Survey, Abstract number 1339, described in special warranty deed with vendor's lien to C G Partners Inc., from Elizabeth Mack Williams to CG Partners Inc. recorded in instrument number 201400102769 Official Public Records of Dallas County, Texas. Easement was created by Volume 4117 Page 114 Deed Records Dallas County Texas.

(For SPRG use only)	
Reviewed by:	<u>DBF</u>
Date:	<u>03-24-2015</u>
SPRG NO.:	<u>3104</u>

DRAINAGE EASEMENT ABANDONMENT
 PART OF THE WEST ½ OF LOT 10
 BLOCK 13/5492 PRESTON ROAD ESTATES
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

The boundaries of a 5 foot wide easement across a part of said lot 10 block 13/5492 are shown on a map of the same of record in the Office of the City Engineer of Dallas, Texas in File 421Q No. 522 Sheet 37 of 52 sheets;

BEGINNING at a point on the south line of said lot 10, BLOCK 13/5492, said point being 78 feet, more or less, in an easterly direction along said south line from the south west corner of said lot 10, BLOCK 13/5492;

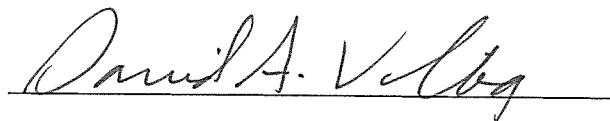
THENCE in a northwesterly direction for a distance of 82 feet, more or less, to a point for corner, same being the most westerly corner of an existing easement;

Thence in a southeasterly direction along the southwest line of said existing easement for 3 feet, more or less to the most southerly corner of said existing easement;

THENCE in a northeasterly direction along the southeast line of said existing easement for 4.5 feet, more or less, to a point for corner;

THENCE in a southeasterly direction for 83 feet, more or less, to a point for corner on said south line of lot 10 block 14/5392;

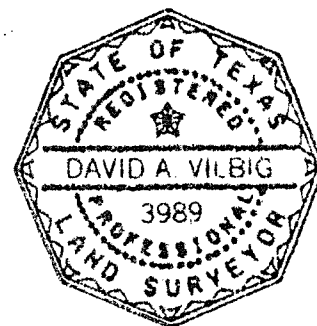
THENCE in a westerly direction along said south line of lot 10, Block 13/5492, for 5.1 feet, more or less, to the place of beginning.



David A. Vilbig

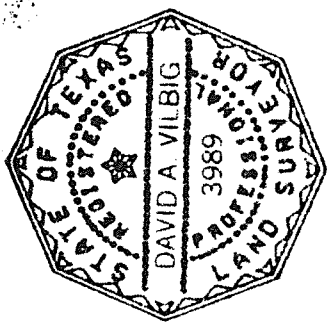
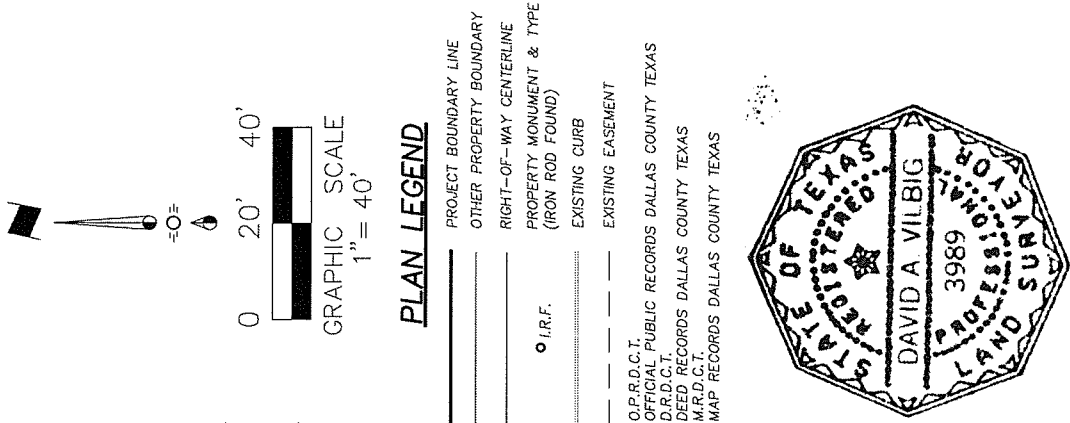
Registered Professional Land Surveyor, No. 3989

March 04, 2015



(For SPRG use only)

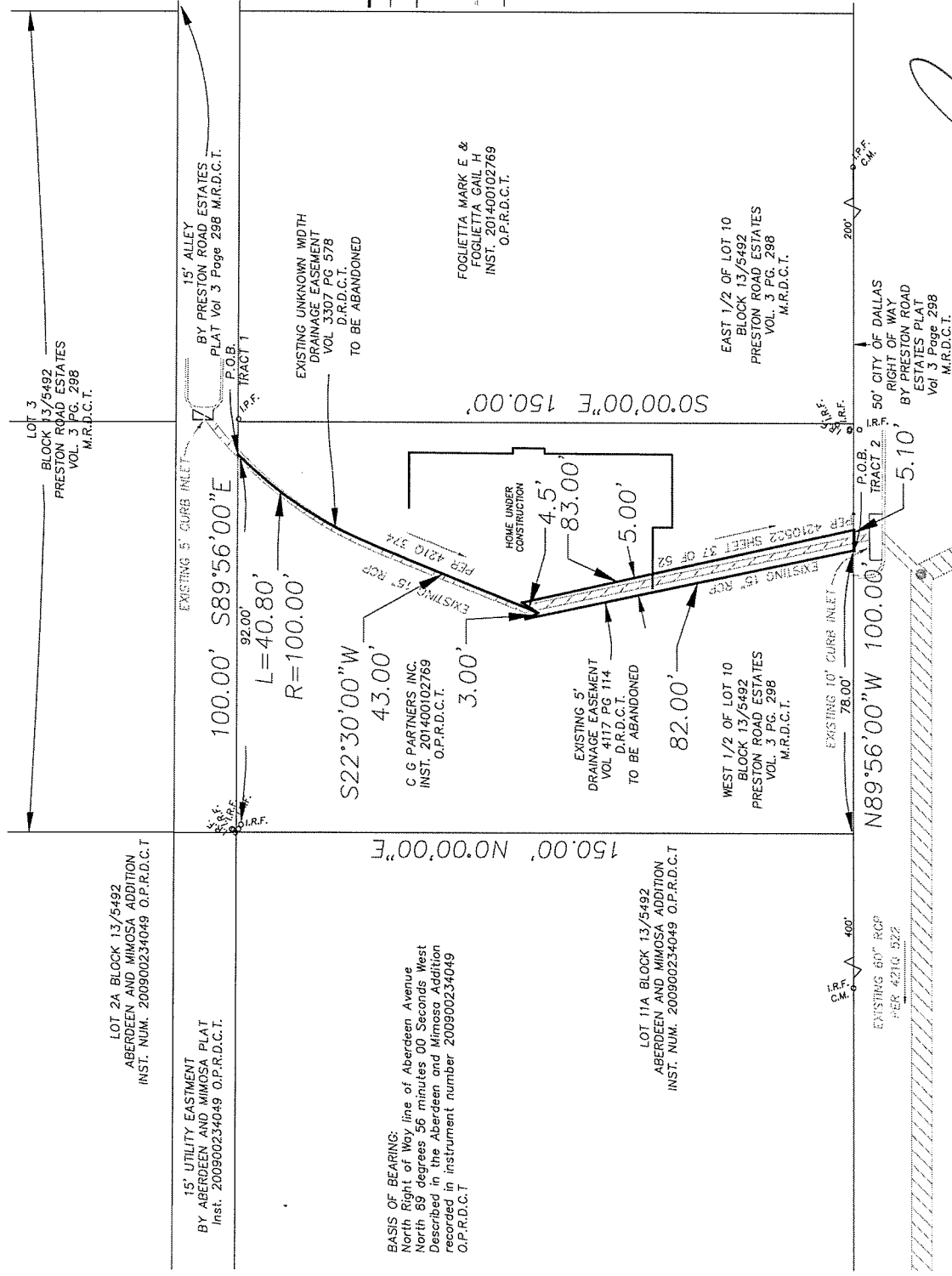
Reviewed by: DBF
 Date: 03-29-2015
 SPRG NO.: 3108



David A. Vilbig
 David A. Vilbig
 Registered Professional Land Surveyor, No. 3989
 DATE: 04 MARCH 2015

DRAINAGE EASEMENT ABANDONMENT
 PART OF THE WEST 1/2 OF LOT 10
 BLOCK 13/5492 PRESTON ROAD ESTATES
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

SCALE: 1"=40' VAI No. 1001-1 DATE: 04 MARCH 2015



ABERDEEN AVENUE

(For SPRG use only)
 Reviewed by: DBF
 Date: 03-28-2015
 SPRG NO.: 3104

SURVEYOR
VILBIG & ASSOCIATES, P.L.L.C.
 10132 Monroe Drive
 Dallas, Texas 75229
 (214) 352-7833
 TX Surveying Firm No. 10033000

DRAINAGE EASEMENT

PART OF THE WEST ½ OF LOT 10

BLOCK 13/5492 PRESTON ROAD ESTATES

CITY OF DALLAS, DALLAS COUNTY, TEXAS

A 1,320 square foot variable width drainage easement running along the eastern edge and crossing a part of the west one half of Lot 10 block 13/5492, City of Dallas and also the west one half of lot 10 block 13 Preston Road Estates, recorded in Volume 3 Page 298 Map Records of Dallas County Texas, (M.R.D.C.T.) described in the special warrantee deed with vendors lien from Elizabeth Mack Williams to CG Partners Inc. recorded in instrument number 201400102769 Official Public Records of Dallas County, Texas (O.P.R.D.C.T.). Said tract of land being out of the J. A. Smith Survey, Abstract Number 1339 In Dallas County, Texas being described as follows:

BASIS OF BEARING is the North Right of Way line of Aberdeen Avenue North 89 degrees 56 minutes 00 Seconds West as described in the Aberdeen and Mimosa Addition recorded in instrument number 200900234049 O.P.R.D.C.T.;

COMMENCING at a capped 1/2 inch iron rod set for the South East corner of the west one half of lot 10 Block 13 Preston Road Estates City of Dallas Block 13/5492 and the South West corner of the east one half of lot 10 and being in the north right of way line of Aberdeen Avenue (50 foot) as defined by the said Preston Road Estates Plat.;

THENCE North 89 degrees 56 minutes 00 seconds West along the south line of said west half of lot 10 and along the north right of way line of Aberdeen Avenue a distance of 15.79 feet to a capped 1/2inch Iron rod set with yellow cap stamped RPLS # 3989 for the POINT OF BEGINNING;

THENCE North 89 degrees 56 minutes 00 seconds West along the south line of said west half of lot 10 and along the north line of Aberdeen Avenue a distance of 17.31 feet to a capped 1/2inch Iron rod set with yellow cap stamped RPLS # 3989;

THENCE North 30 degrees 00 minutes 00 seconds East departing the south line of said west half of lot 10 and departing the north line of Aberdeen Avenue a distance of 43.88 feet to a capped 1/2inch Iron rod set with yellow cap stamped RPLS # 3989;

THENCE North 32 degrees 00 minutes 00 seconds East a distance of 9.74 feet to a capped 1/2inch Iron rod set with yellow cap stamped RPLS # 3989;

THENCE North 00 Degrees 00 minutes 00 seconds East a distance of 103.70 feet to a capped 1/2inch Iron rod set with yellow cap stamped RPLS # 3989 located on the north line of said west half of lot 10 and the south line of a 15 foot alley described in the said Preston Road Estates Plat;

THENCE South 89 degrees 56 minutes 00 seconds East along the north line of said west half of lot 10 a distance of 6.00 feet to a capped 1/2inch Iron rod set with yellow cap stamped RPLS # 3989 for the north east corner of said west half of lot 10 and also the north west corner of the east one half of lot 10 and in the south line of said 15 foot alley. Said point bears North 77 degrees 37 minutes 37 seconds West a distance of 0.68 feet from a found 3/4" iron pipe.;

(For SPRG use only)

Reviewed by: DBF
 Date: 03-03-2015
 SPRG NO.: 3103

DRAINAGE EASEMENT

PART OF THE WEST 1/2 OF LOT 10

BLOCK 13/5492 PRESTON ROAD ESTATES

CITY OF DALLAS, DALLAS COUNTY, TEXAS

THENCE South 00 Degrees 00 minutes 00 seconds East along the east line of said west half of lot 10 and along the west line of the east half of lot 10 block 13/5492 a distance of 122.63 feet to a capped 1/2inch Iron rod set with yellow cap stamped RPLS # 3989;

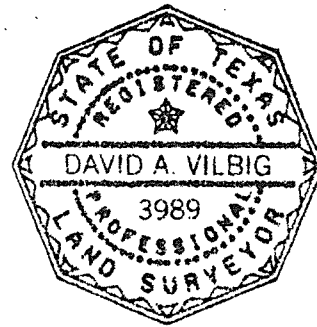
THENCE South 30 degrees 00 minutes 00 seconds West departing said east line of said west half of lot 10 a distance of 31.58 feet to a capped 1/2inch Iron rod set with yellow cap stamped RPLS # 3989 for the POINT OF BEGINNING containing 1,320 square feet or 0.03 acres of land.

David A. Vilbig

David A. Vilbig

Registered Professional Land Surveyor, No. 3989

February 09, 2015



(For SPRG use only)	
Reviewed by:	<u>DBF</u>
Date:	<u>03.03.2015</u>
SPRG NO.:	<u>3103</u>

EXHIBIT B

29747

150973

15' UTILITY EASEMENT
BY ABERDEEN AND MIMOSA PLAT
INST. 200900234049 O.P.R.D.C.T.

LOT 2A BLOCK 13/5492
ABERDEEN AND MIMOSA ADDITION
INST. NUM. 200900234049 O.P.R.D.C.T.

LOT 11A BLOCK 13/5492
ABERDEEN AND MIMOSA ADDITION
INST. NUM. 200900234049 O.P.R.D.C.T.

C G PARTNERS INC.
INST. 201400102789
O.P.R.D.C.T.

S89°56'00"E
6.00'

LOT 3
BLOCK 13/5492
PRESTON ROAD ESTATES
VOL. 3 PG. 298
M.R.D.C.T.

15' ALLEY
BY PRESTON ROAD ESTATES
PLAT Vol 3 Page 298 M.R.D.C.T.

N0°00'00"E 103.70'

S0°00'00"E 150.00'

FOGGETTA MARK E &
FOGGETTA GAIL H
INST. 201400102789
O.P.R.D.C.T.

S0°00'00"E
122.63'

S30°00'00"W
31.58'

EAST 1/2 OF LOT 10
BLOCK 13/5492
PRESTON ROAD ESTATES
VOL. 3 PG. 298
M.R.D.C.T.

N32°00'00"E
9.74'

WEST 1/2 OF LOT 10
BLOCK 13/5492
PRESTON ROAD ESTATES
VOL. 3 PG. 298
M.R.D.C.T.

N30°00'00"E
43.88'

N89°56'00"W 100.00'

N89°56'00"W
17.31'

ABERDEEN AVENUE

N89°56'00"W
15.79'

BASIS OF BEARING:
North Right of Way line of Aberdeen Avenue
North 89 degrees 56 minutes 00 seconds West
Described in the Aberdeen and Mimosa Addition
Recorded in Instrument number 200900234049
O.P.R.D.C.T.

SURVEYOR
VILBIG & ASSOCIATES, P.L.L.C.
10132 Monroe Drive
Dallas, Texas 75229
(214) 352-7333
TX Surveying Firm No. 10033000

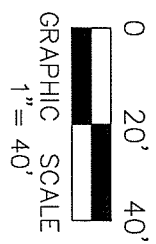
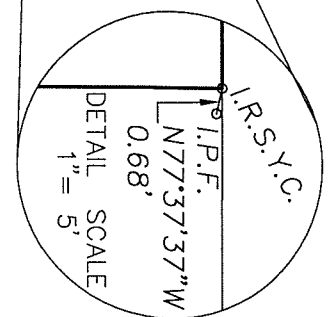
(For SPRG use only)

Reviewed by:

Date:

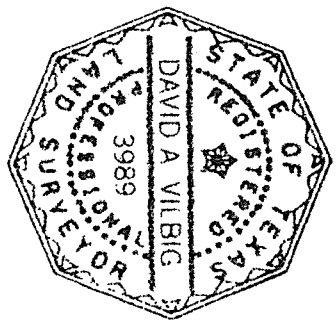
SPRG NO.:

DJF
03.03.2015
3103



PLAN LEGEND

- PROJECT BOUNDARY LINE
- OTHER PROPERTY BOUNDARY
- IRON ROD FOUND
- IRON PIPE FOUND
- 1/2" IRON ROD SET
- YELLOW CAP RPLS # 3989
- O.P.R.D.C.T.
- OFFICIAL PUBLIC RECORDS DALLAS COUNTY TEXAS
- D.R.D.C.T.
- DEED RECORDS DALLAS COUNTY TEXAS
- M.R.D.C.T.
- MAP RECORDS DALLAS COUNTY TEXAS

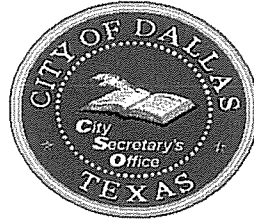


David A. Vilbig
Registered Professional Land Surveyor, No. 3989
DATE: 09 FEB 2015

DRAINAGE EASEMENT

PART OF THE WEST 1/2 OF LOT 10
BLOCK 13/5492 PRESTON ROAD ESTATES
CITY OF DALLAS, DALLAS COUNTY, TEXAS

SCALE: 1"=40'
VAIL No. 1001-1
DATE: 9 FEB 2015



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL MAY 27 2015

ORDINANCE NUMBER 29747

DATE PUBLISHED MAY 30 2015

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Rose C. Liss".