

COMMERCIAL LICENSE AGREEMENT

CITY OF UNIVERSITY PARK

This License Agreement (the "Agreement") effective as provided herein (the "Effective Date"), is between the City of University Park, a municipal corporation (the "City"), and Caruth/Preston Road Associates, LTD (the "Licensee").

RECITALS

WHEREAS, the Licensee desires to place, install, and maintain certain improvements ("the Improvements") in a City right-of-way, easement or property of Preston Road, a public street in the City ("the Property" or "Licensed Area") abutting the Plaza at Preston Center, 8300 Preston Road, in the City of University Park, Texas, Dallas County, Texas, as more specifically described and depicted on Exhibit "A" (9 pages) attached hereto, for the purpose of parking and pedestrian enhancements by the Licensee; and

WHEREAS, the City desires to grant Licensee the privilege to place, install, remove and maintain the Improvements on the Property, upon the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the City and Licensee agree as follows:

I. GRANT OF LICENSE

1.1 License to Maintain Certain Articles on Property. The City hereby licenses and authorizes the Licensee during the term of this Agreement to place, install, remove, and maintain the Improvements on the Property described in Exhibit "A" attached, subject to the terms and conditions contained in this Agreement.

1.2 Nature and Use of Improvements. The authorized Improvements will include concrete pavement, landscaping, parking space striping, steps, handrails, barrier free ramps, handicap ramps, planters and pavers to provide a safer and more accessible route for pedestrian access, and on-street parking repaved to be more efficient and to facilitate the pedestrian improvements. The Licensee may place, install, and maintain on the Property the Improvements described herein to enhance the Licensee's abutting property, known as the Plaza at Preston Center, provided the Improvements in no way impede or interfere with use of the Property for public street, public parking and public sidewalk purposes.

1.3 Maintenance of Improvements. The Licensee shall during the term of this License be solely responsible for the cost and performance of all maintenance, routine and emergency, of the Improvements within the Licensed Area.

II. CONDITIONS PRECEDENT AND EFFECTIVE DATE

2.1 Prior Plan. With this Agreement, the Licensee hereby submits to the Director of Public Works of the City plans for the placement, arrangement, and installation of the Improvements.

2.2 Review by City. The Director of Public Works or his representative shall review the plans and make modifications to the plans as he, in his sole discretion, considers reasonably necessary or appropriate for the preservation of the public health, safety, and welfare of the City.

2.3 Approval and Effective Date. This Agreement and the rights and obligations hereunder shall become effective when the Director of Public Works or his representative has approved the plans. The Licensee agrees to place, arrange, or install the Improvements on the Property according to the approved plans. The Licensee shall not place, arrange, or install any articles on the Property before the plans have been approved. The City retains the right to remove any article or all articles placed onto the right-of-way, easement or Property at any time and retains the right to modify or amend the plans at any time after the Effective Date of this Agreement, upon reasonable notice to the Licensee, such notice informing the Licensee of the purpose and reasonableness of the modification(s) or amendment(s).

III. INDEMNIFICATION AND INSURANCE

3.1 Liabilities, Losses, or Damages. Licensee agrees to indemnify and save harmless the City from any liability or damages the City may suffer because of claims, demands, suits, judgments, costs or expenses, including expenses of litigation and attorneys' fees, arising out of the negligence or willful conduct of Licensee, its officers, agents or employees in use, maintenance, placement, installation, operation, or removal of the Improvements.

3.2 Period Covered. The indemnity provided by this Agreement will extend from the date of this Agreement to the Termination of this Agreement.

3.3 Expenses, Attorneys' Fees, and Costs. If the City, in the enforcement of Paragraph 2.3 of this Agreement, shall incur necessary expenses, or become obligated to pay attorneys' fees or court costs, the Licensee agrees to reimburse the City promptly for such expenses, attorneys' fees, or costs after receiving notice from the City of the incurring of such expenses, costs, or obligations.

3.4 Interest. The Licensee agrees to pay the City interest at the rate of Ten Percent (10%) per annum on any necessary expenses or costs incurred by the City in the enforcement of Paragraph 2.3 of this agreement, or on any sum that the City is obligated to pay with respect to the matters for which indemnity is given in this Agreement, from the date such expenses or costs are incurred, or such sums are paid.

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3.5 Notice of Claim Against. The City agrees to give the Licensee prompt written notice of any claim made against the City on the obligations indemnified by the Licensee hereunder.

3.6 Limitation on Liability. The City and the Licensee agree that the provisions of Article II of this Agreement shall not in any way limit the liability of the Licensee.

3.7 Insurance. The Licensee agrees to carry and maintain insurance during the entire term of this Agreement as follows:

- A. Commercial General Liability Insurance in amounts not less than those established as maximum recovery limits recoverable against the City under the Texas Civil Practice and Remedies Code, as amended.
- B. Personal Liability insurance in amounts not less than those required under A. above.

Such policies of insurance shall be issued by companies authorized to conduct business in the State of Texas and shall name the City, its officers, agents and employees, as additional insured. Certificates evidencing such insurance contracts shall be deposited with the Risk Manager for the City on or before the Effective Date. The policy limits provided in the Agreement shall change in accordance with the provisions for maximum liability under the Texas Civil Practice and Remedies Code. Such certificates shall require thirty (30) days' written notice to the City in the event of default by Licensee or termination of any coverage.

IV. ASSIGNMENT

4.1 Non-assignable. This License is personal to the Licensee. It is non-assignable, except when Licensee has sold property to which this License applies. Any other attempt to assign this License will terminate this License.

V. TERMINATION

5.1 Terminable at Will. This Agreement is terminable by either party at will by the giving of thirty (30) days' written notice to the other party.

VI. GENERAL PROVISIONS

6.1 Governing Law. The validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties shall be governed by the laws of the State of Texas. Exclusive venue of any action hereon shall lie in Dallas County, Texas

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6.2 Amendment. No amendment, supplement, or waiver of this Agreement or any of its provisions shall be binding upon the parties hereto unless made in writing and duly signed by all parties.

6.3 Waiver. A failure or delay of the City to enforce at any time any of the provisions of this Agreement, or to exercise any option that is provided in this Agreement, or to require at any time performance of any of the provisions of this Agreement, shall in no way be construed to be a waiver of such provision of this Agreement.

6.4 Entirety of Agreement. This Agreement constitutes the entire Agreement between the City and the Licensee and supersedes all previous agreements, promises, representations, whether written or oral, between the City and the Licensee with respect to the subject matter of this Agreement.

6.5 Heading. The article and section headings in this Agreement are for convenience only and do not constitute part of this Agreement.

6.6 Sole Benefit. Nothing expressed or referred to in this Agreement is intended or shall be construed to give any person, firm, or entity, other than the City or the Licensee, any legal or equitable right, remedy, or claim under or in respect to this Agreement or any provisions in this Agreement. It is the intention of the City and the Licensee that this Agreement, the assumption of obligations and statements of responsibilities herein, and all conditions and provisions of this Agreement are for the sole benefit of the City and the Licensee, and for the benefit of no other person, firm, or entity.

6.7 Notice. Any notices or other communications required or permitted to be given under this Agreement, unless otherwise specifically provided, shall be deemed given, if sent by first-class mail, postage prepaid, to such party at its address set forth below and shall be effective as of the date of actual delivery of the notice. Either party may change its notice address by a written notice as provided herein.

6.8 Recording. The Licensee must record this License with Dallas County and provide written documentation that such recording has been completed.

If to the City: City Manager
City of University Park
3800 University Blvd.
Box 8005
University Park, TX 75205-0005

If to Licensee: Caruth/Preston Road Associates, LTD

IN WITNESS WHEREOF, the City and the Licensee, each acting through its respective duly authorized representative have caused this Agreement to be signed in their names and delivered as of the date first above written. This Agreement shall be effective on the last date signed below.

CITY OF UNIVERSITY PARK

3800 University Blvd.
University Park, TX 75205

By: _____

Printed Name: Robbie Corder

Title: City Manager

Date: _____

Caruth/Preston Road Associates, LTD

By: _____

Printed Name: _____

Title: _____

Date: _____

ACKNOWLEDGMENTS

STATE OF TEXAS)

)

COUNTY OF DALLAS)

 This instrument was acknowledged before me on the ____ day of _____ 2018, by
_____, _____ of Caruth/Preston Road Associates, LTD, Licensee, on
behalf of such Licensee.

Notary Public, State of Texas

STATE OF TEXAS)

)

CITY OF UNIVERSITY PARK, TEXAS

COUNTY OF DALLAS)

 This instrument was acknowledged before me on the ____ day of _____ 2018, by
Robbie Corder, City Manager of the **CITY OF UNIVERSITY PARK, TEXAS**, a home-rule
municipal corporation, on behalf of such corporation.

Notary Public, State of Texas

EXHIBIT "A"

LICENSE AGREEMENT

Part of Preston Road
Being adjacent to
Lot A, Preston Center Addition
Josiah Barker Survey Abstract No. 80
City of University Park, Dallas County, Texas

DESCRIPTION, of a 14,475 square foot (0.332 acre) tract of land situated in the Josiah Barker Survey, Abstract No. 80, City of University Park Dallas County, Texas and in the right-of-way of Preston Road (a variable width right-of-way); said tract being adjacent to Lot A, Preston Center Addition, an addition to the City of University Park, Texas according to the plat recorded in Instrument No. 201100169787 of the Official Public Records of Dallas County, Texas and adjacent to that certain tract of land described in Special Warranty Deed and Assignment of Lease to Caruth/Preston Road Associates, LTD. Recorded in Volume 95041, Page 3847 of the Deed Records of Dallas County, Texas; said 4,189 square tract being more particularly described as follows (bearing system for this survey is based on the State Plane Coordinate System, North American Datum of 1983 (Adjustment Realization 2011), Texas North Central Zone 4202. Distances reported have been scaled by applying the TxDOT Dallas County surface adjustment factor of 1.000136506):

COMMENCING, at a 5/8-inch iron rod with "SINCLAIR & ASSOC" cap found in the north right-of-way line of Wentwood Drive (a 50-foot wide right-of-way); said point being in the south line of said Lot A, Preston Center Addition and in the south line of said Caruth/Preston tract;

THENCE, South 89 degrees, 29 minutes, 21 seconds West, along the said north line of Wentwood Drive, the said south line of Lot A, Preston Center Addition and the south line of said Caruth/Preston tract, a distance of 26.67 feet to a point at the intersection of the said north line of Wentwood Drive and the east right-of-way line of Preston Road (a variable width right-of-way); said point also being the southwest corner of said Lot A, Preston Center Addition and the southwest corner of said Caruth/Preston tract;

THENCE, North 00 degrees, 30 minutes, 48 seconds West, departing the said north line of Wentwood Drive, along the said east line of Preston Road, the west line of said Caruth/Preston tract and the west line of said Lot A, Preston Center Addition, a distance of 41.86 feet to the **POINT OF BEGINNING**;

THENCE, departing the said east line of Preston Road, the said west line of Caruth/Preston tract and the said west line of Lot A, Preston Center Addition and into and across said Preston Road, the following three (3) calls:

South 89 degrees, 29 minutes, 12 seconds West, a distance of 34.26 feet to a point for corner;

North 00 degrees, 02 minutes, 07 seconds West, a distance of 446.81 feet to a point for corner;

North 89 degrees, 29 minutes, 12 seconds East, a distance of 30.53 feet to a point for corner; said point being in the said east line of Preston Road, the said west line of the Caruth/Preston tract and the said west line of Lot A, Preston Center Addition;

LICENSE AGREEMENT

(Continued)

THENCE, South 00 degrees, 30 minutes, 48 seconds East, along the said east line of Preston Road, the said west line of the Caruth/Preston tract and the said west line of Lot A, Preston Center Addition, a distance of 446.79 feet to the **POINT OF BEGINNING**;

CONTAINING: 14,475 square feet or 0.332 acres of land, more or less.

(A survey plat of even survey date herewith accompanies this description.)

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the License Agreement tract described.


Jonathan E. Cooper
Registered Professional Land Surveyor No. 5369
Pacheco Koch, LLC
7557 Rambler Road, Suite 1400, Dallas TX 75231
(972) 235-3031
TX Reg. Surveying Firm LS-10193805

Date

10-12-2018



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2386-15.129EX2.dwg acd

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ADEITZ

LEGEND	
	PROPERTY LINE
	EASEMENT LINE
	POINT FOR CORNER (UNLESS OTHERWISE NOTED)
(C.M.) -	CONTROLLING MONUMENT
P.O.C.	POINT OF COMMENCING
P.O.B.	POINT OF BEGINNING

LINE TABLE		
LINE	BEARING	LENGTH
L1	S 89°28'21" W	26.67'
L2	N 00°30'48" W	41.86'
L3	S 89°29'12" W	34.26'
L4	N 89°29'12" E	30.53'

PRESTON ROAD
(A VARIABLE WIDTH RIGHT-OF-WAY)

5/8-INCH IRON ROD
W/ "SINCLAIR & ASSOC"
CAP FOUND (C.M.)

LICENSE AGREEMENT
14,475 SF
(0.332 ACRES)

P.O.B.
P.O.C.

NOTES:

1. A metes and bounds description of even survey date herewith accompanies this plat of survey.
2. Bearing system for this survey is based on the State Plane Coordinate System, North American Datum of 1983 (Adjustment Realization 2011), Texas North Central Zone 4202. Distances reported have been scaled by applying the TxDOT Dallas County surface adjustment factor of 1.000136506.

The undersigned, Registered Professional Land Surveyor, hereby certifies that this plat of survey accurately sets out the metes and bounds of the License Agreement tract described.

Jonathan E. Cooper
Registered Professional
Land Surveyor No. 5369

Date



Pacheco Koch

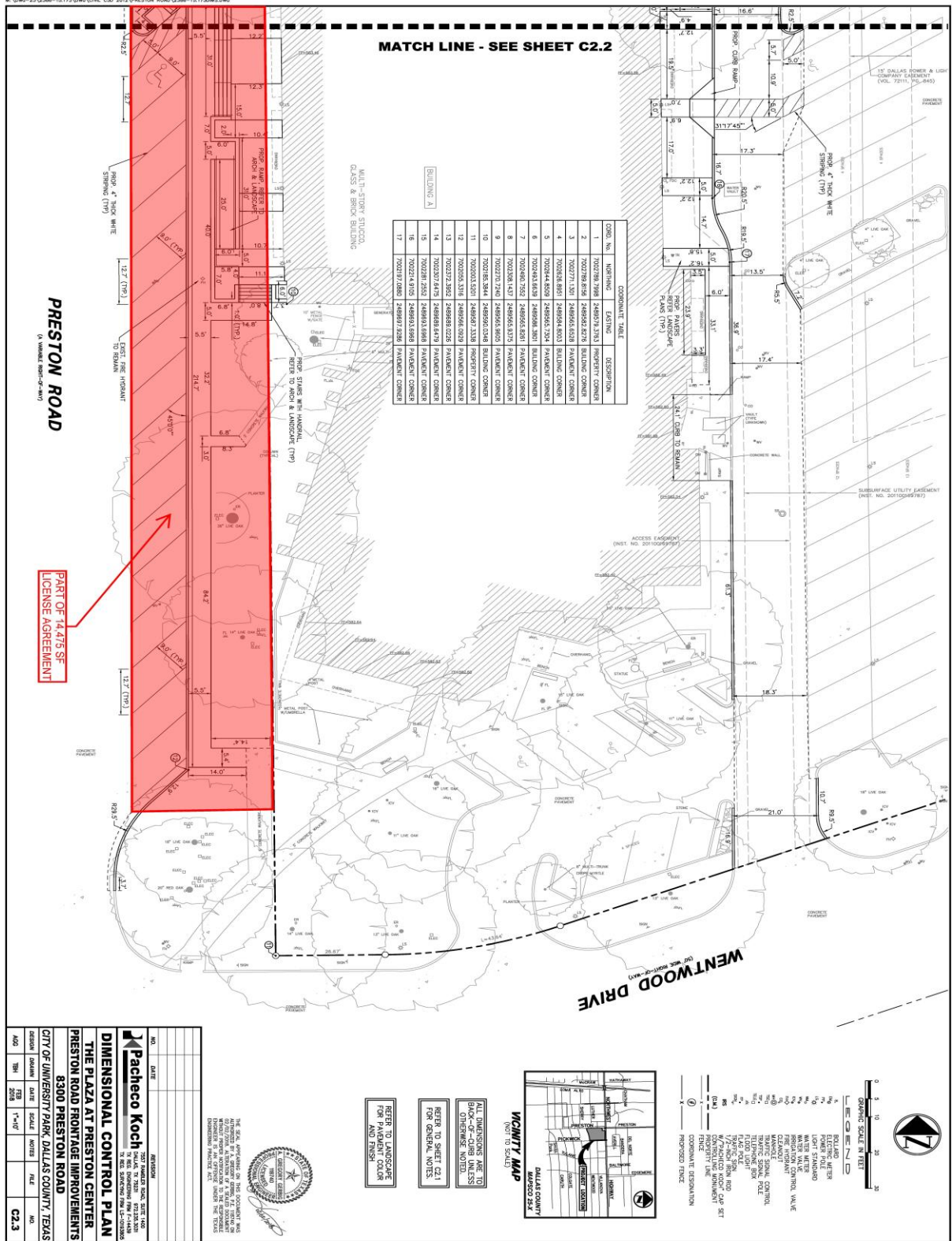
7557 RAMBLER ROAD SUITE 1400
DALLAS, TX 75231 972.235.3031
TX REG. ENGINEERING FIRM F-14439
TX REG. SURVEYING FIRM LS-10193805

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
ACD	MWW/JEC	1"=50'	OCT. 2018	2386-15.129

LICENSE AGREEMENT

PART OF PRESTON ROAD
BEING ADJACENT TO LOT A,
PRESTON CENTER ADDITION
JOSHUA BARKER SURVEY, ABSTRACT NO. 80,
CITY OF UNIVERSITY PARK, DALLAS COUNTY, TEXAS
SHEET 3 OF 3

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LICENSE AGREEMENT
Part of Preston Road
Being adjacent to
Lot A, Preston Center Addition
Josiah Barker Survey Abstract No. 80
City of University Park, Dallas County, Texas

DESCRIPTION, of a 4,189 square foot (0.096 acre) tract of land situated in the Josiah Barker Survey, Abstract No. 80, City of University Park Dallas County, Texas and in the right-of-way of Preston Road (a variable width right-of-way); said tract being adjacent to Lot A, Preston Center Addition, an addition to the City of University Park, Texas according to the plat recorded in Instrument No. 201100169787 of the Official Public Records of Dallas County, Texas and adjacent to that certain tract of land described in Special Warranty Deed and Assignment of Lease to Caruth/Preston Road Associates, LTD. Recorded in Volume 95041, Page 3847 of the Deed Records of Dallas County, Texas; said 4,189 square tract being more particularly described as follows (bearing system for this survey is based on the State Plane Coordinate System, North American Datum of 1983 (Adjustment Realization 2011), Texas North Central Zone 4202. Distances reported have been scaled by applying the TxDOT Dallas County surface adjustment factor of 1.000136506):

COMMENCING, at a 1/2-inch iron rod with "SINCLAIR & ASSOC" cap found at the southwest end of a right-of-way corner clip at the intersection of the south right-of-way line of Northwest Highway (a variable width right-of-way) and the east right-of-way line of Preston Road (a variable width right-of-way); said point being a northwest corner of Lot 1K, Varsity Village, an addition to the City of University Park, Texas according to the plat recorded in Volume 11, Page 217 of the Map Records of Dallas County, Texas;

THENCE, South 00 degrees, 30 minutes, 50 seconds East, along the west line of said Lot 1K and the said east line of Preston Road, a distance of 134.05 feet to a point; said point also being the southwest corner of said Lot 1K;

THENCE, North 89 degrees, 14 minutes, 28 seconds East, along the south line of said Lot 1K, a distance of 20.13 feet to a point; said point being a northwest corner of said Lot A, Preston Center Addition and the northwest corner of said Caruth/Preston tract;

THENCE, South 00 degrees, 30 minutes, 48 seconds East, continuing along the said east line of Preston Road and departing the said south line of Lot 1K, along the west line of said Lot A, Preston Center Addition and the west line of said Caruth/Preston tract, a distance of 12.43 feet to the **POINT OF BEGINNING**;

THENCE, South 00 degrees, 30 minutes, 48 seconds East, continuing along the said east line of Preston Road, the said west line of Lot A, Preston Center Addition and the west line of said Caruth/Preston tract, a distance of 145.66 feet to a point for corner;

THENCE, departing the said east line of Preston Road, the west line of Lot A, Preston Center Addition and the west line of said Caruth/Preston tract and into and across said Preston Road, the following three (3) calls:

South 89 degrees, 29 minutes, 12 seconds West, a distance of 29.37 feet to a point for corner;

North 00 degrees, 02 minutes, 07 seconds West, a distance of 145.67 feet to a point for corner;

(Continued)

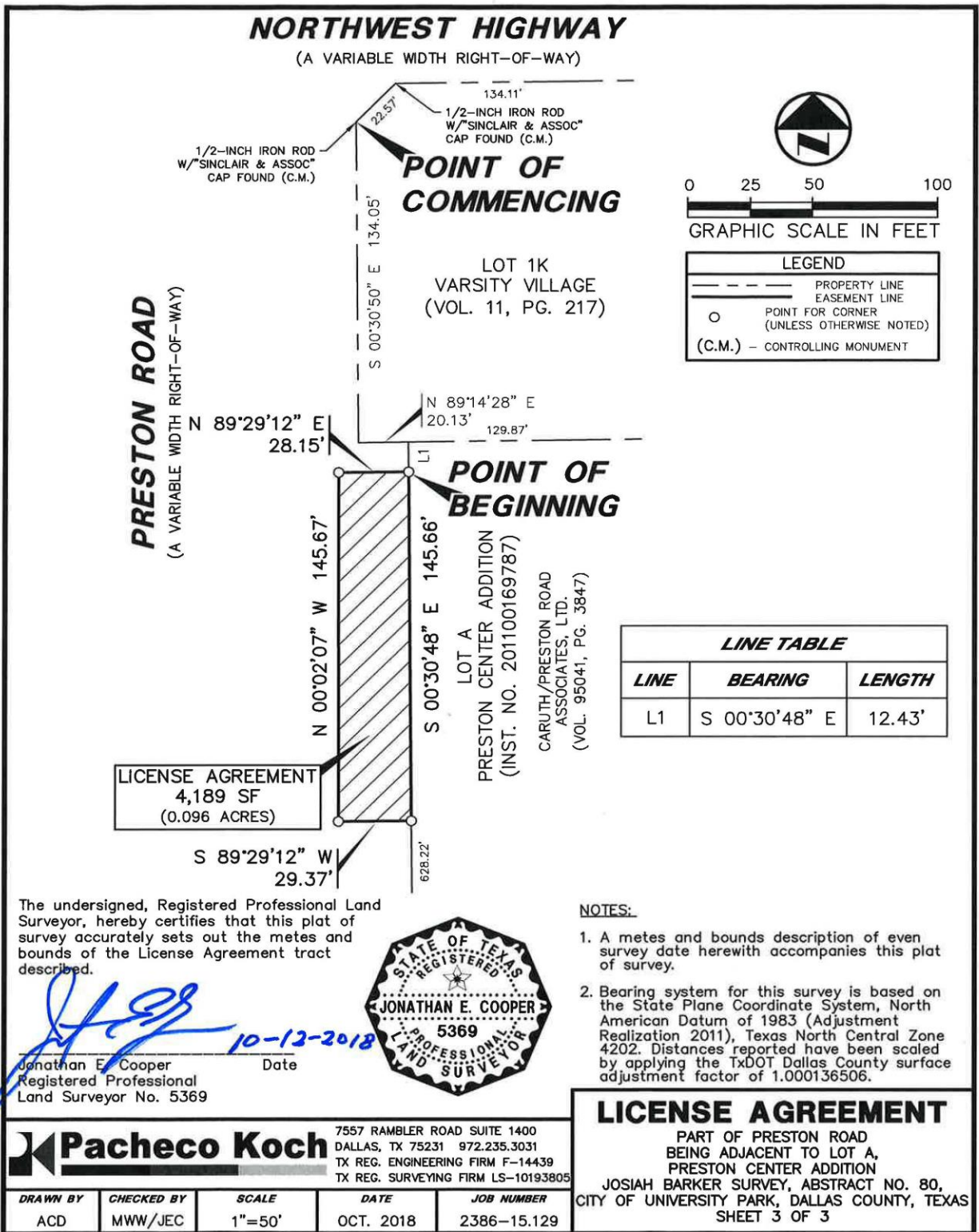
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Jonathan E. Cooper Date
Registered Professional Land Surveyor No. 5369
Pacheco Koch, LLC
7557 Rambler Road, Suite 1400, Dallas TX 75231
(972) 235-3031
TX Reg. Surveying Firm LS-10193805



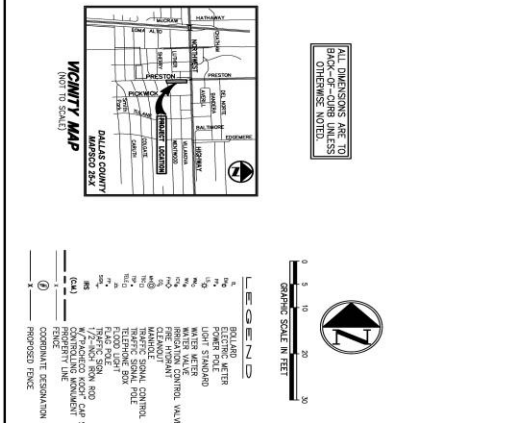
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THE PLAZA AT PRESTON CENTER
 8300 PRESTON ROAD
 DALLAS COUNTY, TEXAS
 75241-1114

- GENERAL NOTE**
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF DALLAS, TEXAS, AND THE CITY OF UNIVERSITY PARK, TEXAS, PRIOR TO ANY CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF DALLAS, TEXAS, AND THE CITY OF UNIVERSITY PARK, TEXAS, PRIOR TO ANY CONSTRUCTION.
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COORDINATE TABLE

POINT NO.	NORTHING	EASTING	DESCRIPTION
1	7002788.3156	2485952.8279	PROPERTY CORNER
2	7002788.3156	2485952.8279	BUILDING CORNER
3	7002771.1301	2485952.8279	PAVEMENT CORNER
4	7002826.8591	2485952.8279	BUILDING CORNER
5	7002826.8591	2485952.8279	PAVEMENT CORNER
6	7002826.8591	2485952.8279	BUILDING CORNER
7	7002826.8591	2485952.8279	PAVEMENT CORNER
8	7002826.8591	2485952.8279	BUILDING CORNER
9	7002826.8591	2485952.8279	PAVEMENT CORNER
10	7002826.8591	2485952.8279	BUILDING CORNER
11	7002826.8591	2485952.8279	PAVEMENT CORNER
12	7002826.8591	2485952.8279	BUILDING CORNER
13	7002826.8591	2485952.8279	PAVEMENT CORNER
14	7002826.8591	2485952.8279	BUILDING CORNER
15	7002826.8591	2485952.8279	PAVEMENT CORNER
16	7002826.8591	2485952.8279	BUILDING CORNER
17	7002826.8591	2485952.8279	PAVEMENT CORNER

Pacheco Koch

THE PLAZA AT PRESTON CENTER

8300 PRESTON ROAD

CITY OF UNIVERSITY PARK, DALLAS COUNTY, TEXAS

REVISION

NO.	DATE	DESCRIPTION
1	08/01/2018	ISSUED FOR PERMITTING

THE PLAZA AT PRESTON CENTER

8300 PRESTON ROAD

CITY OF UNIVERSITY PARK, DALLAS COUNTY, TEXAS

REVISION

NO.	DATE	DESCRIPTION
1	08/01/2018	ISSUED FOR PERMITTING

THE PLAZA AT PRESTON CENTER

8300 PRESTON ROAD

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