

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Greenberg Traurig, LLP
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
Attn: Ashley Montalbano, Esq.

**SECOND AMENDMENT TO
VALLEY STORAGE EASEMENT AGREEMENT**

THIS SECOND AMENDMENT TO VALLEY STORAGE EASEMENT AGREEMENT (this "Amendment") is made as of July 26, 2024 (the "Effective Date") by and between **MERCER CROSSING COMMERCIAL ASSOCIATION, INC.**, a Texas corporation, (together with its successors and/or assigns, "Grantor"), and **NEWBERRY DISTRIBUTION OWNER, LLC**, a Delaware limited liability company (together with its successors and/or assigns, "Grantee").

RECITALS:

A. Grantor (as an original grantor and successor-in interest to TX MANHATTAN LAND, LLC, a Texas limited liability Company, MERCER CROSSING COMMERCIAL PROPERTY ASSOCIATION, INC., a Texas corporation, TCI MANHATTAN 2, LLC, a Nevada limited liability company, and TRANSCONTINENTAL REALTY INVESTORS, INC., a Nevada corporation, as successor-by-merger to CONTINENTAL COMMON, INC., a Texas corporation) and Grantee are parties to that certain Valley Storage Easement Agreement dated as of December 10, 2021 recorded on December 13, 2021 with the Dallas County Clerk as Document No. 202100370709, as modified by that certain Memo dated August 3, 2023, as amended by that certain First Amendment to Valley Storage Easement Agreement dated as of July 26, 2024 (collectively, the "Easement Agreement"), benefitting certain real property located at 11645 Newberry Street, Dallas, Texas 75229, as more particularly in the Easement Agreement.

B. Grantor, as the owner of the property legally described on **Exhibit B** (the "Grantor Tract"), and Grantee, as the owner of the property legally described on **Exhibit A** (the "Grantee Tract"), desire to amend the Easement Agreement as more particularly set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged, the parties agree as follows:

1. Incorporation of Recitals; Definitions. The recitals set forth in this Amendment are incorporated herein by reference and made a part hereof as if fully set forth as paragraphs in this

Amendment. Capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings ascribed to such terms in the Easement Agreement.

2. Valley Storage Easement Area. Notwithstanding anything to the contrary in the Easement Agreement, Grantors and Grantee hereby agree that the Valley Storage Easement area is more particularly described on **Exhibit C** of this Amendment.

3. Valley Storage Easement and Planned Developments. The Valley Storage Easement granted to Grantee creates a servitude upon the Grantor Tract for the benefit of the Grantee Tract, will run with the land and will bind or inure to the benefit of every person having any fee, leasehold, or other interest in the Grantor Tract and Grantee Tract (or any portion thereof). Additionally, Grantor hereby (i) certifies that the original development that was planned for the Grantor Tract (including, without limitation, the Loop Road project previously submitted to the City of Dallas for approval) did not occur thereby resulting in a total volume surplus of 84.2 acre feet and (ii) acknowledges, covenants and agrees that no portion of the Grantor Tract shall be developed in the future without the prior written consent of the City of Dallas and Grantee.

4. Maintenance of Valley Storage Easement. Notwithstanding anything in the Easement Agreement to the contrary, Grantor shall be responsible for maintaining the Valley Storage Easement Area in neat, clean and good condition and repair, in compliance with all applicable laws and that certain Declaration of Covenants, Conditions and Restrictions for Mercer Crossing Commercial Property recorded on July 8, 2004 with the Dallas County Clerk as Document No. 2963969 (as amended from time to time, the "Declaration"). All maintenance and repair work performed by Grantor or its agents in connection with either the Easement Agreement (as amended by this Amendment) and/or the Declaration shall be undertaken and completed in a good and workmanlike manner and in accordance with applicable laws. For the avoidance of doubt, the Parties acknowledge and agree that the Grantee Tract is not subject to the Declaration and neither the Grantee nor the Grantor Tract have any obligations thereunder.

5. Default. Upon occurrence of default by a Party under the Easement Agreement (as amended), the non-defaulting Party shall give written notice to defaulting Party setting forth the nature of the default. The defaulting Party shall have fifteen (15) days from the date of receipt of such notice to cure such default, provided that in the event any non-monetary default cannot reasonably be cured within such fifteen (15) day period, then the time for curing such default shall be extended for up to thirty (30) days to complete so long as the defaulting Party is proceeding to cure with due diligence. If the defaulting Party shall have failed to cure the default within the applicable cure period, the non-defaulting Party shall have the right, but not the obligation, to cure any such default and the defaulting Party agrees to reimburse the non-defaulting Party for the cost of such cure upon demand, together with interest accruing thereon at an annual rate of interest equal to the lesser of: (i) eighteen percent (18%) per annum, or (ii) the highest rate of interest allowable by law.

6. Estoppels. Each Party shall, from time to time, within ten (10) Business Days after written request from the other Party, any prospective transferee of such Party or any lender or prospective lender of such Party, execute, acknowledge and deliver to the requesting Party, a certificate ("Estoppel Certificate") stating: (a) that the terms and provisions of the Easement Agreement (as modified by this Amendment) are unmodified and are in full force and effect or, if modified,

identifying such modifications; (b) whether, to the knowledge of the Party executing the Estoppel Certificate, there is any existing default under the Easement Agreement (as modified by this Amendment) (or grounds therefor after giving the requisite notice hereunder) by the requesting Party and, if so, specifying the nature and extent thereof; (c) whether there are any sums which the Party executing such Estoppel Certificate is entitled to receive or demand from the requesting Party, and if there is any such sum, specifying the nature and amounts thereof; (d) the current address or addresses to which notices given to the Party executing such Estoppel Certificate are required to be mailed under the Easement Agreement (as modified by this Amendment); (e) and such other facts or conclusions as may be reasonably requested.

6. Full Force and Effect; Governing Law. Except as provided in this Amendment, the terms and provisions of the Easement Agreement remain unchanged and remain in full force and effect. The Easement Agreement, as modified and amended by this Amendment, is hereby ratified and confirmed in all respects. This Amendment shall be governed and interpreted in accordance with the laws of the State of Texas. If any provision of this Amendment, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Amendment, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Easement Agreement and each provision of this Amendment shall be valid and enforceable to the fullest extent permitted by applicable law.

7. Counterparts. This Amendment may be executed in any number of counterpart originals, each of which, when taken together, shall be deemed one and the same instrument.

[Signatures on following pages]

Unofficial Copy

IN WITNESS WHEREOF, Grantor and Grantee have executed this Amendment as of the Effective Date.

GRANTOR:

MERCER CROSSING COMMERCIAL ASSOCIATION, INC., a Texas corporation

By: *Ronald J. Corcoran*
Name: Ronald J. Corcoran
Title: Vice President

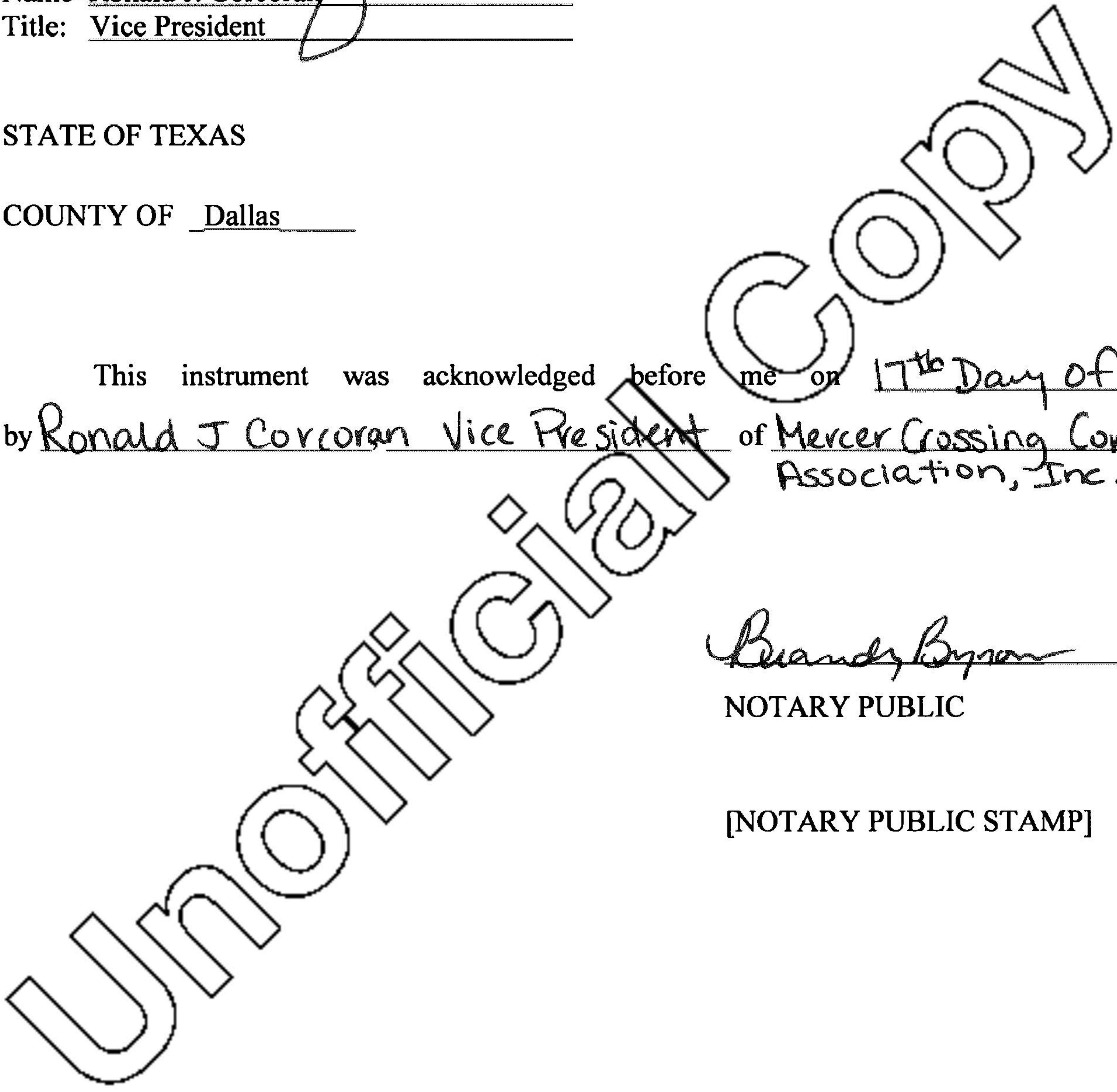
STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on 17th Day of July 20 by Ronald J Corcoran Vice President of Mercer Crossing Commercial Association, Inc.

Brandy Byrson
NOTARY PUBLIC

[NOTARY PUBLIC STAMP]



GRANTEE:

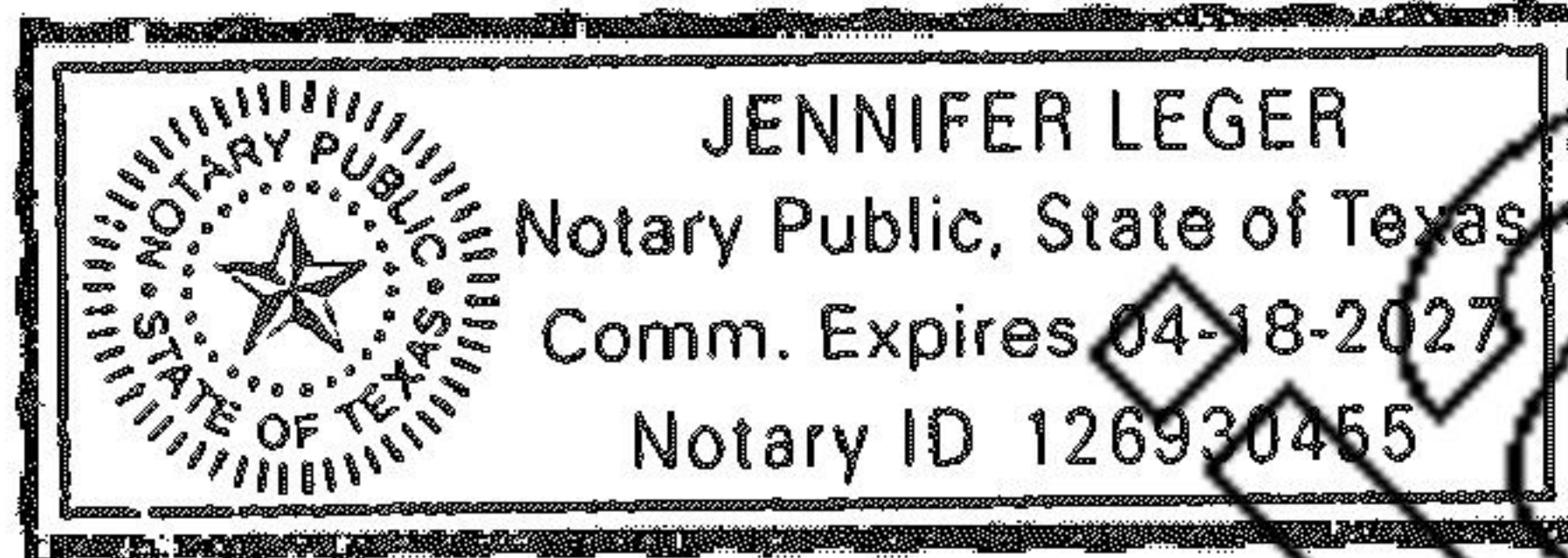
NEWBERRY DISTRIBUTION OWNER, LLC,
a Delaware limited liability company

By: [Signature]
Name: Julian Hawes, Jr
Title: Authorized Signatory

STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on July 18, 2024
by Julian Hawes, Jr, Authorized Signatory of Newberry Distribution Owner L



[Signature]
NOTARY PUBLIC

[NOTARY PUBLIC STAMP]

Unofficial Copy

EXHIBIT A**Grantee Tract**

Being a 1,580,949 square foot (36.2936 acre) tract of land situated in the William M. Cochran Survey, Abstract No. 279, City of Dallas, Dallas County, Texas, being all of a called 36.376 acre tract of land described in a Special Warranty Deed to LD FOLSOM LAND LLC, recorded in Instrument Number 202000003105, Official Public Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a MAG nail set at the intersection of the west right-of-way line of Newberry Street (variable width right-of-way) and the south right-of-way line of Lyndon B. Johnson Freeway, a.k.a. Interstate 635 (a variable width right-of-way, created by Volume 74082, Page 564, Deed Records, Dallas County, Texas) for the northeast corner of said LD Folsom Land tract, from which a found 1/2" iron rod with yellow plastic cap stamped "HALFF ASSOCIATES" for the northwest corner of Lot 1, Block B/6558, Columbia Center West, an addition to the City of Dallas, Dallas County, Texas, according to the plat recorded in Volume 88208, Page 2310, Deed Records, Dallas County, Texas, bears North 86° 30' 55" East, a distance of 52.03 feet;

THENCE along the common line between said Newberry Street and said 36.376 acre tract, the following courses and distances:

South 00°54'04" East, a distance 1,017.63 feet to a MAG nail set for corner;

South 00°15'08" East, a distance 528.02 feet to a MAG nail set for the southeast corner of said 36.376 acre tract, from which a found 1/2" iron rod with yellow plastic cap (illegible) for a southwest corner of Lot 2A, Block B/6557, of said Columbia Center West, bears South 36° 21' 19" East, a distance of 110.33 feet;

THENCE North 89°37'53" West, along a south line of said 36.376 acre tract, passing a 1/2" iron rod with a red plastic cap stamped "PEISER-MANKIN-SURVEY" found for the northeast corner of a called 2.69 acre tract of land described in a Special Warranty Deed to 11517 Newberry, LP, recorded Volume 2003093, Page 10287, Deed Records, Dallas County, Texas, at 10.35 feet and continuing for a total distance of 386.34 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for an interior ell corner of said 36.376 acre tract, from which a found 1/2" iron rod with red plastic cap stamped "PEISER-MANKIN-SURVEY" bears South 37° 17' 55" East, a distance of 5.17 feet;

THENCE South 03°58'25" West, along said common line between said 36.376 acre tract and said 2.69 acre tract, a distance 220.82 feet to a point for an exterior ell corner of said 36.376 acre tract and the northeast corner of a called 0.65 acre tract of land described as Tract 1 in a Special Warranty Deed with Vendor's Lien to HNG Properties, LLC, recorded in Instrument No. 201500006463, Official Public Records, Dallas County, Texas, from which a found 1/2" iron rod bears South 39° 09' 57" East, a distance of 0.39 feet;

THENCE South 89°33'50" West, along the common line between said 36.376 acre tract and said 0.65 acre tract, a distance 208.55 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for an interior ell corner for said 36.376 acre tract and the northwest corner of said 0.65 acre tract, from which a found 1" iron rod with punch hole bears South 07° 34' 27" West, a distance of 7.23 feet;

THENCE South 04°33'47" West, along the common line between said 36.376 acre tract and said 0.65 acre tract, a distance 137.17 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set on the north line of a tract of land described in a Special Warranty Deed with Vendor's Lien to GATLIN DENTON PARTNERSHIP, LP, recorded in Instrument Number 20080069286, Official Public Records, Dallas County, Texas;

THENCE South 88°30'29" West, along the common line between said 36.376 acre tract and said GATLIN DENTON PARTNERSHIP tract, a distance 222.05 feet to a an exterior ell corner of said 36.376 acre tract, from which a found 5/8" iron rod bears North 82° 58' 06" West, a distance of 0.43 feet;

THENCE North 01 °09'14" East, along a west line of said 36.376 acre tract, a distance 63.04 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for an interior ell corner of said 36.376 acre tract;

THENCE South 88°38'35" West, along a south line of said 36.376 acre tract, a distance 260.85 feet to a 1/2" iron rod with yellow plastic cap stamped "DC&A" found on the east line of a tract of land described in Special Warranty Deed to the CITY OF DALLAS, recorded in Volume 86057, Page 342, Deed Records, Dallas County, Texas, for the southwest corner of said 36.376 acre tract;

THENCE along the common line between said 36.376 acre tract and said CITY OF DALLAS tract, the following bearings and distances:

North 08°49'32" East, passing at a distance of 75/10 feet a 1/2" iron rod found and continuing for a total distance 893.97 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner;

North 89°50'32" East, a distance 25.31 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner, from which a found 1/2" iron rod bears South 04° 22' 12" East, a distance of 2.36 feet;

North 08°49'32" East, a distance 924.45 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set on the south right-of-way line of said Lyndon B. Johnson Freeway, for the northwest corner of said 36.376 acre tract;

THENCE along the common line between the south right-of-way line of said Lyndon B. Johnson Freeway and the north line of said 36.376 acre tract, the following bearings and distances:

North 88°31'26" East, a distance 539.38 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner;

North 80°18'18" East, a distance 234.09 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner;

North 88°15'59" East, a distance 10.00 feet to the POINT OF BEGINNING, containing 1,580,949 square feet or 36.2936 acres of land, more or less.

ALSO DESCRIBED AS:

BEING a tract of land situated in William M. Cochran Survey, Abstract No. 279, City of Dallas, Dallas County, Texas and being all of a called 36.2936 acre tract of land described in Special Warranty Deed to Newberry Distribution Owner, LLC. recorded in Instrument No. 202100372754, Official Public Records, Dallas County, Texas and being more particularly described as follows:

BEGINNING at a mag nail found at the intersection of the west right-of-way line of Newberry Street (a variable width right-of-way) and the south right-of-way line of Interstate Highway 635 (a variable width right-of-way) and for the northeast corner of said 36.2936 acre tract;

THENCE with said west right-of-way line of Newberry Street, the following courses and distances:

South 00°54'04" East, a distance of 1,017.63 feet to a mag nail found for corner; South 00°15'08" East, a distance of 528.02 feet to a mag nail found for the southeast corner of said 36.2936 acre tract;

THENCE departing said west right-of-way line of Newberry Street and with the south lines of said 36.2936 acre tract, the following courses and distances:

North 89°37'53" West, a distance of 386.34 feet to a 5/8-inch iron rod with plastic cap stamped "KHA" set for corner;

South 03°58'25" West, a distance of 220.82 feet to a 5/8-inch iron rod with plastic cap stamped "KHA" set for corner;

South 89°33'50" West, a distance of 208.55 feet to a 1/2-inch iron rod with plastic cap stamped "RLG INC." found for corner;

South 04°33'47" West, a distance of 137.17 feet to a 5/8-inch iron rod with plastic cap stamped "KHA" set for corner;

South 88°30'29" West, a distance of 222.05 feet to a 5/8-inch iron rod with plastic cap stamped "KHA" set for corner, from said point a 5/8-inch iron rod found bears North 82°58'06" West, a distance of 0.46 feet;

North 01°09'14" East a distance of 63.04 feet to a 1/2-inch iron rod with illegible yellow cap found for corner;

South 88°38'35" West, a distance of 260.85 feet to a 1/2-inch iron rod with plastic cap stamped 'DC&A' found for the southwest corner of said Newberry Distribution Owner, LLC tract and being in the east line of a tract of land described in Deed Without Warranty to Dallas Area Rapid Transit (DART), recorded in Instrument No. 201500321792 of said Official Public Records;

THENCE with said east line of the DART tract, the following courses and distances:

North 08°49'32' East, a distance of 893.97 feet to a 5/8-inch iron rod with plastic cap stamped "KHA" set for corner;

North 89°50'32' East, a distance of 25.31 feet to a 5/8-inch iron rod with plastic cap stamped "KHA" set for corner;

North 08°49'32" East, a distance of 924.45 feet to a 1/2-inch iron rod with "RLG INC." cap found for the northwest corner of said Newberry Distribution Owner, LLC tract and being in said south right-of-way line of Interstate Highway 635;

THENCE departing said east line of the DART tract and with said south right-of-way line of Interstate Highway 635, the following courses and distances:

North 88°31'26' East, a distance of 539.38 feet to a 1/2-inch iron rod with "RLG INC." cap found for corner; North 80°18'18' East, a distance of 234.09 feet to a 1/2-inch iron rod found for corner;

North 88°15'59' East, a distance of 10.00 feet to the POINT OF BEGINNING and containing 1,580,950 square feet or 36.2936 acres of land, more or less.

Unofficial Copy

EXHIBIT B

Grantor Tract

Lot 1 and Lot 2, Block A, Lake At Mercer Crossing, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded under Document No. 201600228894 of the Official Public Records of Dallas, County, Texas

Unofficial Copy

ACTIVE 697846517

EXHIBIT C

Valley Storage Easement Area

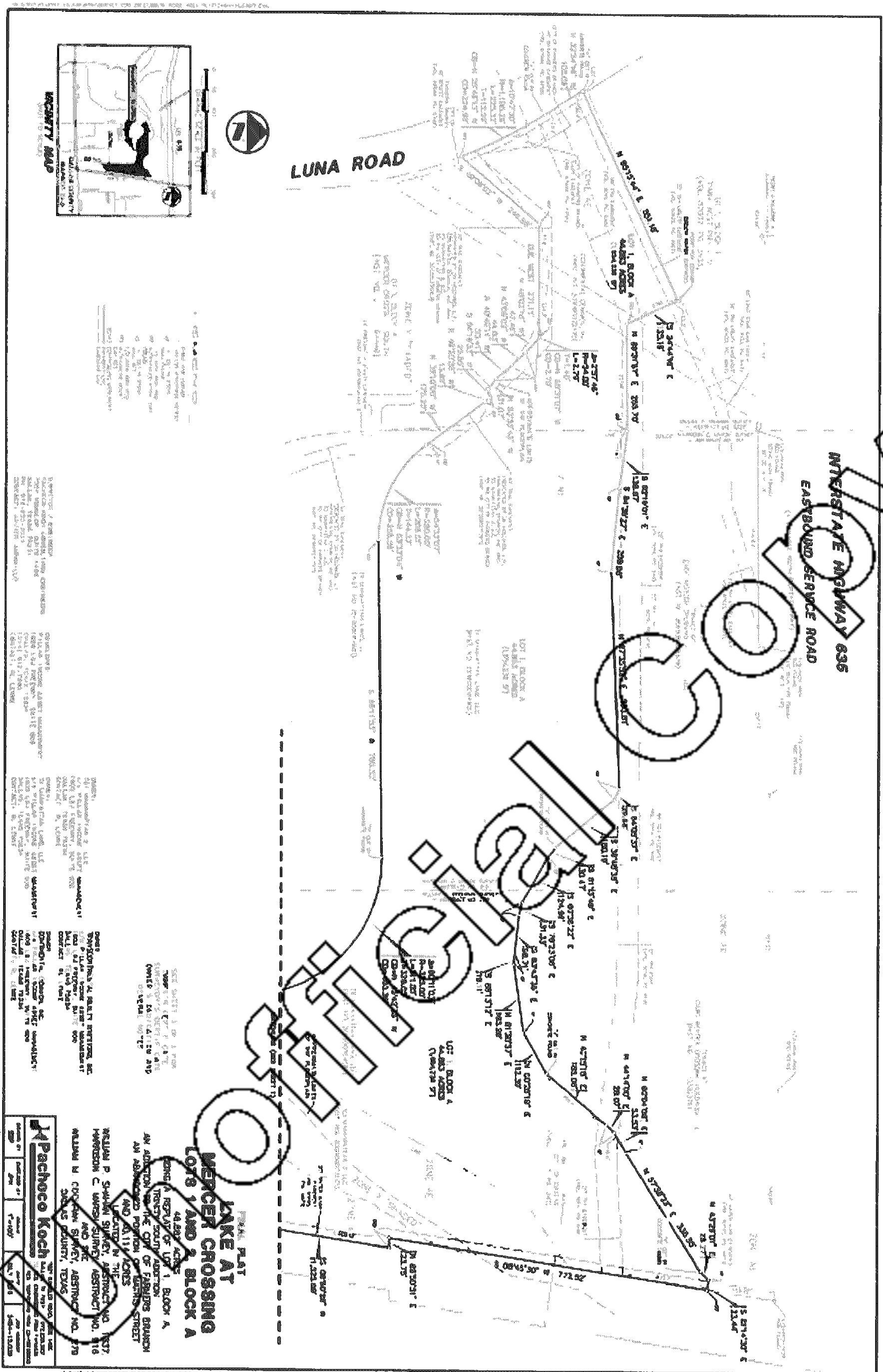
Legal Description:

Lot 1 and Lot 2, Block A, Lake At Mercer Crossing, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded under Document No. 201600228894 of the Official Public Records of Dallas, County, Texas

Depiction:

See attached.

Unofficial Copy



ACTIVE 697846517

**Dallas County
John F. Warren
Dallas County Clerk**

Instrument Number: 202400151854

eRecording - Real Property

Recorded On: July 30, 2024 11:59 AM

Number of Pages: 15

" Examined and Charged as Follows: "

Total Recording: \$77.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 202400151854
Receipt Number: 20240730000195
Recorded Date/Time: July 30, 2024 11:59 AM
User: Tineka S
Station: Cc102

Record and Return To:

Simplifile



**STATE OF TEXAS
COUNTY OF DALLAS**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Dallas County, Texas.

John F. Warren
Dallas County Clerk
Dallas County, TX

A handwritten signature in black ink, appearing to be "JFW".