

ORDINANCE NO. 31058

An ordinance providing for the abandonment of a portion of Matilda Street and street corner clip located adjacent to City Block G/5402 in the City of Dallas and County of Dallas, Texas; subject to a reverter; providing for the quitclaim thereof to Lincoln LAG Ltd.; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for barricading; providing for the conveyance of needed land to the City of Dallas; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing for the payment of the publication fee; providing a future effective date for this abandonment; 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 Lincoln LAG Ltd., a Texas limited partnership, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim, subject to a reverter, the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions and reverter herein provided, said portion of Matilda Street and street corner clip are not needed for public use, and same should be abandoned and quitclaimed to **GRANTEE**, as hereinafter stated; and

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

Now, Therefore,

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

SECTION 1. That the tracts of land described in Exhibit A, which is attached hereto and made a part hereof for all purposes, be and the same is abandoned, vacated and closed insofar as the right, title and interest of the public are concerned; subject, however, to the reverter and the conditions and future effective date hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of 1) a **FIVE THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$5,400.00)** processing fee as required under 2-26.2(g)(1) of the Dallas City Code and 2) the sum of **THREE HUNDRED SIXTY-THREE THOUSAND FOUR HUNDRED TWO AND NO/100 DOLLARS (\$363,402.00)** which shall be due, owing and paid by **GRANTEE**, only upon default or nonperformance of Section 11, and the further consideration described in Sections 8, 9, 10, 11, 12 and 14, the City of Dallas does by these presents **QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, future effective date, the reverter, and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all of its right, title and interest in and to the certain tracts of land hereinabove described in Exhibit A. Provided however, that if **GRANTEE**, its successors and assigns, fails to file a final replat of the adjoining properties as required in Section 10 of this ordinance by the earlier of (i) the date applicable pursuant to the requirements of the Dallas Development Code Chapter 51A-8.403(a)(4)(D) which provides in pertinent part, as may be amended:

“(D) Except as provided in this subparagraph, a preliminary plat approved by the commission expires five years after the commission action date approving the plat if no progress has been made toward completion of the project in accordance with Texas Local Government Code Section 245.005. An approved minor plat, amending plat (minor), or an administrative plat expires two years after the commission action date approving the plat or within two years after the date of the subdivision administrator’s action letter approving the administrative plat if no progress has been made toward completion of the project in accordance with Texas Local Government Code Section 245.005”;

or (ii) the date that is the sixth anniversary of the passage of this ordinance; THEN this ordinance and quitclaim shall be rendered null and void and the right, title and easement of the public shall absolutely revert without any necessity for suit or re-entry by the City; and no act or omission on the part of the City, its successors and assigns, shall be a waiver of the operation or enforcement of this ordinance. **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**.

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

SECTION 4. That the Chief Financial Officer is hereby 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, Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund, Fund 0625, Department BMS, Unit 8888, Revenue Code 8416.

SECTION 5. That the abandonment 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, and are further subject to the conditions contained in Exhibit B, which is attached hereto and made a part hereof for all purposes.

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 and quitclaim provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon and vacate.

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 and all 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 areas 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 as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall record a final replat of the tracts of land quitclaimed herein as part of **GRANTEE's** adjoining property within 18 months of the effective date of this ordinance. This final replat shall be recorded by **GRANTEE** in the official real property records of the county in which the abandoned area and the dedicated property are located, after its approval by the City Plan Commission of the City of Dallas. Failure to record a final replat in accordance with the term of this section shall render this ordinance null and void and of no further effect. Further, the final replat shall be recorded in the official real property records of the county in which the abandoned area is located before a certified copy of this ordinance shall be delivered to **GRANTEE**.

SECTION 10. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, the City of Dallas shall retain air rights commencing at 40 feet above ground level beginning at an elevation of 612.1 above mean sea level and extending to an elevation of 652.1 above mean sea level over the abandonment area described in Exhibit A. **GRANTEE** shall be prohibited from building a structure that extends beyond the height of air rights being retained by the City. Failure to comply with the terms of this section shall render this ordinance null and void and no further effect.

SECTION 11. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall:

- (a) Execute a Development Agreement (hereinafter referred to as "Agreement") with the City for the Matilda Trail to construct, maintain a pedestrian trail, hike and bike trail and park improvements pursuant to the instrument substantially in the form described in Exhibit D, attached hereto and made a part hereof for all purposes, approved as to form by the City Attorney and in accordance with the plans and specifications approved by the Director of Dallas Park and Recreation Department.
- (b) Construct and complete the improvements per the Agreement within 24 months from the date of commencement of construction. **GRANTEE** has 18 months from the date of execution of the agreement to commence construction. Failure to complete the pedestrian trail, hike and bike trail and park improvements as required under the Agreement shall reinstate the original abandonment fee of \$363,402.00 which amount shall constitute a lien on tracts of land described in Exhibit A until such time as performance due under the Agreement is completed.
- (c) Obtain approval of plans and specifications from the Director of the Department of Sustainable Development regarding any proposed site lighting improvements within the area described in Exhibit A.

Failure to satisfy the terms in this Section 11 shall render this ordinance null and void and of no further effect.

SECTION 12. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall convey to the City of Dallas a water easement, within 180 days of the effective date of this ordinance, in, under, through, across and along certain properties located in City Blocks G/5402 and 12/5406 as part consideration for the property herein abandoned by the City of Dallas and QUITCLAIMED to **GRANTEE**. Said property to be conveyed shall be acceptable to the Director of Department of Sustainable Development and Construction of the City of Dallas and contain approximately 8,702 square feet of land, a description of which is attached hereto and made a part hereof as Exhibit C. Failure to convey the above described property as set forth shall render this ordinance null and void and of no further effect.

SECTION 13. That at such time as the instrument described in Section 12 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 official real property records of the county in which the subject property is located and the recorded instrument shall be forwarded to the City Secretary for permanent record.

SECTION 14. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, immediately upon the effectiveness of this abandonment, close, barricade and/or place signs in the area described in Exhibit A in accordance with detailed plans approved by the Director of Department of Sustainable Development and Construction. **GRANTEE's** responsibility for keeping the area described in Exhibit A closed, barricaded and/or the signs in place shall continue until the street improvements and intersection returns are removed by **GRANTEE**, its successors and assigns, to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 15. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the official real property records of the county in which the abandonment area is located, 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, and the filing of the final replat set forth

in Section 9, and completion of the dedication set forth in Section 12, the Director of Department of Sustainable Development and Construction, or designee: (i) shall deliver to **GRANTEE** a certified copy of this ordinance, and (ii) is authorized to and shall prepare and deliver a **QUITCLAIM DEED** with regard to the area abandoned herein, subject to a reverter interest, to **GRANTEE** hereunder, same to be executed by the City Manager on behalf of the City of Dallas, attested by the City Secretary and approved as to form by the City Attorney. 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 16. That this ordinance is also designated for City purposes as Contract No. DEV-2016-00000108.

SECTION 17. 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:
CHRISTOPHER J. CASO,
Interim City Attorney

KRIS SWECKARD, Director
Department of Sustainable Development and
Construction

BY: B. M. R. H.
Assistant City Attorney

BY: Lanita Williams
SR Assistant Director

Passed DEC 12 2018.

EXHIBIT A-TRACT 1

31058

STREET EASEMENT ABANDONMENT
MATILDA STREET

181782

ADJACENT TO BLOCK G/5402

WILLIAM P. CARDER SURVEY, ABSTRACT NO. 282
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 17,162 square feet (0.394 acre) tract of land situated in the William P. Carder Survey, Abstract No. 282, City of Dallas, Dallas County, Texas, and being a portion of a Street Easement, called Matilda Street, as created in Volume 5149, Page 0314 of the Deed Records of Dallas County, Texas (D.R.D.C.T.) located between the east line of Lot 1A, Block G/5402 of Lincoln L.A.G., an Addition to the City of Dallas, Texas, according to the Map or Plat thereof recorded in Volume 2002023, Page 00035, D.R.D.C.T. and a tract of land conveyed to Dallas Power & Light Company as recorded in Volume 3188, Page 0618, D.R.D.C.T., and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch "RLG" capped iron rod found for an inner ell corner of said Lot 1A, Block G/5402, same being the southeast corner of a called 4.4957 acre tract of land conveyed to Lincoln LAG, Ltd. as evidenced in a Special Warranty Deed recorded in Volume 2002019, Page 00046, D.R.D.C.T, the northeast corner of a called "Tract 1" (2.457 acres) conveyed to Lincoln LAG, Ltd., as evidenced in a Special Warranty Deed with Vendor's Lien recorded in Instrument Number 201400120831 of the Official Public Records of Dallas County, Texas, and the northwest corner of a portion of Matilda Street as described in an Abandonment, with easements retained, by City of Dallas Ordinance No. 24702, also being the northwest corner of a called "Tract 2" (0.263 acre) of the aforementioned deed recorded in Instrument Number 201400120831, said iron rod also being on the west right-of-way line of Matilda Street as described in said Volume 5149, Page 0314;

THENCE North 00°02'20" West, along the east line of said Lot 1A, Block G/5402 and the west right-of-way line of said Matilda Street, passing at a distance of 425.10 feet, a 1/2-inch "RLG" capped iron rod found for the southerly corner of a 10' x 10' corner clip right-of-way dedication as depicted on said Lincoln L.A.G. addition, continuing along the east line of said corner clip right-of-way dedication for a total distance of 435.10 feet to an "X" cut set for the northeast corner of said corner clip right-of-way dedication, same being on the south right-of-way line of Lovers Lane (a 100' wide public right-of-way);

THENCE South 89°16'00" East, departing the northeast corner of said corner clip right-of-way dedication, along the extension of the north line of said Lot 1A and crossing said Matilda Street, a distance of 40.00 feet to an "X" cut set for corner on the east line of said Matilda Street, from said corner, a found "X" cut bears North 05°25' West, 1.50 feet, said corner also being on the west line of aforesaid Dallas Power & Light Company tract;

THENCE South 00°06'28" West, along the east right-of-way line of said Matilda Street and the west line of said Dallas Power & Light Company tract, a distance of 435.10 feet to an "X" cut set for corner same being the northeast corner of the Matilda Street Abandonment as described in said City Ordinance No. 24702, from said corner, a found "X" cut bears North 02°57' East, 1.45 feet;

THENCE North 89°15'00" West, along the northerly line of said Lot 1A, Block G/5402, the north line of said "Tract 2" and the north line of said Matilda Street Abandonment, a distance of 38.89 feet to the **POINT OF BEGINNING** and containing 17,162 square feet (0.394 of an acre) of land, more or less.

NOTE:

Bearing system of this survey is based on the monumented east line of Lot 1A, Block G/5402, Lincoln L.A.G. addition, recorded in Volume 2002023, Page 00035, Deed Records, Dallas County, Texas, said bearing being South 00°02'20" East.



(for SPRG use only)
Reviewed By: [Signature]
Date: 01.13.2015
SPRG NO: 3152

Kimley»»Horn
5750 Genesis Court, Suite 200 Frisco, Texas 75034 Firm No. 10193822 Tel. No. (972) 335-3580 Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
NONE	MBM	DAB	09/29/2014	063319026	1 OF 2

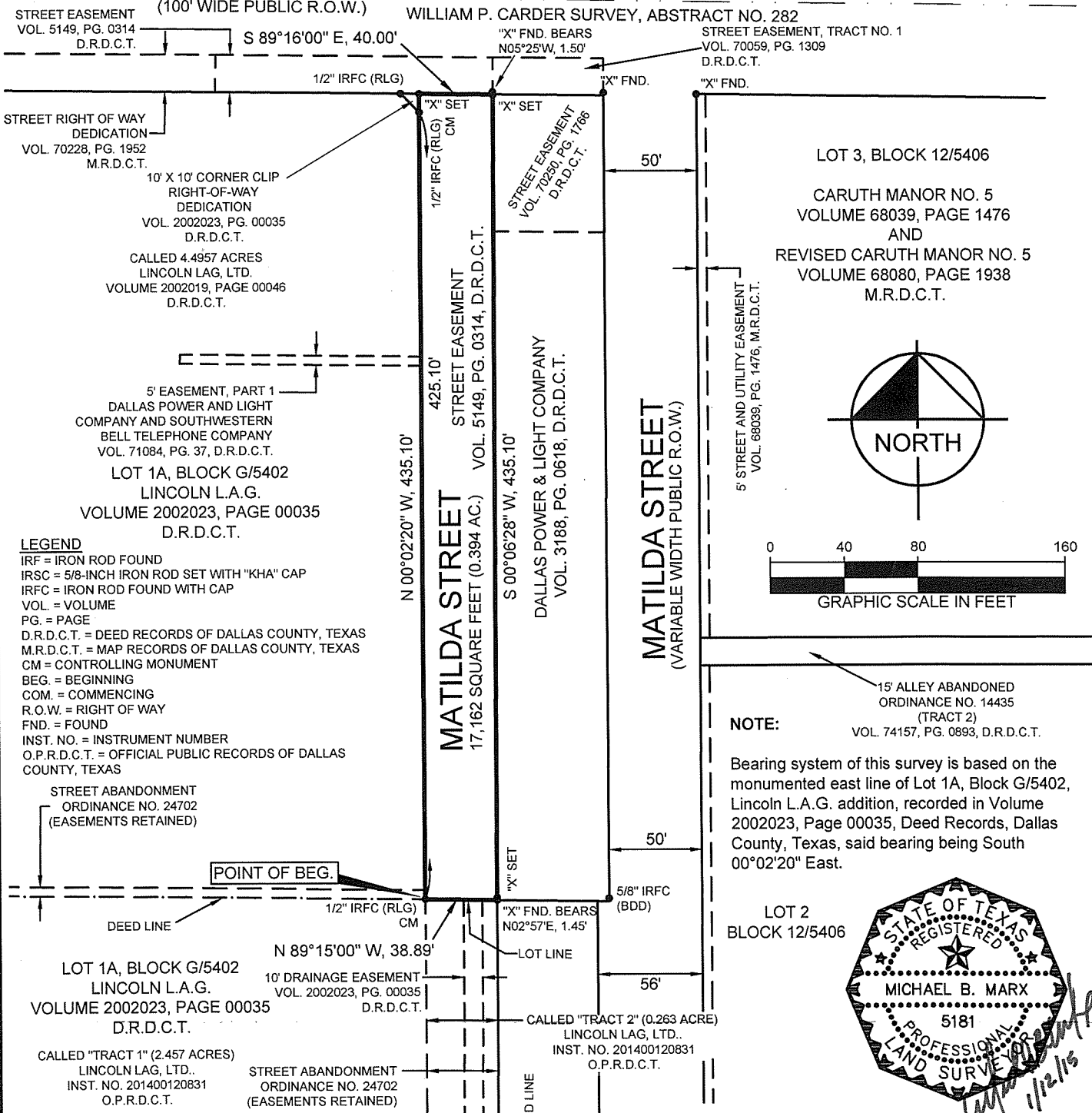
31058 STREET EASEMENT ABANDONMENT

181782

MATILDA STREET
ADJACENT TO BLOCK G/5402
WILLIAM P. CARDER SURVEY, ABSTRACT NO. 282
CITY OF DALLAS, DALLAS COUNTY, TEXAS

LOVERS LANE

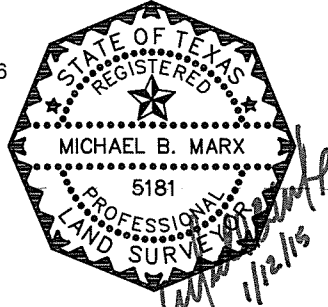
JOHN C. COOK SURVEY, ABSTRACT NO. 259



LEGEND
 IRF = IRON ROD FOUND
 IRSC = 5/8-INCH IRON ROD SET WITH "KHA" CAP
 IRFC = IRON ROD FOUND WITH CAP
 VOL. = VOLUME
 PG. = PAGE
 D.R.D.C.T. = DEED RECORDS OF DALLAS COUNTY, TEXAS
 M.R.D.C.T. = MAP RECORDS OF DALLAS COUNTY, TEXAS
 CM = CONTROLLING MONUMENT
 BEG. = BEGINNING
 COM. = COMMENCING
 R.O.W. = RIGHT OF WAY
 FND. = FOUND
 INST. NO. = INSTRUMENT NUMBER
 O.P.R.D.C.T. = OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS

NOTE:
 15' ALLEY ABANDONED
 ORDINANCE NO. 14435
 (TRACT 2)
 VOL. 74157, PG. 0893, D.R.D.C.T.

Bearing system of this survey is based on the monumented east line of Lot 1A, Block G/5402, Lincoln L.A.G. addition, recorded in Volume 2002023, Page 00035, Deed Records, Dallas County, Texas, said bearing being South 00°02'20" East.



(for SPRG use only)
 Reviewed By: *[Signature]*
 Date: 01.13.2015
 SPRG NO: 3152

Kimley»Horn
 5750 Genesis Court, Suite 200
 Frisco, Texas 75034 Firm No. 10193822 Tel. No. (972) 335-3580 Fax No. (972) 335-3779

Scale 1" = 80'	Drawn by MBM	Checked by DAB	Date 09/29/2014	Project No. 063319026	Sheet No. 2 OF 2
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STREET RIGHT-OF-WAY ABANDONMENT
 MATILDA STREET
 ADJACENT TO BLOCK G/5402
 W. P. CARDER SURVEY, ABSTRACT 282
 CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 50 square feet (0.001 acre) tract of land situated in the William P. Carder Survey, Abstract No. 282, City of Dallas, Dallas County, Texas, and being all of a 10' X 10' Cornerclip Right-of-Way dedication as depicted on the final plat of Lot 1A, Block G/5402 of Lincoln L.A.G. Addition, an Addition to the City of Dallas, Texas, according to the Map or Plat thereof recorded in Volume 2002023, Page 0035, Deed Records of Dallas County, Texas (D.R.D.C.T.), and formerly being a portion of a called 4.4957 acre tract of land, conveyed to Lincoln LAG, Ltd. as evidenced in a Special Warranty Deed recorded in Volume 2002019, Page 0046, D.R.D.C.T, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch "RLG" capped iron rod found for the most northerly, northeast corner of said Lot 1A, same being the northwest corner of said 10' x 10' Cornerclip Right-of-Way dedication, said corner also being on the north line of said 4.4957 acre tract and the south right-of-way line of Lovers Lane, a variable width right-of-way, as described in a Street Easement recorded in Volume 5149, Page 0314, D.R.D.C.T.;

THENCE South 89°16'00" East, along the north line of said 10' x 10' Cornerclip Right-of-Way dedication, the former north line of said 4.4957 acre tract and the south right-of-way line of said Lovers Lane, a distance of 10.00 feet to an "X" cut set for the northeast corner of said 10' x 10' Cornerclip Right-of-Way dedication and said 4.4957 acre tract, same being the intersection of the south right-of-way line of said Lovers Lane with the west right-of-way line of Matilda Street, a variable width right-of-way, as described in said Volume 5149, Page 0314;

THENCE South 00°02'20" East, along the east line of said 10' x 10' Cornerclip Right-of-Way dedication, the former east line of said 4.4957 acre tract and the west right-of-way line of said Matilda Street, a distance of 10.00 feet to a 1/2-inch "RLG" capped iron rod found for the southeast corner of said 10' x 10' Cornerclip Right-of-Way dedication, same being the most easterly, northeast corner of aforesaid Lot 1A;

THENCE North 44°39'10" West, departing the west line of said Matilda Street and the east line of said 4.4957 acre tract, along the southwest line of said 10' x 10' Cornerclip Right-of-Way dedication and along the easterly line of said Lot 1A, a distance of 14.24 feet to the **POINT OF BEGINNING** and containing 50 square feet (0.001 of an acre) of land, more or less.



NOTE:

Bearing system of this survey is based on the monumented east line of Lot 1A, Block G/5402, Lincoln L.A.G. Addition, recorded in Volume 2002023, Page 0035, Deed Records, Dallas County, Texas, said bearing being South 00°02'20" East.

(for SPRG use only)

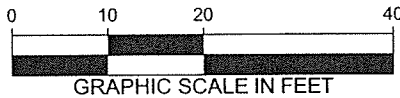
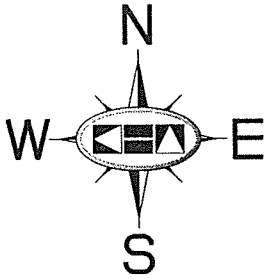
Reviewed By: *MBM*

Date: 06.03.2010

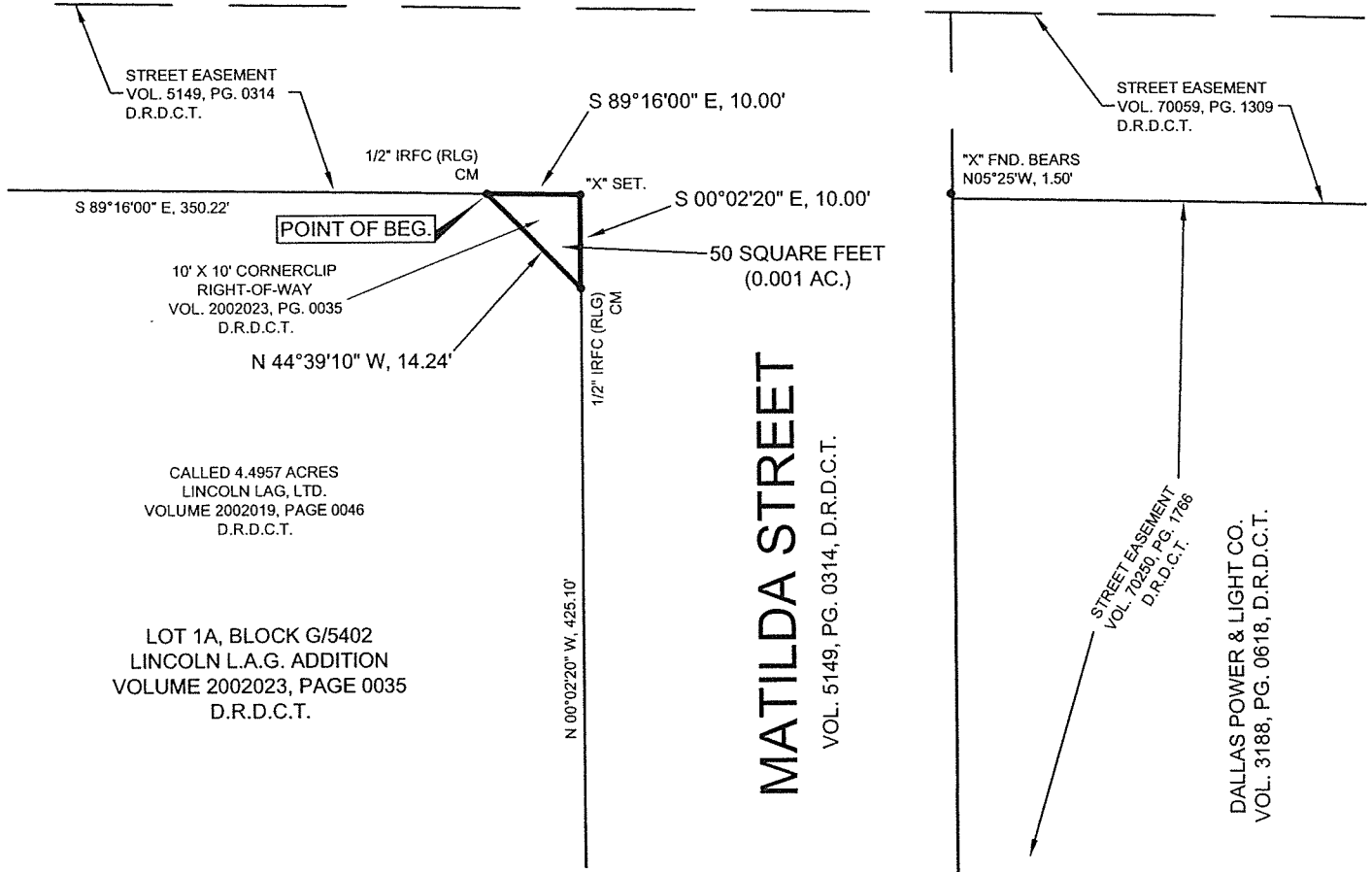
SPRG NO: 1888

<p>Kimley-Horn and Associates, Inc.</p> <p>12700 Park Central Drive, Suite 1800 Dallas, Texas 75251</p> <p>Tel. No. (972) 770-1300 Fax No. (972) 239-3820</p>		<p>Scale</p> <p>NONE</p>		<p>Drawn by</p> <p>MBM</p>		<p>Checked by</p> <p>DAB</p>		<p>Date</p> <p>03/17/2010</p>		<p>Project No.</p> <p>063319026</p>		<p>Sheet No.</p> <p>1 OF 2</p>	
		<p>PLOTTED BY MARX, MICHAEL 6/3/2010 10:27 AM DWG NAME K:\DAL_SURVEY\63319026-LINCOLN LOVERS_LDD63319026\DWG\LINCOLN LAG MATILDA ABANDONMENT.DWG</p>											

STREET RIGHT-OF-WAY ABANDONMENT
 MATILDA STREET
 ADJACENT TO BLOCK G/5402
 W. P. CARDER SURVEY, ABSTRACT 282
 CITY OF DALLAS, DALLAS COUNTY, TEXAS



(VARIABLE WIDTH R.O.W.)
LOVERS LANE



CALLED 4.4957 ACRES
 LINCOLN LAG, LTD.
 VOLUME 2002019, PAGE 0046
 D.R.D.C.T.

LOT 1A, BLOCK G/5402
 LINCOLN L.A.G. ADDITION
 VOLUME 2002023, PAGE 0035
 D.R.D.C.T.

LEGEND
 IRF = IRON ROD FOUND
 IRSC = 5/8-INCH IRON ROD SET WITH "KHA" CAP
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 ESMT. = EASEMENT
 VOL. = VOLUME
 PG. = PAGE
 D.R.D.C.T. = DEED RECORDS OF DALLAS COUNTY, TEXAS
 C.M. = CONTROLLING MONUMENT



NOTE:
 Bearing system of this survey is based on the monumented east line of Lot 1A, Block G/5402, Lincoln L.A.G. Addition, recorded in Volume 2002023, Page 0035, Deed Records, Dallas County, Texas, said bearing being South 00°02'20" East.

(for SPRG use only)
 Reviewed By: *[Signature]*
 Date: 06.03.2010
 SPRG NO: 1888

Kimley-Horn and Associates, Inc.
 12700 Park Central Drive, Suite 1800
 Dallas, Texas 75251
 Tel. No. (972) 770-1300
 Fax No. (972) 239-3820

Scale 1" = 20'	Drawn by MBM	Checked by DAB	Date 03/17/2010	Project No. 063319026	Sheet No. 2 OF 2
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EXHIBIT B

ADDITIONAL ABANDONMENT PROVISIONS

That as a condition hereof, this abandonment is subject to any utilities or communication facilities, including without limitation water and wastewater lines, gas lines, and storm sewers, ("Facilities") presently located within the abandoned area described in Exhibit "A", owned and/or operated by the City of Dallas or any utility or communications company, public or private, ("Utility") and to the rights of any Utility for the use of the abandoned area for its Facilities. It is the intent of the foregoing to confirm and maintain and there is hereby reserved and excepted unto the City of Dallas, and not abandoned or conveyed hereunder, an easement (to which this abandonment is made expressly subject) over, upon, under, through, in, and across the abandoned area for each Utility for its respective Facilities located therein at the time of this abandonment, together with the right to make any subsequent alterations, additions, expansions, upgrades or modifications to such Facilities as may, from time to time be deemed necessary or convenient by the Utility owning and/or operating same. No buildings, structures (above or below ground) or trees shall be constructed or placed within the abandoned area without written consent of each affected Utility. Each Utility shall have the full right to remove and keep removed all or part of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance or efficiency of its respective Facilities lying within the abandoned area and shall at all times have the full right of ingress and egress to or from and upon the abandoned area for the purposes of reconstructing, removing, relocating, inspecting, patrolling, maintaining, expanding, upgrading, and/or adding to all or part of its Facilities without the necessity at any time of procuring the permission of anyone. The easement reserved hereunder and the conditions and restrictions to which this abandonment is subject shall remain for the benefit of the applicable Utility and/or operators of the Facilities until said Facilities are removed and relocated from the abandoned area. The relocation, removal or adjustment of any or all such Facilities, if made necessary by GRANTEE'S (whether one or more natural persons or legal entities) use of the abandonment area, shall be at the expense of GRANTEE herein, or GRANTEE'S successors and assigns. Should GRANTEE'S relocation or removal of the Facilities require the obtaining of new easements, the acquisition of same shall be at the expense of GRANTEE, GRANTEE'S successors and assigns. If any of the Facilities (or relocations thereof) are allowed to remain on any part of the abandoned area, the easements and buildings restrictions provided herein shall remain thereon. Upon removal or relocation of all of the Facilities, any easements reserved or created herein relating to such removed or relocated Facilities shall terminate, and any building restrictions herein created shall cease.

31058

Exhibit C
181782

20' WATER EASEMENT
MATILDA STREET
BETWEEN BLOCK G/5402 AND BLOCK 12/5406
W.P. CARDER SURVEY, ABSTRACT NO. 282
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being a 8,702 square foot (0.1998 acres) tract of land situated in the W. P. Carder Survey, Abstract No. 282, City of Dallas, Dallas County, Texas, being part of Matilda Street, a variable width street easement conveyed to the City of Dallas by deed recorded in Volume 5149, Page 314, Deed Records, Dallas County, Texas, between block G/5402 and Block 12/5406, and being more particularly described as follows:

COMMENCING at a 1/2" iron rod with yellow plastic cap stamped "RLG INC" found for the northeast interior ell corner of Lot 1A, Block G/5402, Lincoln L.A.G. Addition, an addition to the City of Dallas according to the plat recorded in Volume 2002023, Page 35, Deed Records, Dallas County, Texas, said rod being the southwest corner of said Matilda Street (street easement), the southeast corner of a 4.4957 acre tract of land conveyed to Lincoln LAG, Ltd. by Special Warranty Deed recorded in Volume 2002019, Page 46, Deed Records, Dallas County, Texas, the northeast corner of Tract 1 and the northwest corner of Tract 2 as conveyed to Lincoln LAG, Ltd. by Special Warranty Deed recorded in Instrument No. 201400120831, Official Public Records, Dallas County, Texas;

THENCE North 00° 02' 20" West, along the east line of said Lot 1A and the west line of said Matilda Street (street easement), passing at a distance of 425.10 feet a 1/2" iron rod with yellow plastic cap stamped "RLG INC" found for the southerly northeast corner said Lot 1A and the south corner of a right-of-way dedication recorded in Volume 2002023, Page 35, Deed Records, Dallas County, Texas, continuing along the east line of said right-of-way dedication a total distance of 435.10 feet to a MAG nail found for the northeast corner of said right-of-way dedication at the ell corner of said street easement;

THENCE South 89° 16' 00" East, along the eastward projection of the north line of said Lot 1A and the south line of said street easement, a distance of 20.00' to a chiseled "X" in concrete set for corner, said corner being the **POINT OF BEGINNING**;

THENCE South 89° 16' 00" East, continuing along the eastward projection of the north line of said Lot 1A and the south line of said street easement for a total distance of 20.00' to a chiseled "X" in concrete set on the east line of said street easement and the west line of a tract of land (Tract 2) conveyed to Dallas Power & Light by deed recorded in Volume 3188, Page 618, Deed Records, Dallas County, Texas, being the northwest corner of a street easement recorded in Volume 70250, page 1766, Deed Records, Dallas County, Texas and the southwest corner of a street easement recorded in Volume 70059, page 1309, Deed Records, Dallas County, Texas;

THENCE South 00° 06' 08" West, along the west line of said Dallas Power & Light tract and the east line of said Matilda Street (street easement), a distance of 435.09 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner at the southeast corner of said Matilda Street (street easement) and in a north line of said Lot 1A, from which a PK nail found for the most easterly northeast corner of said Lot 1A bears South 89° 15' 00" East, a distance of 54.00 feet;

(For SPRG use only)	
Reviewed By:	<u>G.S.</u>
Date:	<u>11-2-18</u>
SPRG NO.:	<u>4670</u>

31058

Exhibit C


181782

20' WATER EASEMENT
MATILDA STREET
BETWEEN BLOCK G/5402 AND BLOCK 12/5406
W.P. CARDER SURVEY, ABSTRACT NO. 282
CITY OF DALLAS, DALLAS COUNTY, TEXAS

THENCE North 89° 15' 00" West, along the north line of said Lot 1A and the south terminus of said Matilda Street (street easement), a distance of 20.00 feet to a chiseled "X" in concrete set for corner;

THENCE North 00°06'08" East, departing the north line of said Lot 1A and the south terminus said Matilda Street (street easement) a distance of 435.09 feet to the **POINT OF BEGINNING** and containing 8,702 square feet or 0.1998 acres, more or less.

Basis of Bearings: The east line of said Lot 1A, Block G/5402, Lincoln L.A.G. Addition (S 00° 02' 20" E) as shown on plat of Lot 1A, Block G/5402, Lincoln L.A.G. Addition, recorded in Volume 2002023, Page 35, Deed Records, Dallas County, Texas.


Dale R. White R.P.L.S. No. 4762
10/04/2018



(For SPRG use only)
Reviewed By: G.S.
Date: 11-2-18
SPRG NO.: 4670

LOT 1A, BLOCK G/5402
LINCOLN L.A.G. ADDITION
VOL. 2002023, PG. 35
D.R.D.C.T.

LINCOLN LAG, LTD.
VOL. 2002019, PG. 46
D.R.D.C.T.
(4.4957 ACRES)

WATER EASEMENT
8,702 SQ. FT.
0.1998 ACRES

ABANDONED UTILITY
EASEMENT
ORDINANCE NO. 30627
INST. NO. 201700275182
O.P.R.D.C.T.

LINCOLN LAG, LTD.
TRACT 1
INST. NO. 201400120831
O.P.R.D.C.T.

LOT 1A, BLOCK G/5402
LINCOLN L.A.G. ADDITION
VOL. 2002023, PG. 35
D.R.D.C.T.

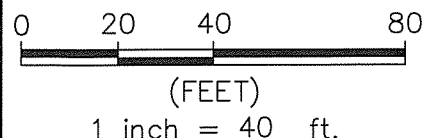
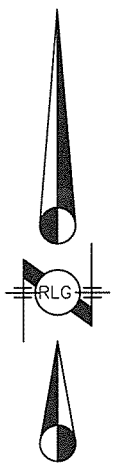
RETAINED
UTILITY EASEMENT
ORDINANCE NO. 24702

425.10'
N00°02'20"W
(BASIS OF BEARINGS)
435.10'
435.09'
MATILDA STREET
(VARIABLE WIDTH STREET EASEMENT) N00°06'08"E
VOL. 5149, PG. 314, D.R.D.C.T.

435.09'
500°06'08"W
DALLAS POWER & LIGHT CO.
TRACT 2
VOL. 3188, PG. 618
D.R.D.C.T.

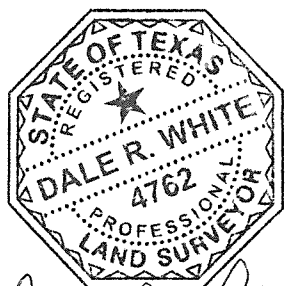
50.0'
W. P. CARDER SURVEY, ABSTRACT 282
N89°15'00"W
20.00'
N89°15'00"W
6.00'
60.00'
589°15'00"E
54.00'
6' RIGHT-OF-WAY DEDICATION
VOL. 2002019, PG. 46
D.R.D.C.T.
MATILDA STREET
(56' RIGHT-OF-WAY)
VOL. 68039, PG. 1476
VOL. 68080, PG. 1938
D.R.D.C.T.
56.0'

LOT 2A, BLOCK 12/5406
LOVERS TRADITION PHASE 2
INST. NO. 201500180889
O.P.R.D.C.T.



LEGEND

- WATER EASEMENT LINE
- PLAT LINE
- DEED LINE
- EASEMENT LINE
- YCIRS 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RLG INC" SET
- IRF IRON ROD FOUND
- MNF MAG NAIL FOUND
- CMS / CMF CHISELED "X" SET / FOUND
- PKS / PKF PK NAIL SET / FOUND
- (CM) CONTROLLING MONUMENT
- D.R.D.C.T. DEED RECORDS, DALLAS COUNTY, TX
- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TX
- INST. NO. INSTRUMENT NUMBER
- VOL. VOLUME
- PG. PAGE
- P.O.C. POINT OF COMMENCING
- P.O.B. POINT OF BEGINNING
- MNS MAG NAIL WITH WASHER STAMPED "RLG INC" SET
- SQ. FT. SQUARE FEET



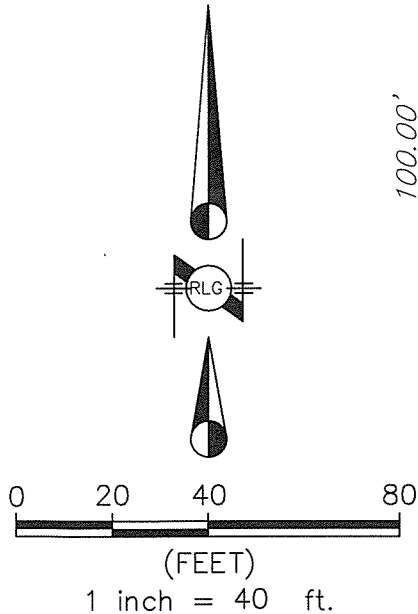
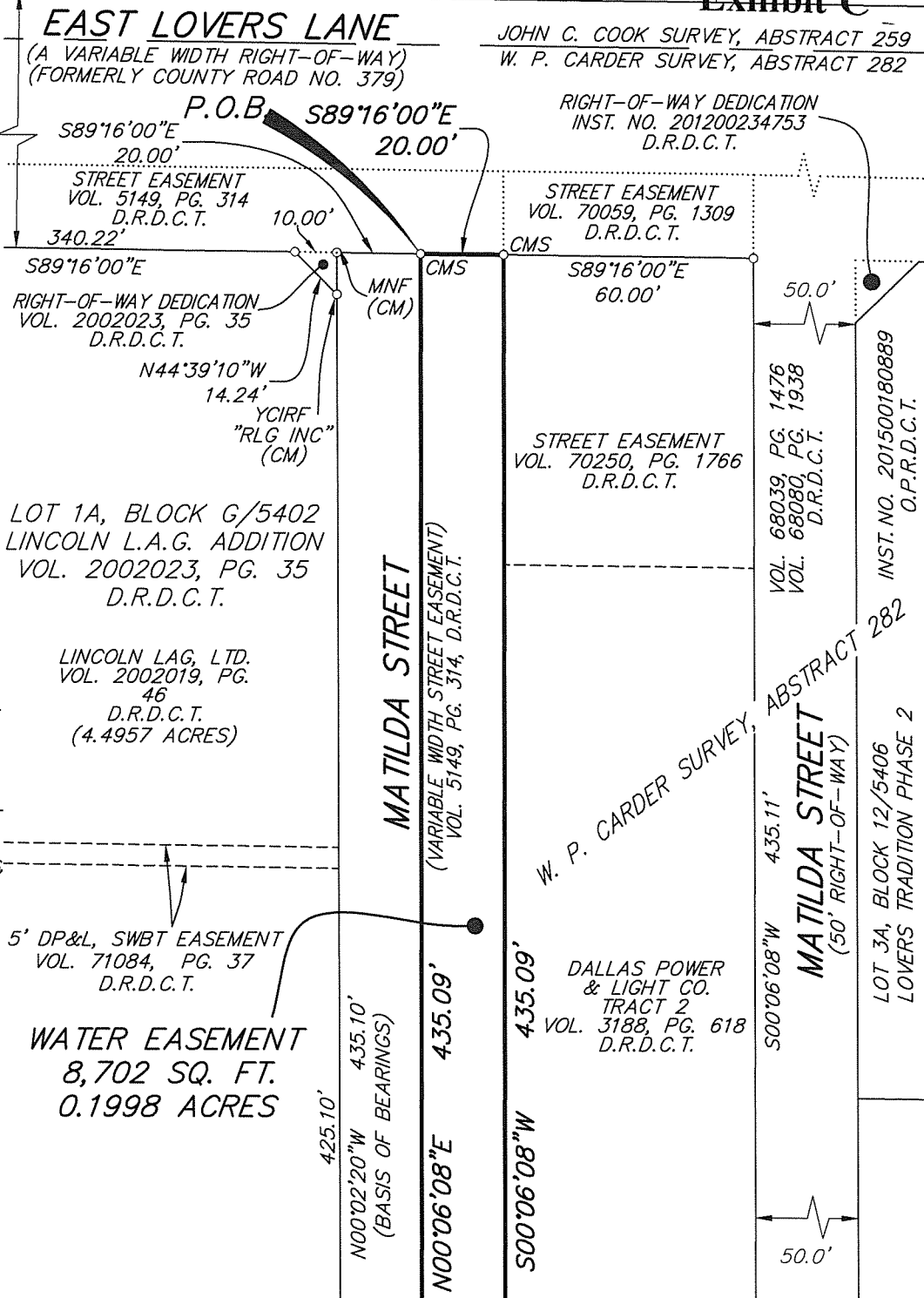
Dale R. White
Dale R. White R.P.L.S. No. 4762
10/04/2018

RAYMOND L. GOODSON JR., INC.
12001 N. CENTRAL EXPY, STE 300
DALLAS, TX. 75243
214-739-8100
rlg@rlginc.com
TEXAS PE REG #F-493
TBPLS REG #100341-00

**20' WATER EASEMENT
MATILDA STREET
BETWEEN BLOCK G/5402 & BLOCK 12/5406
W. P. CARDER SURVEY, ABSTRACT NO. 282
CITY OF DALLAS, DALLAS COUNTY, TEXAS**

(For SPRG use only)
Reviewed By: G.S.
Date: 11-2-18
SPRG NO.: 4670

SCALE	1" = 40'	DATE	10/04/2018	SHEET	3 OF 4
JOB NO.	1711.049.002	E-FILE	1711.049.002ex	DWG NO.	26,792X



LEGEND

- WATER EASEMENT LINE
- PLAT LINE
- DEED LINE
- EASEMENT LINE
- YCI RS 1/2" IRON ROD WITH YELLOW PLASTIC CAP
- IRF IRON ROD FOUND
- MNF MAG NAIL FOUND
- CMS / CMF CHISELED "X" SET / FOUND
- PKS / PKF PK NAIL SET / FOUND (CM)
- D.R.D.C.T. DEED RECORDS, DALLAS COUNTY, TX
- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TX
- INST. NO. INSTRUMENT NUMBER
- VOL. VOLUME
- PG. PAGE
- P.O.C. POINT OF COMMENCING
- P.O.B. POINT OF BEGINNING
- MNS MAG NAIL WITH WASHER STAMPED "RLG INC" SET
- SQ. FT. SQUARE FEET

LOT 1A, BLOCK G/5402
LINCOLN L.A.G. ADDITION
VOL. 2002023, PG. 35
D.R.D.C.T.

LINCOLN LAG, LTD.
VOL. 2002019, PG. 46
D.R.D.C.T.
(4.4957 ACRES)

5' DP&L, SWBT EASEMENT
VOL. 71084, PG. 37
D.R.D.C.T.

WATER EASEMENT
8,702 SQ. FT.
0.1998 ACRES

Basis of Bearings: The east line of said Lot 1A, Block G/5402, Lincoln L.A.G. Addition (S 00° 02' 20" E) as shown on plat recorded in Volume 2002023, Page 35, Deed Records, Dallas County, Texas.

Controlling Monuments: As shown.

RAYMOND L. GOODSON JR., INC.
12001 N. CENTRAL EXPY, STE 300
DALLAS, TX. 75243
214-739-8100
rlg@rlginc.com
TEXAS PE REG #F-493
TBPLS REG #100341-00

**20' WATER EASEMENT
MATILDA STREET
BETWEEN BLOCK G/5402 & BLOCK 12/5406
W. P. CARDER SURVEY, ABSTRACT NO. 282
CITY OF DALLAS, DALLAS COUNTY, TEXAS**

(For SPRG use only)
Reviewed By: G.S.
Date: 11-2-18
SPRG NO.: 4670

SCALE	1" = 40'	DATE	10/04/2018	SHEET	4 OF 4
JOB NO.	1711.049.002	E-FILE	1711.049.002ex	DWG NO.	26,792X

MATCH LINE - SHEET 3 OF 4

EXHIBIT D

This Agreement (“*Agreement*”) for the construction, development, and maintenance of a sidewalk, hike and bike trail, and other landscape improvements, is entered into this _____ day of _____, 2018, between the CITY OF DALLAS, a Texas municipal corporation (“*City*”), acting by and through its PARK AND RECREATION BOARD (“*Board*”), Lincoln LAG Ltd., a Texas corporation (“*Lincoln*”), and HEB Grocery Company, LP, a Texas limited partnership (“*HEB*”) (the City, Lincoln and HEB sometimes each individually referred to herein as a “*Party*” and collectively as the “*Parties*”).

WHEREAS, Lincoln is owner of certain property as shown on the attached Exhibit A (the “*Lincoln Property*”) that is located adjacent to Matilda Street;

WHEREAS, Oncor Electrical Delivery Company LLC (“*Oncor*”) is owner of certain property as shown on the attached Exhibit A (the “*Oncor Property*”) that is also located adjacent to Matilda Street;

WHEREAS, a portion of Matilda Street as shown on the attached Exhibit A (the “*Abandoned ROW*”) has been abandoned by the City, acting in its municipal capacity, pursuant to Ordinance No. _____ (the “*Abandonment Ordinance*”), thereby vesting ownership, control and use of such Abandoned ROW in Lincoln as the owner of the Abandoned ROW underlying fee subject to the limitations set forth in the Abandonment Ordinance; and

WHEREAS, the Ordinance requires that Lincoln grant a hike and bike trail easement on the Abandoned ROW and further construct or cause to be constructed a sidewalk, hike and bike trail, and other landscape improvements (collectively, the “*Trail Improvements*”) on the Premises, as hereinafter defined, as consideration for the waiver of the abandoned fee that would otherwise be charged for the Abandoned ROW;

WHEREAS, the Trail Improvements will be located partially within an area as shown on the attached **Exhibit A** (collectively, the “*Premises*”) comprised of a portion of the Oncor Property and a portion of the Abandoned ROW;

WHEREAS, concurrent with this Agreement, Oncor has granted a license agreement to the City of Dallas (the “*Oncor License*”) permitting the use of the portion of the Premises located on the Oncor Property for development and use of the Trail Improvements; and

WHEREAS, concurrent with this Agreement, Lincoln has dedicated to the City (and HEB has approved) an easement permitting the use of the portion of the Premises on the Lincoln Property for the Trail Improvements; and

WHEREAS, HEB has a current leasehold interest in the Lincoln Property and currently operates a grocery store thereon;

WHEREAS, it is the desire of Lincoln that HEB undertake its obligations set forth under the Abandonment Ordinance; and

31058

181782

EXHIBIT D

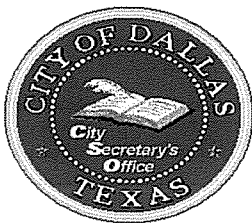
WHEREAS, HEB is willing to undertake Lincoln's obligations under the Abandonment Ordinance for so long as HEB maintains its leasehold interest on Lincoln's Property; and

WHEREAS, City accepts HEB's commitment to perform the obligations under the Abandonment Ordinance on behalf of Lincoln; and

WHEREAS, for purposes of this Agreement whenever Lincoln is mentioned, the obligations shall include HEB as the performing party; and

WHEREAS, HEB has agreed to design and construct the Trail Improvements on the Premises (the design and construction of the Trail Improvements sometimes referred to herein as the "*Project*") at its sole cost and expense on behalf of Lincoln and in consideration for the waiver of the fee that would otherwise be charged for the Abandoned ROW;

NOW, THEREFORE, the Parties, in consideration of the mutual covenants, terms and conditions contained in this Agreement, and for other good and valuable consideration, do hereby agree as follows:



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 DEC 12 2018

ORDINANCE NUMBER 31058

DATE PUBLISHED DEC 15 2018

ATTESTED BY: