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Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 17, 2022

Mr. Scott Ozymy, Vice President
KDC McLemmon Investments One, LP
8115 Preston Road, Suite 700
Dallas, Texas 75225-6344

Re: Municipal Setting Designation (MSD) Certificate for KDC McLemmon Investments One, LP; Proposed McKinney Avenue Commercial Redevelopment Site, located at 2900 Lemmon Ave and 3524 McKinney Ave., Dallas, Dallas County, TX; MSD No. 489; Voluntary Cleanup Program (VCP) No. 3011; Customer No. CN605672500; Regulated Entity No. RN110800414

Dear Mr. Ozymy:

The Texas Commission on Environmental Quality (TCEQ) received the above referenced MSD application on July 26, 2022, and additional information supporting this MSD application on October 25, 2022. Based on our review, the application contains the required information as outlined in Texas Health and Safety Code (THSC) §361.804. Enclosed is the MSD Certification for your site. If you have any questions, please do not hesitate to contact me at (512) 239-3044 or via email (timothy.eckert@tceq.texas.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy Eckert".

Timothy Eckert, Project Manager
VCP-CA Section
Remediation Division

Enclosure: MSD Certificate No. 489

cc: Mr. Ben Scott, H-E-B, LP (via email)
Mr. Peter Wahl, Partner, Jackson Walker LLP, (via email)
Mr. Cliff Rismen, Foley & Lardner, LLP, (via email)
Ms. Kristen Wieland, Senior Project Manager, Terracon Consultants, Inc. (via email)
Ms. Erin Gorman, Waste Section Manager, TCEQ Region 4 Office, Dallas

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



MUNICIPAL SETTING DESIGNATION CERTIFICATE

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

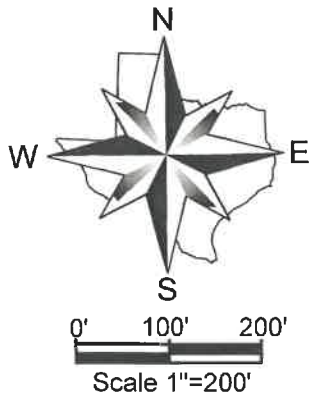
I, Beth Seaton, Deputy Director, Remediation Division, TCEQ, certify the Municipal Setting Designation (MSD) for MSD No. 489, in the City of Dallas for the tract of land described in Exhibit "A". The eligibility requirements of Texas Health and Safety Code §361.803 are satisfied as attested to by the affidavit in Exhibit "B", provided pursuant to Texas Health and Safety Code §361.804(b)(2)(D). This certificate shall continue in effect so long as the ordinance or restrictive covenant required by Texas Health and Safety Code §361.8065 remains in effect.

Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this the 17th day of November, 2022

Beth Seaton

Beth Seaton, Deputy Director
Remediation Division
Texas Commission on Environmental Quality

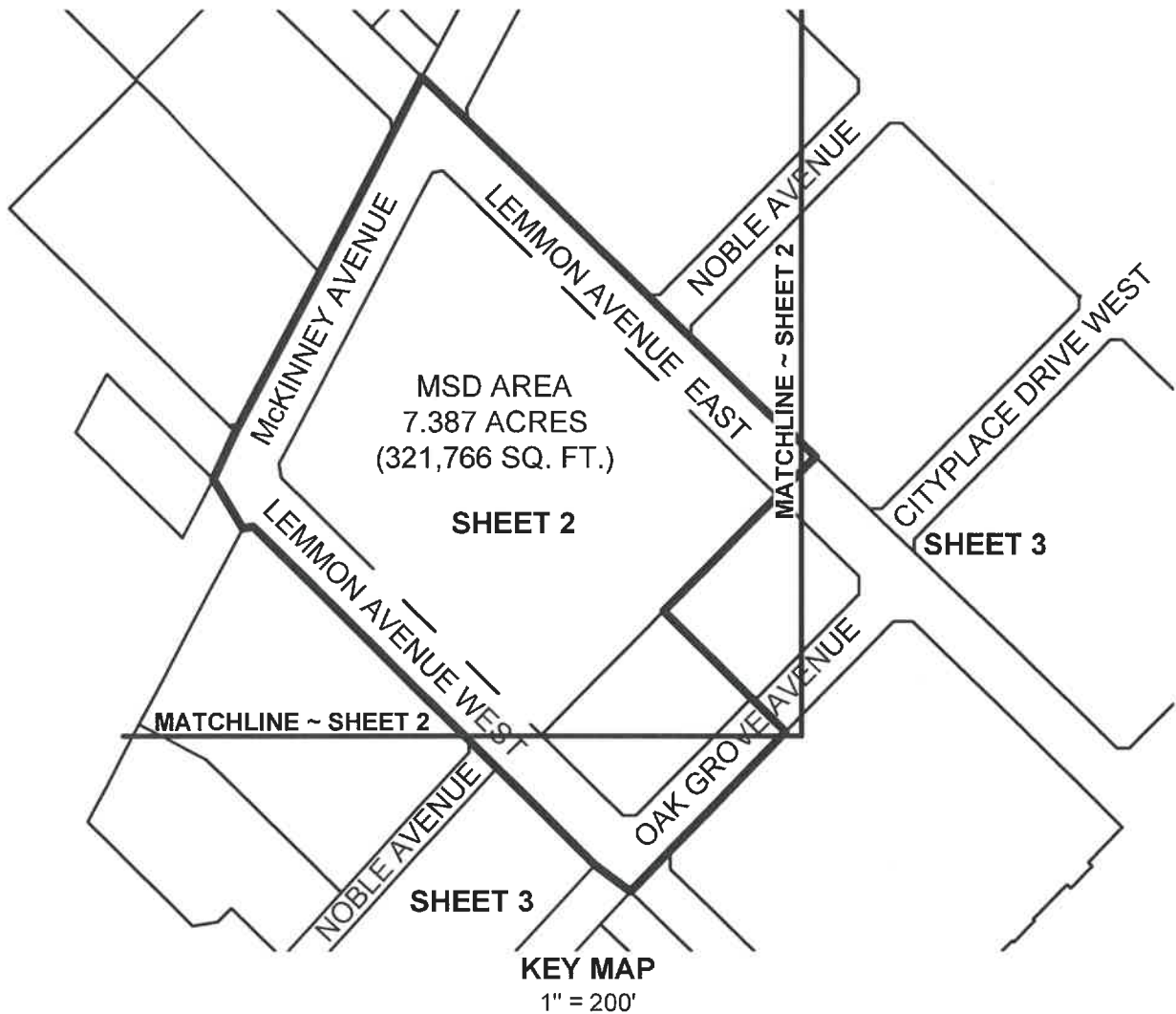


SHEET INDEX

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Sheet 6	Description (Continued); Line Table

ABBREVIATION LEGEND

ABBR.	DEFINITION
CC#	COUNTY CLERK'S FILE NO.
CIRF	IRON ROD FOUND WITH CAP
CIRS	IRON ROD SET W/CAP STAMPED "W.A.I. 5714"
CM	CONTROLLING MONUMENT
MAG	MAG NAIL SET WITH SHINER STAMPED "W.A.I. R.P.L.S. 5714"
PKF	PK NAIL FOUND
PKS	PK NAIL SET
XCF	"X" CUT IN CONCRETE FOUND
XCS	"X" CUT IN CONCRETE SET



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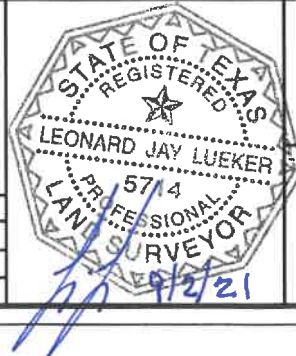
Texas Engineers Registration No. 89
Texas Surveyors No. 10089500 Expires 12-31-21
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Scale : 1" = 200'

Date : 04.09.20

Dwg. File : 47716-MSD

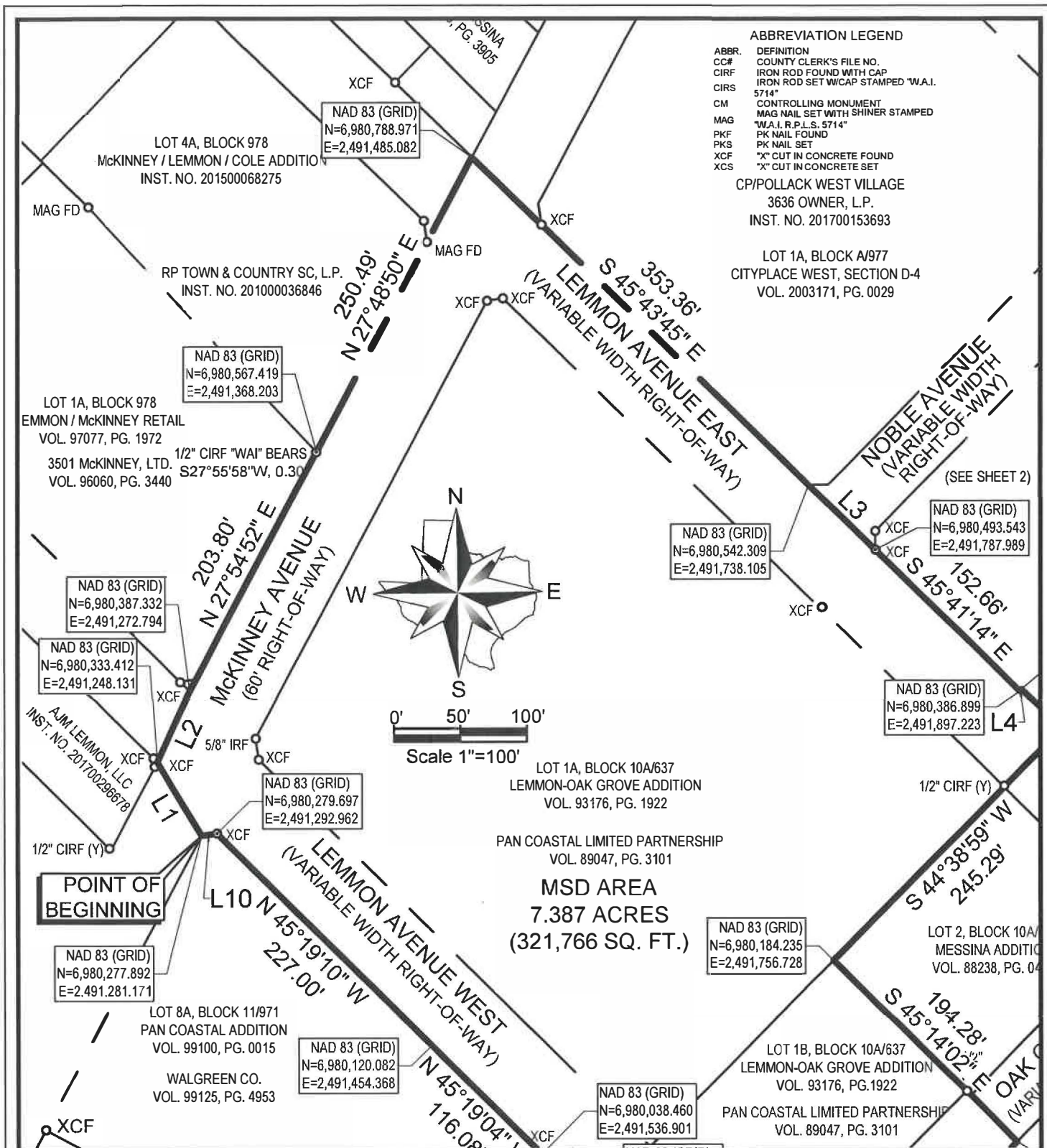
Project No. : 47716.00



MSD EXHIBIT
7.387 ACRES
(321,766 SQ. FT.)

TERRACON
8901 JOHN W. CARPENTER
FREEWAY
DALLAS, TEXAS 75247

SHEET
1
OF
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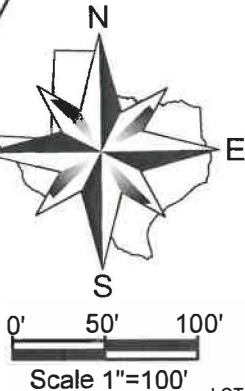


ABBREVIATION LEGEND

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PKS	PK NAIL SET
XCF	"X" CUT IN CONCRETE FOUND
XCS	"X" CUT IN CONCRETE SET

CP/POLLACK WEST VILLAGE
3636 OWNER, L.P.
INST. NO. 201700153693

LOT 1A, BLOCK A/977
CITYPLACE WEST, SECTION D-4
VOL. 2003171, PG. 0029



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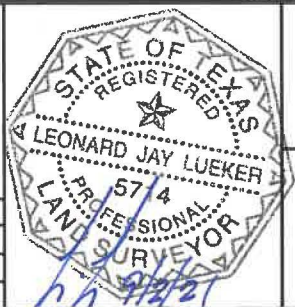
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Texas Surveyors No. 10086600 Expires 12-31-21
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Scale: 1" = 100'

Date: 04.09.20

Dwg. File: 47716-MSD

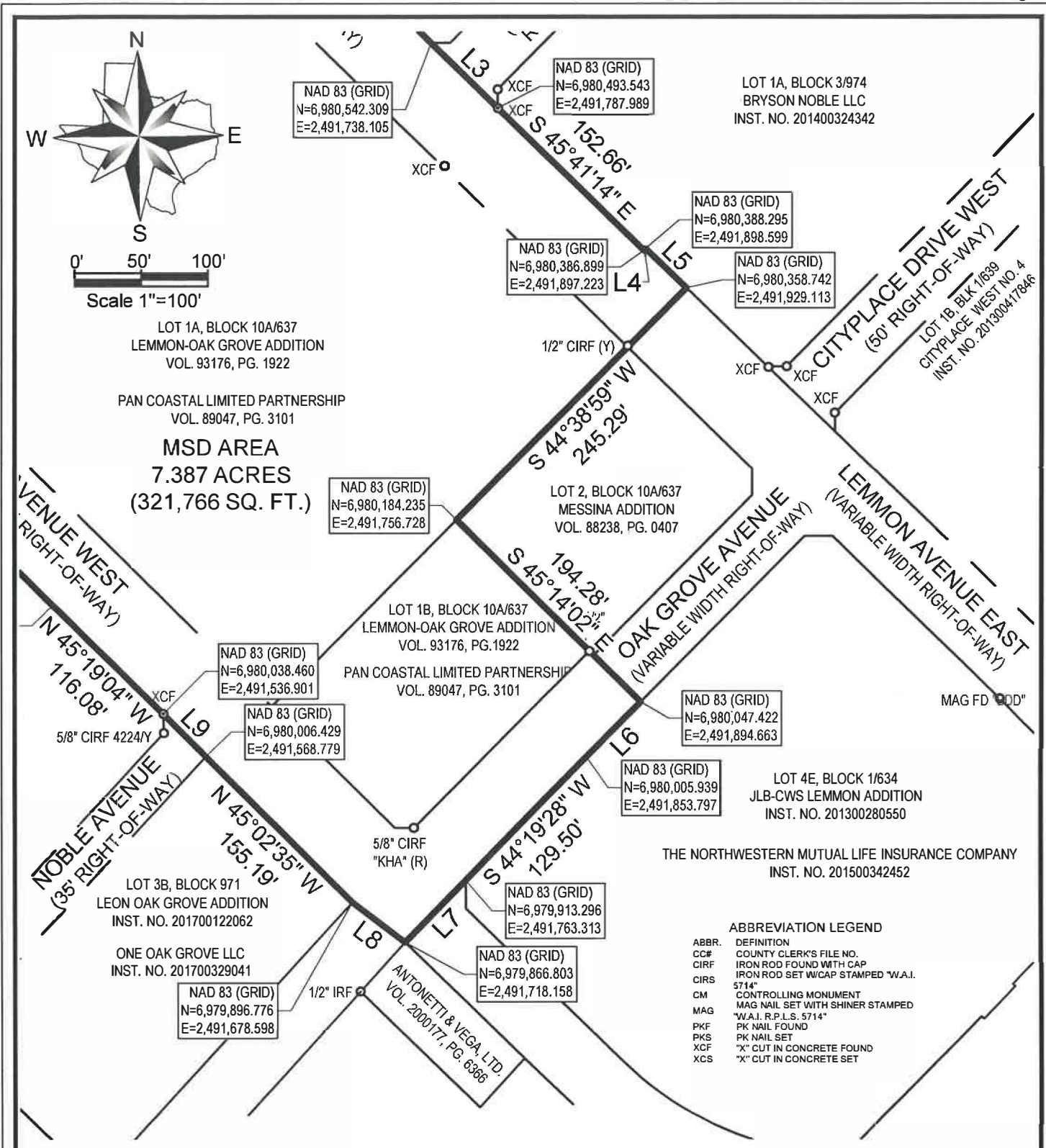
Project No.: 47716.00



MSD EXHIBIT
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OF
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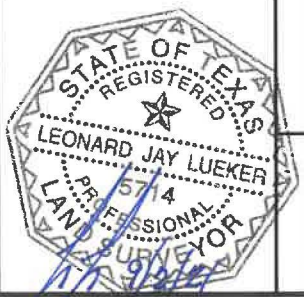


ABBREVIATION LEGEND

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CIRF	IRON ROD FOUND WITH CAP
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(321,766 SQ. FT.)**

**TERRACON
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DALLAS, TEXAS 75247**

**SHEET
3
OF
6**

MSD DESCRIPTION

STATE OF TEXAS §
COUNTY OF DALLAS §

BEING a tract of land situated in the J. GRIGSBY SURVEY, ABSTRACT NO. 495, City of Dallas, Dallas County, Texas and being a portion of McKinney Avenue (60' right-of-way), a portion of Lemmon Avenue East (variable width right-of-way), a portion of Lemmon Avenue West (variable width right-of-way), a portion of Oak Grove Avenue (variable width right-of-way), all of Lot 1A and Lot 1B, Block 10A/637, Lemmon-Oak Grove Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 93176, Page 1922, Deed Records, Dallas County, Texas (D.R.D.C.T.), and being more particularly described as follows:

BEGINNING at a point for corner (NAD 83 Grid - N=6,980,277.892, E=2,491,281.171) at the West end of a corner clip at the intersection of the Southeast right-of-way of said McKinney Avenue and the Southwest right-of-way of said Lemmon Avenue West, said point also being the Northwest corner of Lot 8A, Block 11/971, Pan Coastal Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 99100, Page 0015, Deed Records, Dallas County, Texas;

THENCE North 30 deg 45 min 25 sec West, departing said corner clip, over and across the right-of-way of said McKinney Avenue, a distance of 64.61 feet to a point for corner (NAD 83 Grid - N=6,980,333.412, E=2,491,248.131);

THENCE North 24 deg 34 min 44 sec East, over and across said Lemmon Avenue West, a distance of 59.29 feet to a point for the South corner of Lot 1A, Block 978, Lemmon/McKinney Retail, an addition to the City of Dallas, Dallas County, Texas, according to the plat recorded in Volume 97077, Page 1972, Deed Records, Dallas County, Texas (NAD 83 Grid - N=6,980,387.332, E=2,491,272.794), said point being the intersection of the Northwest right-of-way of said McKinney Avenue and the Northeast right-of-way of said Lemmon Avenue West;

THENCE North 27 deg 54 min 52 sec East, along the Northwest right-of-way of said McKinney Avenue and the Southeast line of said Lot 1A, a distance of 203.80 feet to a point for the Northeast corner of said Lot 1A (NAD 83 Grid - N=6,980,567.419, E=2,491,368.203) from which a 1/2-inch iron rod with red plastic cap stamped "WAI" found bears South 27 deg 55 min 58 sec West, a distance of 0.30 feet, said point being the most Southerly corner of Lot 4A, Block 978, McKinney/Lemmon/Cole Addition, an addition to the City of Dallas, Dallas County, Texas according to the plat thereof recorded in Instrument No. 201500068275, Official Public Records, Dallas County, Texas and being situated in the Northwest right-of-way of said McKinney Avenue;

THENCE North 27 deg 48 min 50 sec East, along the Northwest right-of-way of said McKinney Avenue and the Southeast line of said Lot 4A, Block 978, and over and across a portion of the right-of-way of Lemmon Avenue East, a variable width right-of-way, a distance of 250.49 feet to a point for corner (NAD 83 Grid - N=6,980,788.971, E=2,491,485.082) at the intersection of the Northwest right-of-way of said McKinney Avenue and the Southwest right-of-way of said Lemmon Avenue East;

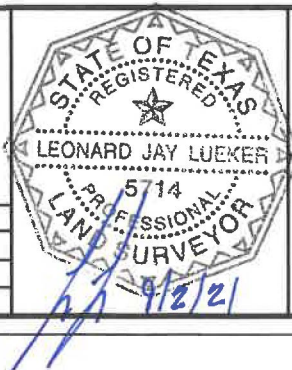
THENCE South 45 deg 43 min 45 sec East, over and across the right-of-way of said McKinney Avenue, passing the South end of a corner clip at the intersection of the Southeast right-of-way of said McKinney Avenue, with the Northeast right-of-way of said Lemmon Avenue East, a total distance of 353.36 feet to a point for corner (NAD 83 Grid - N=6,980,542.309, E=2,491,738.105 at the West end of a corner clip at the intersection of the Northeast right-of-way of said Lemmon Avenue East and the Northwest right-of-way of Noble Avenue, a variable width right-of-way, and being a South corner of said Lot 1A;

(Continued on Sheet 5)

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Texas Surveyors No. 10086500 Expires 12-31-20
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Project No. : 47716.00



MSD EXHIBIT
7.387 ACRES
(321,766 SQ. FT.)

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DALLAS, TEXAS 75247

SHEET
4
OF
6

MSD DESCRIPTION (Continued from Sheet 4)

THENCE South 45 deg 39 min 00 sec East, departing said corner clip and over and across the right-of-way of said Noble Avenue, a distance of 69.76 feet to a point for corner (NAD 83 Grid - N=6,980,493.543, E=2,491,787.989), from which an "X" cut in concrete found bears South 64 deg 22 min 32 sec East, a distance of 0.23 feet, said point being the Southerly end of a corner clip at the intersection of said Northeast right-of-way and the Southeast right-of-way of said Noble Avenue, and being a Westerly corner of Lot 1A, Block 3/974, Bryson Noble LLC, recorded in Instrument No. 201400324342, Official Public Records, Dallas County, Texas;

THENCE South 45 deg 41 min 14 sec East, along said Northeast right-of-way and the Southwest line of said Lot 1A, Block 3/974, a distance of 152.66 feet to a point for corner (NAD 83 Grid - N=6,980,386.899, E=2,491,897.223);

THENCE North 44 deg 35 min 59 sec East, continuing along said common line, a distance of 1.96 feet to a point for corner (NAD 83 Grid - N=6,980,388.295, E=2,491,898.599);

THENCE South 45 deg 54 min 59 sec East, continuing along said common line, a distance of 42.48 feet to a point for corner (NAD 83 Grid - N=6,980,358.742, E=2,491,929.113);

THENCE South 44 deg 38 min 59 sec West, departing the Southwest line of said Lot 1A, Block 3/974 and over and across the right-of-way of said Lemmon Avenue East and along the Northwest line of Lot 2, Block 10A/637, Messina Addition, an addition to the City of Dallas Dallas County, Texas, according to the plat thereof recorded in Volume 88238, Page 0407, Deed Records, Dallas County, Texas, a distance of 245.29 feet to a point for corner (NAD 83 Grid - N=6,980,184.235, E=2,491,756.728), said point being the most Westerly corner of said Lot 2 and the most Northerly corner of said Lot 1B, Block 10A/637, Lemmon-Oak Grove Addition;



THENCE South 45 deg 14 min 02 sec East, departing the Northwest line of said Lot 2 and along the Southwest line of said Lot 2 and the Northeast line of said Lot 1B and over and across the right-of-way of said Oak Grove Avenue, a distance of 194.28 feet to a point for corner (NAD 83 Grid - N=6,980,047.422, E=2,491,894.663), said point being situated in the Southeast right-of-way of said Oak Grove Avenue and the Northwest line of Lot 4E, Block 1/634, JLB-CWS Lemmon Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Instrument No. 201300280550, Official Public Records, Dallas County, Texas;

THENCE South 44 deg 34 min 16 sec West, along the Southeast right-of-way of said Oak Grove Avenue and the Northwest line of Lot 4E, Block 1/634, a distance of 58.23 feet to a point for corner (NAD 83 Grid - N=6,980,005.939, E=2,491,853.797);

THENCE South 44 deg 19 min 28 sec West, continuing the Southeast right-of-way of said Oak Grove Avenue and the Northwest line of Lot 4E, Block 1/634, a distance of 129.50 feet to a point for corner (NAD 83 Grid - N=6,979,913.296, E=2,491,763.313), said point being the North end of a corner clip at the intersection of the Southeast right-of-way of said Oak Grove Avenue and the Northeast right-of-way of said Lemmon Avenue West, said point also being a West corner of said Lot 4E;

THENCE South 44 deg 09 min 50 sec West, departing said corner clip and over and across the right-of-way of said Lemmon Avenue West, a distance of 64.81 feet to a point for corner on the Southwest right-of-way of said Lemmon Avenue West (NAD 83 Grid - N=6,979,866.803, E=2,491,718.158), said point being the North corner of a tract of land as described in deed to Antonetti & Vega, Ltd., recorded in Volume 2000177, Page 6366, Deed Records, Dallas County, Texas;

(Continued on Sheet 6)

 <p>Winkelmann & Associates, Inc. CONSULTING CIVIL ENGINEERS ■ SURVEYORS 6750 HILLCREST PLAZA DRIVE, SUITE 215 (972) 490-7090 DALLAS, TEXAS 75230 (972) 490-7099 FAX Texas Engineers Registration No. 89 Texas Surveyors No. 10086600 Expires 12-31-21 COPYRIGHT © 2021, Winkelmann & Associates, Inc.</p> <p>Scale : N/A Date : 04.09.20 Dwg. File : 47716-MSD Project No. : 47716.00</p>		<p>MSD EXHIBIT 7.387 ACRES (321,766 SQ. FT.)</p> <p>TERRACON 8901 JOHN W. CARPENTER FREEWAY DALLAS, TEXAS 75247</p>	<p>SHEET 5 OF 6</p>
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MSD DESCRIPTION (Continued from Sheet 5)

THENCE North 52 deg 51 min 02 sec West, departing the Southeast right-of-way of said Oak Grove Avenue and over and across the right-of-way of said Oak Grove Avenue, a distance of 49.63 feet to a point for corner (NAD 83 Grid - N=6,979,896.776, E=2,491,678.598), said point being situated in the Southwest right-of-way of said Lemmon Avenue West and being the Easterly corner of Lot 3B, Block 971, Leon Oak Grove Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Instrument No. 201700122062, Official Public Records, Dallas County, Texas;

THENCE North 45 deg 02 min 35 sec West, departing the Northwest right-of-way of said Oak Grove Avenue and along the Southwest right-of-way of said Lemmon Avenue West and the Northeast line of said Lot 3B, a distance of 155.19 feet to a point for corner (NAD 83 Grid - N=6,980,006.429, E=2,491,568.779), said point being the intersection of the Southwest right-of-way of said Lemmon Avenue West and the Southeast right-of-way of Noble Avenue (35' right-of-way), said point also being the Northerly corner of said Lot 3B;

THENCE North 44 deg 51 min 47 sec West, departing the Southeast right-of-way of said Noble Avenue and over and across said Noble Avenue, a distance of 45.19 feet to an "X" cut in concrete found for corner (NAD 83 Grid - N=6,980,038.460, E=2,491,536.901), said "X" cut being the Northerly end of a corner clip at the intersection of the Southwest right-of-way of said Lemmon Avenue West and the Northwest right-of-way of said Noble Avenue and being an Easterly corner of said Lot 8A, Block 11/971;

THENCE North 45 deg 19 min 04 sec West, departing said corner clip and along the Southwest right-of-way of said Lemmon Avenue West and the Northeast line of said Lot 8A, a distance of 116.08 feet to a point for corner (NAD 83 Grid - N=6,980,120.082, E=2,491,454.368);

THENCE North 45 deg 19 min 10 sec West, continuing along said common line, a distance of 227.00 feet to an "X" cut in concrete found for corner (NAD 83 Grid - N=6,980,279.697, E=2,491,292.962) at the Easterly end of said corner clip at the intersection of the Southwest right-of-way of said Lemmon Avenue West and the Southeast right-of-way of said McKinney Avenue, said "X" cut also being a Northerly of said Lot 8A;

THENCE South 81 deg 17 min 47 sec West, along said corner clip, a distance of 11.93 feet to the POINT OF BEGINNING.

CONTAINING within these metes and bounds 7.387 acres or 321,766 square feet of land, more or less.

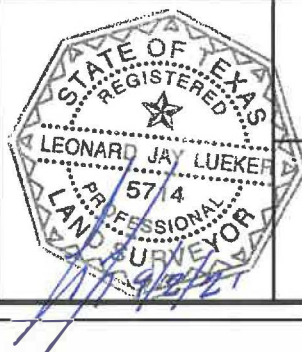
Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 26th day of June, 2019, utilizing a G.P.S. bearing related to the Texas Coordinate System, North Texas Central Zone (4202), NAD 83, grid values from the GeoShack VRS Network.

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N30°45'25"W	64.61'
L2	N24°34'44"E	59.29'
L3	S45°39'00"E	69.76'
L4	N44°35'59"E	1.96'
L5	S45°54'59"E	42.48'

LINE TABLE		
LINE #	BEARING	DISTANCE
L6	S44°34'16"W	58.23'
L7	S44°09'50"W	64.81'
L8	N52°51'02"W	49.63'
L9	N44°51'47"W	45.19'
L10	S81°17'47"W	11.93'

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SHEET
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OF
6

Exhibit B

Municipal Setting Designation

Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared Scott Ozymy, as an authorized representative of KDC McLemmon Investments One LP, known to me to be the person whose name is subscribed below who being by me first duly sworn, upon their oath, stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

I affirmatively state that (place an X in all applicable blanks)

- The MSD eligibility criteria of THSC Section 361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC 361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed MSD property is included with the application.
- Notice has been provided in accordance with THSC 361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

[Signature]
Signature

Date: 7-18-22

M. SCOTT OZYMY
Printed Name

Vice President
Title

STATE OF Texas

COUNTY OF Dallas

SUBSCRIBED AND SWORN before me on this the 18 day of July 2022, to which witness my hand and seal of office.

Barbara B. Dye
Notary Public in and for the State of Texas

