

**ORDINANCE NO. \_\_\_\_\_**

An ordinance granting a private license to NTHP Manderville, Inc. to occupy, maintain and utilize a portion of Manderville Lane right-of-way located near the intersection of Manderville Lane and Blair Road adjacent to City Block B/6136 within the limits hereinafter more fully described, for the purpose of occupying, maintaining and utilizing an electrical conduit, thirteen trees, seven light fixtures, five benches and landscape and irrigation; providing for the terms and conditions of this license; providing for the annual and one-time fee compensation to be paid to the City of Dallas; providing for payment of the publication fee; and providing an effective date of this license and ordinance.

ooo0ooo

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

**SECTION 1.** That a private license, hereinafter referred to as "license", subject to the restrictions and conditions of this ordinance, is hereby granted to NTHP Manderville, Inc., a Texas non-profit corporation, its successors and assigns, hereinafter referred to as "**GRANTEE**", to occupy, maintain and utilize for the purpose set out hereinbelow the tract of land described in Exhibit A, hereinafter referred to as "licensed area" which is attached hereto and made a part hereof.

**SECTION 2.** That this license is granted for a term of forty (40) years, unless sooner terminated according to other terms and provisions herein contained.

**SECTION 3.** That **GRANTEE** shall pay to the City of Dallas the sum of **NINE THOUSAND NINE HUNDRED THIRTY-NINE AND NO/100 DOLLARS (\$9,939.00)** annually for the license herein granted for the electrical conduit, said sum to become due and payable on the 2<sup>nd</sup> day of January each year, in advance, during the term hereof; provided, however, that the first payment due hereunder in the sum of **NINE THOUSAND NINE HUNDRED THIRTY-NINE AND NO/100 DOLLARS (\$9,939.00)** shall be paid prior to the final passage of this ordinance and shall cover the consideration for 2023. In addition, in accordance with the special fees established by Section 43-115.1 of the Dallas City Code, **GRANTEE** shall pay to the City of Dallas a one-time license fee in the sum of **FOUR HUNDRED AND NO/100 DOLLARS (\$400.00)**, for the license herein granted for thirteen trees, seven light fixtures, five benches and landscape and irrigation, said sum to be paid prior to the final

**SECTION 3.** (continued)

passage of this ordinance and shall cover the total consideration for said purpose during the license term. Such annual and one-time fee consideration, collectively, shall be in addition to and exclusive of any other taxes or special assessments required by law to be paid by **GRANTEE**. Should **GRANTEE** fail to pay the above stated annual fee within sixty (60) days of the due date, the Director of Department of Public Works may terminate this license. All sums payable to the City of Dallas hereunder shall be paid to the Chief Financial Officer of the City of Dallas and deposited in General Fund, Fund 0001, Department PBW, Unit 1181, Revenue Code 8200. In the event **GRANTEE's** check for the license fee is dishonored, **GRANTEE** shall pay to the City a processing fee of \$25.00 for each dishonored check. Additionally, all monies owed to the City under this license shall be subject to the assessment of interest at a rate of 10 percent a year from the day after any monies become due until it is paid in full, in accordance with Section 2-1.1 of the Dallas City Code.

**SECTION 4.** That the licensed area shall be used by **GRANTEE** for the following purpose under the direction of the Director of Department of Public Works of the City of Dallas: occupying, maintaining and utilizing an electrical conduit, thirteen trees, seven light fixtures, five benches and landscape and irrigation.

**SECTION 5.** That this license is subject to the provisions set forth in EXHIBIT B, attached hereto and made a part hereof.

**SECTION 6.** That this license is nonexclusive and is made expressly subject and subordinate to the right of the City to use the licensed area for any public purpose. The Governing Body of the City of Dallas reserves the right by Resolution duly passed by said Governing Body, to terminate and cancel this license upon giving **GRANTEE** sixty (60) days notice of its intent to cancel. Upon termination, all rights granted hereunder shall thereupon be considered fully terminated and cancelled and the City of Dallas shall not be held liable by reason thereof. Said Resolution shall be final and shall not be subject to review by the Courts. **GRANTEE** shall have the right of cancellation upon giving the City of Dallas sixty (60) days written notice of its intention to cancel, and in either event upon the termination or cancellation by the City or **GRANTEE**, as the case may be, this license shall become null and void and **GRANTEE** or anyone claiming any rights under this instrument shall remove, to the extent required by the Director of Department of Public

**SECTION 6.** (continued)

Works, any improvements and encroachments from the licensed area at **GRANTEE's** expense. Failure to do so shall subject **GRANTEE** to the provisions contained in EXHIBIT B, Subsection (a). All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Public Works.

**SECTION 7.** That the license is subject to the following conditions, terms and reservations:

- (a) **GRANTEE** shall maintain a minimum of six feet of unobstructed sidewalk.
- (b) **GRANTEE** shall obtain a Right-of-Way Permit prior to any work performed within the right-of-way.
- (c) **GRANTEE** shall provide detailed design plans that must be submitted and approved through the Right-of-Way Management Division of the Department of Public Works. In addition to any Building Permits that may be required, a Right-of-Way Permit and Traffic Control Approval must be applied for and issued prior to any work in the right-of-way.
- (d) **GRANTEE** shall locate and show on drawings all underground facilities in the field so they can be verified at the proposed location of the pier and columns.
- (e) **GRANTEE** shall assure that Texas Department of Licensing and Regulation (TDLR) and American Disability Act (ADA) requirements for slope, clearance and widths and surface treatments are adhered to throughout the TDLR/ADA Accessible Route.
- (f) **GRANTEE** acknowledges that the City of Dallas will not be responsible for trash collection from any public litter cans placed in license area.
- (g) **GRANTEE** shall comply with Planned Development District No. 1030 and plan amendment process.
- (h) **GRANTEE** must contact Atmos Gas to relocate gas main prior to any work in the right-of-way.

**SECTION 8.** That upon the effectiveness of this ordinance, the Director of Department of Public Works, or designee, is hereby authorized to execute a NOTICE OF LICENSE and to file same in the deed records of Dallas County, Texas. Additionally, the Director of Department of Public Works, or designee, is hereby authorized to execute a cancellation of Notice of License upon termination by the City or **GRANTEE** and to file such cancellation of Notice of License in the deed records of Dallas County, Texas.

**SECTION 9.** That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

**SECTION 10.** That this license may not be assigned without prior written approval from the Director of Department of Public Works, or designee. Such assignment shall recite that it is subject to the terms, restrictions and conditions contained in this ordinance. The assignee shall deliver evidence of ownership of property abutting the licensed area and a copy of the assignment, along with the assignee's written acceptance of the provisions of this ordinance, to the Director of Department of Public Works within 10 days of such assignment; said assignment and written acceptance shall be forwarded to the City Secretary of the City of Dallas. Should **GRANTEE** fail to obtain prior written approval for assignment of this license or fail to provide the City of Dallas with the required written acceptance and a copy of the assignment, the Director of Department of Public Works, or designee, may terminate this license.

**SECTION 11.** 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 Public Works, or designee. Upon receipt of the fees pursuant to Section 3 of this ordinance, an acceptable certificate of insurance and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Public Works, or designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Public Works, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

**SECTION 12.** That this ordinance is also designated for City purposes as Contract No. PBW-2022-00018596.

**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:  
CHRISTOPHER J. CASO,  
City Attorney

BY Molly P. Ward  
Assistant City Attorney

ALI HATEFI, Director  
Department of Public Works

BY [Signature]  
Assistant Director

Passed \_\_\_\_\_.

## EXHIBIT A

**BEING** a 4,872 square feet (0.1118 acre) tract of land situated in the David Barrow Survey, Abstract No. 177, City of Dallas, Dallas County, Texas and being a portion of Lots 6-A and 7-A, Block B/6136 of Manderville Manor, an Addition to the City of Dallas, Texas, according to the Final Plat, recorded in Volume 71210, Page 2156 of the Deed Records of Dallas County, Texas, same being a portion of that tract of land described in a Special Warranty Deed to NTHP Manderville, Inc., recorded in Instrument No. 202100379799 of the Official Public Records of Dallas County, Texas, and being a portion of Manderville Lane, formerly known as Spillman Avenue, a variable width right of way as dedicated in Volume 624, Page 6 of the Deed Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows:

**COMMENCING** at a 1/2-inch iron rod with a red plastic cap, stamped "WAI 5714" found for the northeast corner of said Lot 7-A, Block B/6136, same being the southeast corner of a variable width Street Right of Way Dedication to the City of Dallas as depicted in Midtown Addition, an Addition to the City of Dallas, Texas, according to the Final Plat, recorded in Instrument No. 201700325027 of the Official Public Records of Dallas County, Texas, same also being on the current west right of way line of Manderville Lane, formerly known as Spillman Avenue, a variable width right of way as recorded in Volume 624, Page 6 of the Deed Records of Dallas County, Texas;

**THENCE** South 89°03'20" West, departing the westerly right of way line of said Manderville Lane, along the northerly line of said Lot 7-A and the southerly line of Lot 11, Block B/6136 of Midtown Addition, as recorded in Instrument No. 201700325027 of the Official Public Records of Dallas County, Texas, a distance of 5.00 feet to a 5/8-inch iron rod found for the northwest corner of a 5' wide street easement as depicted in said Manderville Manor;

**THENCE** South 00°22'35" East, departing the northerly line of said Lot 7-A, the southerly line of said Lot 11, crossing said Lot 7-A and along the westerly line of said 5' wide street easement, a distance of 49.50 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for the **POINT OF BEGINNING** of the herein described license tract

**THENCE** North 89°37'25" East, departing the westerly line of said 5' wide street easement and continuing across said Lot 7-A, a distance of 1.37 feet to a point for corner;

**THENCE** South 65°32'48" East, continuing across said Lot 7-A, passing the easterly line of said Lot 7-A and the westerly right of way line of said Manderville Lane, continuing across said Manderville Lane, a distance of 11.30 feet to a point for corner;

**THENCE** South 00°22'34" East, continuing across said Manderville Lane, a distance of 413.67 feet to a point for corner;

MICHAEL MARX  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 5181  
6160 WARREN PKWY., SUITE 210  
FRISCO, TEXAS 75034  
PH. 972-335-3580  
michael.marx@kimley-horn.com

**LICENSE AGREEMENT**  
A PORTION OF MANDERVILLE LANE  
ADJACENT TO LOTS 6-A AND 7-A, BLOCK  
B/6136 OF MANDERVILLE MANOR,  
SITUATED IN THE  
DAVID BARROW SURVEY, ABSTRACT NO. 177  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

(For SPRG use only)

Reviewed By: G.S.

Date: 4-15-22

SPRG NO: 5892

**Kimley»Horn**

6160 Warren Parkway, Suite 210  
Frisco, Texas 75034

FIRM # 10193822

Tel. No. (972) 335-3580  
Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MBM	KHA	04/04/2022	064575900	1 OF 4

## EXHIBIT A

**THENCE** South 62°45'53" West, continuing across said Manderville Lane, passing the westerly right of way line of said Manderville Lane and the easterly line of aforesaid Lot 6-A, continuing across said Lot 6-A, a distance of 11.18 feet to a point for corner;

**THENCE** South 89°14'07" West, continuing across said Lot 6-A, a distance of 1.64 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner on the westerly line of aforesaid 5' wide street easement, from said corner, a found 1/2-inch iron rod with a yellow plastic cap, stamped "WESTWOOD" bears South 00°22'35" East, 48.50 feet;

**THENCE** North 00°22'35" West, along the westerly line of said 5' wide street easement, continuing across said Lot 6-A, passing the common line of said Lot 6-A and aforesaid Lot 7-A, continuing across said Lot 7-A, a distance of 423.48 feet to the **POINT OF BEGINNING** and containing 4,872 square feet or 0.1118 of an acre of land.

Bearings are based upon the Texas Coordinate System of 1983, Zone 4202, NAD 83 datum, adjustment realization 2011, as determined by GPS observations resulting in a bearing of South 00°22'35" East along the west right of way line of Manderville Lane. The bearings listed are Grid values and the distances listed are surface values. To obtain a grid distance, multiply the ground distance by the Project Combined Factor (PCF) of 0.9998606167

MICHAEL MARX  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 5181  
6160 WARREN PKWY., SUITE 210  
FRISCO, TEXAS 75034  
PH. 972-335-3580  
michael.marx@kimley-horn.com



**LICENSE AGREEMENT**  
A PORTION OF MANDERVILLE LANE  
ADJACENT TO LOTS 6-A AND 7-A, BLOCK  
B/6136 OF MANDERVILLE MANOR,  
SITUATED IN THE  
DAVID BARROW SURVEY, ABSTRACT NO. 177  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

(For SPRG use only)  
Reviewed By: G.S.  
Date: 4-15-22  
SPRG NO: 5892

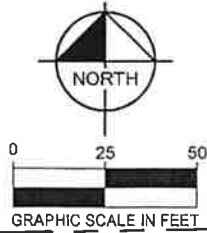
# Kimley»Horn

6160 Warren Parkway, Suite 210  
Frisco, Texas 75034 FIRM # 10193822

Tel. No. (972) 335-3580  
Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MBM	KHA	04/04/2022	064575900	2 OF 4

# EXHIBIT A



## LEGEND

P.O.C. = POINT OF COMMENCING  
P.O.B. = POINT OF BEGINNING  
IRSC = 5/8" IRON ROD W/ A RED PLASTIC CAP, STAMPED "KHA" SET  
IRFC = FOUND IRON ROD W/CAP  
VOL = VOLUME  
PG = PAGE  
INST. NO. = INSTRUMENT NUMBER  
R.O.W. = RIGHT-OF-WAY  
CM = CONTROLLING MONUMENT  
SQ. FT. = SQUARE FOOT  
D.R.D.C.T. = DEED RECORDS OF DALLAS COUNTY, TEXAS  
O.P.R.D.C.T. = OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS

## LINE TABLE

NO.	BEARING	LENGTH
L1	N89°37'25"E	1.37'
L2	S65°32'48"E	11.30'
L3	S62°45'53"W	11.18'
L4	S89°14'07"W	1.64'

15' DALLAS POWER & LIGHT CO.  
AND SOUTHWESTERN BELL  
TELEPHONE CO. EASEMENT  
VOL. 72060, PG. 1484, D.R.D.C.T.  
SWB PORTION RELEASED IN INST.  
NO. 202100241310 AND INST. NO.  
202100252610, O.P.R.D.C.T.

LOT 6-A, BLOCK B/6136  
MANDERVILLE MANOR  
VOL. 71210, PG. 2156  
D.R.D.C.T.

STREET RIGHT OF WAY  
DEDICATION TO CITY OF DALLAS  
INST. NO. 201700325027  
LOT 11, BLOCK B/6136  
MIDTOWN ADDITION  
INST. NO. 201700325027  
O.P.R.D.C.T.

15' WATER EASEMENT  
INST. NO. 201700325027  
O.P.R.D.C.T.

LOT 7-A, BLOCK B/6136  
MANDERVILLE MANOR  
VOL. 71210, PG. 2156  
D.R.D.C.T.

**LICENSE AGREEMENT**  
0.1118 ACRE (4,872 SQ. FT.)  
NTHP MANDERVILLE, INC.  
INST. NO. 202100379799  
O.P.R.D.C.T.

DAVID BARROW SURVEY  
ABSTRACT NO. 177

P.O.B.  
IRSC  
5' STREET EASEMENT  
VOL. 71210, PG. 2156,  
D.R.D.C.T.

5' STREET EASEMENT  
VOL. 71210, PG. 2156,  
D.R.D.C.T.

SIDEWALK AND UTILITY  
EASEMENT  
INST. NO. 201700325027  
O.P.R.D.C.T.

P.O.C.  
1/2" IRFC  
"WAI 5714"  
CM

TRACT 4  
DALLAS POWER & LIGHT COMPANY  
VOL. 3188, PG. 618  
D.R.D.C.T.

**MANDERVILLE LANE**  
(VARIABLE WIDTH R.O.W.)  
VOL. 624, PG. 6, D.R.D.C.T.  
(FORMERLY SPILLMAN AVENUE)

## MATCH LINE (SEE SHEET 4 OF 4)

Bearings are based upon the Texas Coordinate System of 1983, Zone 4202, NAD 83 datum, adjustment realization 2011, as determined by GPS observations resulting in a bearing of South 00°22'35" East along the west right of way line of Manderville Lane. The bearings listed are Grid values and the distances listed are surface values. To obtain a grid distance, multiply the ground distance by the Project Combined Factor (PCF) of 0.9998606167

MICHAEL MARX  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 5181  
6160 WARREN PKWY., SUITE 210  
FRISCO, TEXAS 75034  
PH. 972-335-3580  
michael.marx@kimley-horn.com

**LICENSE AGREEMENT**  
A PORTION OF MANDERVILLE LANE  
ADJACENT TO LOTS 6-A AND 7-A, BLOCK  
B/6136 OF MANDERVILLE MANOR,  
SITUATED IN THE  
DAVID BARROW SURVEY, ABSTRACT NO. 177  
CITY OF DALLAS, DALLAS COUNTY, TEXAS

**Kimley»Horn**

6160 Warren Parkway, Suite 210  
Frisco, Texas 75034

FIRM # 10193822

Tel No. (972) 335-3580  
Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 50'	MBM	KHA	04/04/2022	064575900	3 OF 4



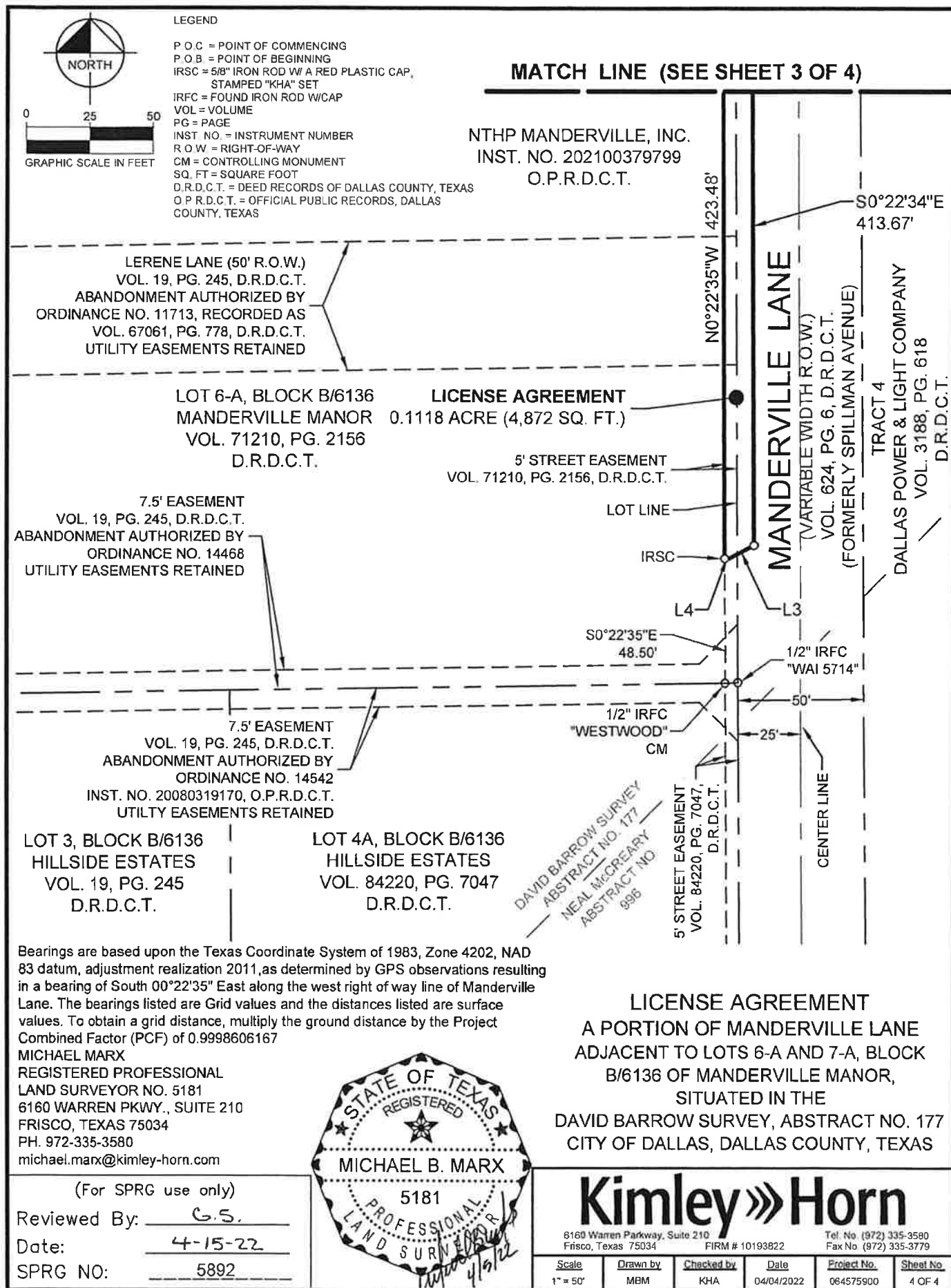




EXHIBIT A




Electrical Conduit 

Trees (13) 

Light fixtures (7) 

Benches (5) 

Landscape and Irrigation 

TOTAL SQUARE FEE = 7,162

**EXHIBIT B  
COMMERCIAL ENTITY  
ADDITIONAL LICENSE PROVISIONS**

1

That this license is granted subject to the following additional conditions, terms and reservations:

- (a) That at such time as this license is terminated or canceled for any reason whatsoever, **GRANTEE**, upon orders issued by the City acting through the Director of Public Works, or designee, shall remove all installations, improvements and appurtenances owned by it situated in, under or attached to the licensed area, and shall restore the premises to its former condition in accordance with the requirements of the Director of Public Works at the sole cost of **GRANTEE**. In the event, upon termination of this license, **GRANTEE** shall fail to remove its installations, improvements and appurtenances and to restore the licensed area in compliance with orders issued by City, or such work is not done to the satisfaction of the Director of Public Works, then in either event the City shall have the right to do all work necessary to restore said area to its former condition or cause such work to be done, and to assess the cost of all such work against **GRANTEE**; in neither event shall the City of Dallas be liable to **GRANTEE** on account thereof.
- (b) It is further understood that if and when the City of Dallas, in the exercise of its discretion, shall determine that the grade of any street, sidewalk or parkway should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the licensed area, and/or any of **GRANTEE's** installations and improvements thereon, any modifications or changes to **GRANTEE's** facilities in the licensed area or in construction or reconstruction of any public improvement attributable to **GRANTEE's** use of the licensed area and/or its installations and improvements thereon, shall be made at the sole expense of **GRANTEE** and to the satisfaction of the Director of Public Works.
- (c) At such time as this license is granted, it is agreed, and a condition hereof, that **GRANTEE** shall procure and keep in full force and effect **Commercial General Liability Insurance** coverage issued by an insurance company authorized and approved by the State of Texas, acceptable to the City of Dallas and issued in the standard form approved by the Texas Department of Insurance. The insured provisions of this policy must name the City of Dallas as an additional insured protecting the City of Dallas against any and all claims for damages to persons or property as a result of or arising out of the use, operation and maintenance by **GRANTEE** of the licensed area and **GRANTEE's** installations, improvements, landscaping and equipment in connection therewith and located therein. The Commercial General Liability coverage must include, but not limited to, Premises/Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of not less than \$500,000 per occurrence and \$500,000 annual aggregate. This insurance shall also include coverage for underground, explosion and collapse hazards (i.e. not excluded). If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than twelve (12) months following termination of this license and removal of the installations,

**EXHIBIT B  
COMMERCIAL ENTITY  
ADDITIONAL LICENSE PROVISIONS**

2

improvements and appurtenances and restoration of the licensed area pursuant to paragraph (a) above. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this license. The City of Dallas reserves the right to review the insurance requirements set forth herein during the effective term of the license and to adjust insurance coverages and their limits when deemed necessary and prudent by the City of Dallas' Risk Management based upon changes in statutory law, court decisions, or the claims history of the industry as well as the City of Dallas.

1. **GRANTEE** agrees that with respect to the above required insurance, all insurance contracts and certificates of insurance will contain and state, in writing, that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to Department of Public Works.
  2. **GRANTEE** shall carry said insurance at its expense and shall furnish the City of Dallas proof of such insurance. In the event said insurance should terminate during the licensing term hereof, or **GRANTEE** fails to furnish proof of insurance coverage in accordance with the specifications as required by this section, the Director of Public Works, or designee, may terminate the license granted herein.
- (d) **GRANTEE** is prohibited from using the licensed area in any manner which violates Federal, State or local laws, regulations, rules and orders, regardless of when they become or became effective, including without limitation, those related to health, safety, noise, environmental protection, waste disposal and water and air quality, and shall provide satisfactory evidence of compliance upon the request of the City of Dallas. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the licensed area due to **GRANTEE's** use and occupancy thereof, **GRANTEE**, at its expense, shall be obligated to clean up the licensed area to the satisfaction of the City of Dallas and any governmental body having jurisdiction thereover. The City of Dallas may, at its option, clean the licensed area. If the City of Dallas elects to do so, **GRANTEE** shall promptly pay to the City of Dallas the reasonable cost of such cleanup upon receipt of bills therefore. **GRANTEE** agrees that the indemnity provisions contained in paragraph (g) herein shall be fully applicable to the requirements of this paragraph, in event of **GRANTEE's** breach of this paragraph, or as a result of any such discharge, leakage, spillage, emission or pollution arising out of the **GRANTEE's** use of the licensed area.
- (e) This license is subject to all State laws, the provisions of the Charter of the City of Dallas as it now exists, or may hereafter be adopted or amended, and the ordinances of the City of Dallas now in effect or those which may hereafter be passed or adopted. The City of Dallas shall have the right to increase or decrease the compensation to be charged for the use contemplated by this grant in

**EXHIBIT B  
COMMERCIAL ENTITY  
ADDITIONAL LICENSE PROVISIONS**

3

accordance with the provisions of the Dallas City Code as it now exists, or as may hereafter be adopted or amended.

- (f) The Governing Body of the City of Dallas reserves the right, at any time without notice, to terminate and cancel this license, by resolution, upon a finding by the Governing Body that this license is inconsistent with the public use of the property or whenever the purpose or use of the license is likely to become a nuisance and all rights granted hereunder shall thereupon be considered fully terminated and canceled and the City of Dallas shall not be held liable by reason thereof. The decision of the Governing Body of the City in this matter shall be final and binding upon all parties insofar as the City's determination as to whether the **GRANTEE's** use of this license constitutes a nuisance or is inconsistent with the public use of the property.
- (g) As a condition hereof, **GRANTEE** agrees and is bound to defend, indemnify and hold the City of Dallas, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by the use, occupancy and maintenance of the licensed area or **GRANTEE's** installations and improvements within the licensed area, from any act or omission of any representative, agent, customer and/or employee of **GRANTEE**, or by **GRANTEE's** breach of any of the terms or provisions of this license, or by any negligent or strictly liable act or omission of **GRANTEE**, its officers, agents, employees or contractors in the use, occupancy and maintenance of **GRANTEE's** installations and improvements within the licensed area; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City of Dallas, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of both the **GRANTEE** and the City of Dallas, responsibility and liability, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City of Dallas under Texas law and without waiving any defenses of the parties under Texas law. This obligation to indemnify and defend shall also include any claim for damage that any utility or communication company, whether publicly or privately owned, may sustain or receive by reason of **GRANTEE's** use of the licensed area or **GRANTEE's** improvements and equipment located thereon. In addition to the foregoing, **GRANTEE** covenants and agrees never to make a claim of any kind or character whatsoever against the City of Dallas for damage of any kind that it may suffer by reason of the installation, construction, reconstruction, operation or maintenance of any public improvement, utility or communication facility on the licensed area, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or wastewater mains or storm sewer facilities, regardless of whether such damage is due to

**EXHIBIT B  
COMMERCIAL ENTITY  
ADDITIONAL LICENSE PROVISIONS**

4

flooding, infiltration, backflow or seepage caused from the failure of any installation, natural causes, City's negligence, or from any other cause whatsoever.

- (h) This license is subject to any existing utilities or communication facilities, including drainage, presently located within the licensed area, owned and/or operated by the City of Dallas or any utility or communications company, public or private, and to any vested rights presently owned by an utility or communications company, public or private, for the use of the licensed area for facilities presently located within the boundaries of said licensed area. It is the intent of the foregoing that this permission herein is made expressly subject to the utilization of the licensed area for communication and utility purposes, both public and private, including drainage, over, under, through, across and along the licensed area. No buildings shall be constructed or placed upon, over or across the licensed area in such a manner as to interfere with the operation of any utilities and communication facilities. All and any communication company and utility, both public and private, shall have the right to remove and keep removed all or parts of any buildings which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within the licensed area. All communication companies and utilities, both public and private, shall have the full right to remove and keep removed all parts of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the licensed area for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.