

ORDINANCE NO. 2018-41

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, APPROVING THE 2018 UPDATED SERVICE AND ASSESSMENT PLAN FOR THE CITY OF TOMBALL PUBLIC IMPROVEMENT DISTRICT NUMBER THREE (PID NO. 3), FOR THE RESERVE AT SPRING LAKE SUBDIVISION

* * * * *

WHEREAS, the City of Tomball (the “City”) is authorized pursuant to TEX. LOCAL GOV’T CODE, ch. 372, as amended (“Chapter 372”) to create public improvement districts for the purposes described therein; and

WHEREAS, the City received a petition (the “Petition”) requesting the creation of the City of Tomball Public Improvement District Number Three (the “PID”), held a public hearing, and created the PID in accordance with the applicable provisions of Chapter 372; and

WHEREAS, the City passed and adopted Resolution No. 2009-28 on October 19, 2009, establishing the City of Tomball Public Improvement District Number Three, and Ordinance No. 2012-15 on July 2, 2012, Approving the Service and Assessment Plan; and

WHEREAS, the City Council wishes to adopt the 2018 Updated Service and Assessment Plan with respect to the PID; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, that:

Section 1. The facts recited in the preamble hereto are found to be true and correct.

Section 2. The 2018 Updated Service and Assessment Plan attached to this Ordinance as Exhibit A is hereby approved and adopted on behalf of the PID, and the Mayor, City Secretary, and any other appropriate officials of the City are hereby authorized to take all necessary actions on behalf of the City to implement the terms thereof in accordance therewith.

Section 3. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 3RD DAY OF DECEMBER 2018.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>NAY</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 17TH DAY OF DECEMBER 2018.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

Gretchen Fagan
GRETCHEN FAGAN, MAYOR
City of Tomball

ATTEST:

Doris Speer
DORIS SPEER, City Secretary
City of Tomball

EXHIBIT A

**2018 Updated Service and Assessment Plan
Public Improvement District Number Three
City of Tomball, Harris County, Texas**

1. Introduction

This Service and Assessment Plan (the "Plan") is prepared and adopted in conformance with the Public Improvement District Assessment Act, codified as Chapter 372, Texas Local Government Code (the "Act"), and pursuant to Resolution No. 2009-28 creating the Public Improvement District Number Three (the "PID" or the "District"), City of Tomball (the "City"), Harris County, Texas. The creation of the PID was initiated by a petition (the "Creation Petition") submitted by property owners within the PID boundaries in compliance with the requirements of Section 372.005 of the Act.

2. Boundaries

The boundaries of the PID are as indicated in Exhibit A and Exhibit B.

3. Administration of the District

Administration of the District is the responsibility of the City Council of the City of Tomball, Texas but to the extent allowed by law, the City may contract with a private sector company to carry out all or part of the City responsibilities as well as day-to-day operations and administration of the District.

4. Public Improvements

The Public Improvements to be financed and constructed hereby (the "Public Improvements") serve to promote the construction of single-family units ("SFU"). The Public Improvements included in the Plan will confer a special benefit to properties within the Public Improvement District and will consist of the construction of detention, water lines, sanitary sewer lines, storm sewers, gas lines, open space and amenities, paving erosion control, contingency provisions, engineering services, financing costs, and administrative and legal services for the PID. The Public Improvements will be pre-funded by the developer of the residential subdivision within the PID (the "Developer") under an approved development agreement. Under the Development Agreement executed between the Developer and the City, the Developer will be entitled to receive reimbursement of the Public Improvement costs subject to the limitations contained in the Agreement.

A. Reserve at Spring Lake

The Reserve at Spring Lake Subdivision is being developed by Zion Road Properties, LLC and will ultimately contain approximately 95 single-family residential lots within the Public Improvement District. The Public Improvements authorized under this Plan for The Reserve at Spring Lake, and the estimated costs thereof, are described below:

Reserve at Spring Lake
PID COSTS

PUBLIC IMPROVEMENT	ESTIMATED COST	Updated Est. Costs
Water Distribution Facilities	\$673,400	\$633,292
Sanitary Sewer Facilities	\$796,050	\$1,092,517
Storm Sewer Facilities	\$49,500	\$306,498
Gas Distribution Facilities	\$339,930	\$255,376
Roadway Paving	\$1,399,960	\$2,319,444
Land Reserved for Green Space/Amenities	\$1,759,560	\$2,221,596
Clearing	\$340,000	\$125,850
Detention Pond and Facilities	\$1,640,408	\$548,865
Pipeline Conflicts	\$150,000	\$100,000
Contingency (10%)	\$714,880	\$0
Engineering, Surveying (15%)	\$1,179,553	\$300,000
Subtotal	\$9,043,241	\$7,903,438
Financing Cost		\$4,015,737
PID Administration Expenses		\$358,850
TOTAL		\$12,278,025

The estimated total costs above will be used to set the assessments for residential properties in the PID as detailed later in this document.

5. Construction of Public Improvements

The Plan will be reviewed annually in accordance with the provisions of Chapter 372 of the Local Government Code and will include a review of the expenditures and revenues of the District. Additionally, the Plan will be reviewed for the purpose of establishing the installments for assessments based upon the costs for Public Improvements and the financial needs of the District.

6. Conveyance of Improvements to the City

Upon completion of the improvements, and final inspection and acceptance of the Public Improvements by the City, the Developers will convey all rights to the improvements to the City or homeowner's association as applicable, subject to the Developer's rights of reimbursement described in the Development Agreement executed between the Developer and the City.

7. Authorized Improvements

The area within the PID that is covered by this Service and Assessment Plan will be developed as single family residential. This Plan designates the Public Improvements required for the growth and development of the land within the PID. The goal of this Plan is to provide sufficient certainty for the owners of land within the PID to proceed with the financing and construction of the necessary Public

Improvements, while allowing for sufficient flexibility to meet the needs of the PID over the life of the development of residential properties within the PID.

The construction of the Public Improvements authorized herein began in calendar year 2012. The actual costs of the Public Improvements will be determined by an independent accountant report of the developer's costs.

8. Advance Financing by Developer

The Developer will advance the funds for construction of the Public Improvements and will be entitled to repayment pursuant to the Development Agreement executed between the City and the Developer.

9. Apportionment of Costs

Payment of assessments, if any, on property owned by exempt jurisdictions other than the City shall be established by contract.

10. Levy of Assessments

The assessment year shall be concurrent with the City's tax year. The assessments against property may be paid in annual installments based on an amortization of not more than fifteen (15) years plus the period between the effective date of the assessment ordinance and the date of the first installment. The interest rate on financed assessments is five and ¼ percent (5.25%) per annum.

The assessments shall be based upon the actual cost of the Public Improvements plus those related costs as deemed reimbursable by the City. The cost of the Public Improvements will consist of the costs to construct detention, storm sewers, water lines, sanitary sewers, gas, open space and amenities, erosion control, and paving for each development phase, related professional design and engineering fees, administrative and legal services and interest payable to the Developer pursuant to the Development Agreement. The assessment necessary to finance 100% of the PID Improvement Costs is in excess of the 90 cent equivalent tax rate cap contained in the Development Agreement, therefore, the assessments will be capped at a rate and amount necessary to comply with the equivalent tax rate cap.

A. Reserve at Spring Lake

The Plan estimates the following assessments for residential properties in the PID according to the cost of the Public Improvements and the equivalent tax rate cap established under the Development Agreement. The total assessment can be paid upfront at the time the residential property is purchased or at any time thereafter. The assessment can also be financed and paid in equal annual installments over fifteen (15) years as prescribed below.

<u>Reserve at Spring Lake Lot Categories (By Size)</u>	<u>Total Assessment: (Principal)</u>	<u>Financed Assessment (Annual Payment)</u>
1.) Up to 1.5 Acres	\$45,929.08	\$4,500.00
2.) 1.5 Acres to 2.0 Acres	\$68,893.62	\$6,750.00
3.) 2.0 Acres to 3.0 Acres	\$91,858.15	\$9,000.00
4.) 3.0 Acres and Larger	\$114,822.69	\$11,250.00

B. Levy and collection.

The assessment will be levied by the City upon commencement of the construction of the improvements (or a portion of the improvements) and the platting and subdividing of property into residential lots. The first installment of an assessment against a particular lot shall be due with respect to the calendar year following the earlier of: (i) the date such residential lot has been improved with a habitable structure and conveyed to a home purchaser as evidenced by Harris County Appraisal District records, or (ii) the second anniversary of the date the residential lot was conveyed from the Developer to a home purchaser regardless of any improvements on the property. Lots improved with homes used for marketing purposes (e.g. "model homes") will be exempt from the assessment until the calendar year following the date the home is conveyed to home purchaser. The City will invoice each owner of property for the installment payment in conjunction with the City's annual property tax bill, and the installments shall be due and payable, and incur penalty and interest for unpaid installments in the same manner as provided for the City's property taxes. Thereafter, subsequent installments shall be due in the same manner in each succeeding calendar year until the assessment together with interest as provided herein has been paid in full. The owner of assessed property may pay at any time the entire assessment then due on each property, with interest accrued on the assessment through the date of payment. Financed assessments shall bear interest at five and ¼ percent (5.25%) per annum. Failure of an owner to receive an invoice shall not relieve the owner of the responsibility of for the assessment.

A lien will be established against the property assessed effective as of the date of the ordinance levying the assessment, privileged above all other liens, including prior mortgage liens, to the extent allowed by Section 372.018(b) of the Local Government Code. Assessment installments shall be considered delinquent on the same date as the City's property taxes. Delinquent assessments or installments shall incur the costs of collection. If practicable, the assessment shall be included on the City property tax statement. Notwithstanding the above, the assessment lien shall be perfected immediately as to the entire assessment, but may be executed only with respect to the amounts then due or past due for current or prior installments or final payment. Assessments are personal obligations of the person owning the property assessed in the year an installment payment becomes due, and only to the extent of such installment(s).

The owner of assessed property may pay at any time the entire assessment then due on each property, with interest accrued on the assessment through the date of payment.

EXHIBIT A

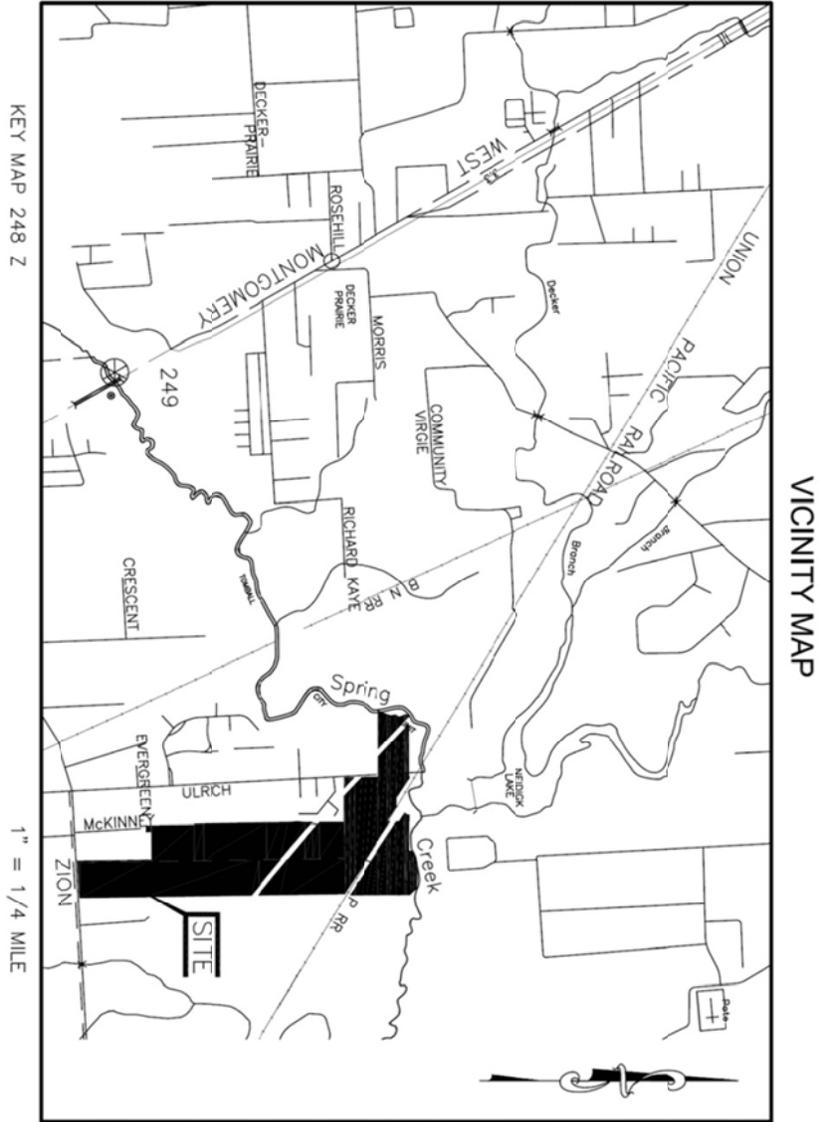


EXHIBIT B

**METES AND BOUNDS DESCRIPTION
232.8801 ACRE (10,144,254 SQUARE FEET)
ALL OF A CALLED 164.7078 ACRES TRACT
AND ALL OF A CALLED 68.1723 ACRES TRACT
IN THE JOSEPH MILLER LEAGUE, A-50
AND THE W H CLEMENS SURVEY, A-1641
HARRIS COUNTY, TEXAS**

Being 232.8801 acre (10,144,254 square feet) of land, being all of a called 164.7078 acres tract, conveyed to Yaupon Ranch, Ltd. by deed recorded under County Clerk's File Number (CCF) 2007-0138375 of the Official Public Records of Real Property of Harris County, Texas (OPRRP HCT), and all of a called 68.1723 acres tract, conveyed to Yaupon Ranch, Ltd. by deed recorded under CCF Z236940 OPRRP HCT. Said 232.8801 acres tract lying in the Joseph Miller League, Abstract 50 and W H Clemens Survey, A-1641 and being more particularly described by metes and bounds, with bearings based on the North line of said 164.7078 acres tract, called "East", as follows:

BEGINNING at a found 1 inch iron pipe, next to a three inch iron pipe in the Southwest corner of a called 10 acres tract referenced in deed to Tomball ISD recorded under CCF X890598 OPRRP HCT, being the same as the remainder of a called 10 acres tract conveyed to Vilma Masterson et al by deed recorded under CCF 371361 DR HCT, said iron pipe also marking the Southeast corner of a called 13 acre tract conveyed to Neigdick Lester, record information not found;

THENCE East, basis of bearings, along the common South line of said 10 acre tract, a distance of 912.36 feet to a found 3 inch iron pipe in the South line of a called 10 acre tract conveyed to Vilma Masterson et al, by deed recorded under CCF 371361 DR HCT, being the same further conveyed under Tax Suite Sale to Tomball Independent School District, by deed recorded under CCF X890598 OPRRP HCT;

THENCE North 89°55'38" East, in part along the South line of said called 10-acre tract, a distance of 600.70 feet to a set 5/8 inch iron rod. Said iron rod set in a point from which a 5/8 inch iron rod with;

THENCE North 00°43'17" West, a distance of 87.16 feet, to a point in the centerline of Spring Creek (the dividing line between the Counties of Harris and Montgomery);

THENCE along said centerline of said Spring Creek, the following courses:

North 67°07'18" East, a distance of 154.67 feet;

North 80°22'28" East, a distance of 113.12 feet;

North 87°09'19" East, a distance of: 110.50 feet;

North 87°53'00" East, a distance of: 210.89 feet;

South 83°18'22" East, a distance of 202.76 feet;

South 42°35'23" East, a distance of 169.62 feet;

And South 56°06'19" East a distance of 15.97 feet, to a point in said centerline for the Northeast corner of the herein described tract, also being the Northwest corner of a called 26.5 acre tract conveyed to Tomball Gun Club by deed recorded under CCF B717054 OPRRP HCT;

THENCE South 00°26'02" East, along the West line of said 26.5 acre tract, pass at a distance of 91.93 feet a found 5/8 inch iron rod with cap, in said West line, on the High bank of said Spring creek and continuing to a total distance of 1271.15 feet, to a found 5/8 inch iron rod with cap in the North right-of-way line (ROW) of the G N R R Company (now Missouri Pacific RR Co.) 100 feet wide ROW;

THENCE North 56°52'59" West, along said North ROW, a distance of 896.47 feet, to a set 5/8 inch iron rod in the West line of said 21.118-acre tract, also being the East line of said 90.63 acre tract, for an internal corner of the herein described tract;

THENCE South 00°43'15" East, across said ROW, a distance of 120.38 feet to a set 5/8 inch iron rod with cap in the South ROW of said G N RR Company (now Missouri Pacific RR Co.) and an internal corner of the herein described tract;

THENCE South 56°52'15" East, along said South ROW, a distance of 852.06 feet, to a found 5/8 inch iron rod with cap, in the North line of said 68.1723 acres tract;

THENCE South 56°54'33" East, along said cutback and the Southwest line of said I. & G.N. Railroad, a distance of 44.05 feet to a found 5/8 inch iron with cap, marking the Northwest corner of a called 15.6463 acre tract conveyed to Tomball Gun Club, Inc. by deed recorded under CCF No. L547016 OPRRP HCT;

THENCE South 00°03'08" West, along the West line of said 15.6463 acres tract and a called 4.0000 acres tract to Pricila Brown Estate as shown in Harris County Appraisal District, Account No. 041-006-002-0022, a distance of 1759.27 feet to a found 1/2 inch iron rod in the Northeast corner of a called 2.7859 acre easement tract to Houston Lighting and Power Company recorded under CCF No. G985469 OPRRP HCT;

THENCE South 00°04'29" West, along the West line of said 4.0000 acres tract and the East line of said 2.7859 acre easement tract, a distance of 90.20 feet to a set 5/8 inch iron rod, marking the Southwest corner of said 4.0000 acre tract, and the Northwest corner of a called 155.696 acre tract conveyed to Hobby H. McCall Living Trust, recorded under CCF No. P916725 OPRRP HCT;

THENCE South 00°47'42" East, along the West line of said 155.696 acre tract, a distance of 84.46 feet to a found 5/8 inch iron rod in the Southeast corner of said 2.7859 acre easement tract;

THENCE South 00°44'33" East, continuing along said 155.696 acre tract, a distance of 748.41 feet to a found 1/2 inch iron rod with cap, marking the Northeast corner of a called 22.8365 acre tract conveyed to Jack Frey Properties by deed recorded under CCF No. J585122 OPRRP HCT and the most Easterly Southeast corner of the herein described tract;

THENCE North 85°40'01" West, along the North line of said 22.8365 acre tract, a distance of 363.82 feet, to a set 5/8 inch iron rod for the Northwest corner of said 22.8365 acre tract and the internal corner of the herein described tract;

THENCE South 00°38'14" East, along the West line of said 22.8365 acre tract, a distance of 2775.27 feet to a found 1/2 inch iron rod, marking the Southwest corner of said 22.8365 acre tract and the most Southerly Southeast corner of the herein described tract, being in the North ROW line of said Zion Road;

THENCE South 89°29'18" West, along the North ROW line of said Zion Road, a distance of 351.35 feet to a found 1/2 inch pipe, marking the Southeast corner of said 164.7078 acres tract, said pipe being in the North right-of-way (ROW) line of Zion Road, 60' wide ROW);

THENCE South 87°13'11" West, along said ROW, a distance of 39.59 feet to a found 1 inch iron pipe for corner;

THENCE North 00°48'47" West a distance of 1402.26 to a set 5/8 inch iron rod, said point being the Southeast corner of a called 1.334 acre tract conveyed to Raymond L Ulrich by CCF C648757 OPRRP HCT, and now being part of said 19.496 acre tract;

THENCE North 00°53'58" West, along the East line of said 1.334 acre tract, a distance of 99.79 feet, to a found 3 inch iron pipe for corner;

THENCE South 89°12'11" West, along the North line of said 1.334 acre tract, a distance of 565.59 feet, to a found 1 1/2 inch iron pipe for corner;

THENCE South 01°15'42" East, along the West line of said 1.334 acre tract, a distance of 100.16 feet, to a found 1 1/2 inch iron pipe for corner marking the Northeast corner of McKinney PL Subdivision an unrecorded Subdivision;

THENCE South 89°45'36" West, along the North line of said McKinney PL Subdivision, a distance of 134.11 feet to a found 5/8 inch iron rod marking the Southeast corner of a called 19.98 acre tract conveyed to Richard Kinsey by deed recorded under CCF No. S913430 OPRRP HCT;

THENCE North 00°51'43" West, along the East line of said 19.98 acre tract, a distance of 962.95 feet to a found 5/8 inch iron rod marking the Northeast corner of said 19.98 acre tract and an internal corner of the herein described tract;

THENCE South 88°35'00" West, along the North line of said 19.98 acre tract, a distance of 20.10 feet to a found 1 1/2 inch iron rod marking the Southeast corner of the remainder of a called 15.000 acre tract conveyed to Jimmy Adams by deed recorded under CCF No. S832826 OPRRP HCT;

THENCE North 01°29'11" West, along the East line of said 15.000 acre tract, pass at a distance of 2.81 feet a found 5/8 inch iron rod with cap, pass at a distance of 9.77 feet a found 5/8 inch iron rod with cap, and continuing to a total distance of 191.51 feet to a found 5/8 inch iron rod with cap for angle point;

THENCE North 01°01'18" West, along the East line of said 15.000 acre tract, a called 7.500 acre tract conveyed to Samuel Olivo by deed recorded under CCF No. V586304 OPRRP HCT, a called 5.47 acre tract conveyed to Rock Graham by deed recorded under CCF No(s). S971746 and S832827 OPRRP HCT, a called 9.470 acre tract conveyed to Mathew Klein by deed recorded under CCF No. S960728 OPRRP HCT, pass at a distance of 182.21 feet a found 5/8 inch iron with cap in the Southeast corner of said 7.500 acre tract, a distance of 1334.94 feet to a found 2 inch iron pipe marking the Southeast corner of a remainder of a called 10.452 acre tract conveyed to James Kirkman by deed recorded under CCF No. P763144 OPRRP HCT;

THENCE North 00°17'31" West, along the East line of said remainder of a called 10.452 acre tract and Red Oak Terrace an unrecorded subdivision, pass at a distance of 525.61 feet a found 2 inch pipe next to a 5/8 inch iron rod marking the Southeast corner of said Red Oak Terrace Subdivision, pass at a distance of 924.40 feet the Southwest corner of said 2.4546 acre tract, pass at a distance of 1061.61 feet the Northwest corner of said 2.4546 acre tract, and continuing along the West line of said 51.706 acre tract, to a total distance of 1549.51 feet to a found 2 inch iron pipe for the Northeast corner of said unrecorded subdivision, also being the Southeast corner of said 28.7386 acre tract;

THENCE North 89°35'33" West, along the North line of said Red Oak Terrace Subdivision and the South line of said 28.7386 acre tract, pass at a distance of 141.02 a found 1/2 inch iron rod marking the common North corner of tract 34 of said Red Oak Terrace conveyed to Mick Corporation by deed

recorded under CCF J788626 OPRRP HCT and tract 35 conveyed to John W and Connie Page by deed recorded under CCF U436525 OPRRP HCT, pass at a distance of 439.22 a found 3/4 inch iron rod marking the Northwest corner of said tract 35 and a Centerpoint Energy tract, pass at a distance of 521.30 feet the Southeast corner of said 0.9722 acre tract, pass at a distance of 669.38 feet the Southwest corner of said 0.9722 acre tract, pass at a distance of 751.46 feet a found 5/8 inch iron rod marking the common North corner of said Centerpoint Energy tract and tract 40 conveyed to Howard Ellery Gene by deed recorded under CCF H821490 OPRRP HCT, pass at a distance of 870.00 feet a set 5/8 inch iron rod in the East right of way line of Ulrich Road, a 30.00 feet easement recorded in Volume 2379, Page 677 and Volume 2379, Page 657 of the Deed Records of Harris County, Texas, and continuing a total distance of 900.00 feet to a point in the centerline of said Ulrich Road for corner;

THENCE North 01°00'56" West, along the center line of said Ulrich Road a distance of 740.73 feet to a found 2 inch iron pipe for the Southeast corner of said 24.56 acre tract;

THENCE South 89°43'54" West, along the South line of said 24.56 acre tract, along the North line of a called 12 acres tract, conveyed to Lenoir M. Josey Inc., by deed recorded in Volume 5059, Page 234 DR HCT, and a called 12 acres recording information not found a distance of 1404.44 feet to a point from which a found 3 inch pipe bears South 89°43'54" West, 20.00 feet, being in the centerline of Spring Creek;

THENCE the following calls along the centerline of Spring Creek;

North 49°11'52" East, a distance of 64.65 feet to an angle point;

North 21°16'10" East, a distance of 220.98 feet to an angle point;

North 05°08'59" West, a distance of 119.99 feet to an angle point;

North 35°37'40" East, a distance of 75.85 feet to an angle point;

North 21°46'34" West, a distance of 157.84 feet to an angle point;

North 33°54'38" East, a distance of 63.77 feet to a point for corner, being in the South line of said 13 acre tract;

THENCE North 89°51'55" East, along the South line of said 13 acre tract, a distance of 1254.53 feet to the POINT OF BEGINNING and containing a computed 232.8801 acres (10,144,254 square feet) of land.

Prepared by:
Town and Country Surveyors
25307 North Freeway, IH 45 N
The Woodlands TX, 77380
Phone (281) 465-8730
Fax (281) 465-8731

David J. Strauss, RPLS 4833
Job No. 0451-0001
September 21, 2007