

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into to be effective as of the 13 day of August, 2003, by and between GRAND PARKWAY 1093, LP, a Texas limited partnership ("Grand Parkway"), PACIFIC FINANCIAL, INC., a Texas corporation ("Pacific"), SUN COAST FINANCIAL, INC., a Delaware corporation ("Sun Coast") and APOGEE INVESTMENTS, INC., a Texas corporation ("Apogee") (collectively called the "Owner"), and MORRISON HOMES OF TEXAS, INC., a Texas corporation ("Morrison"), with Owner and Morrison herein sometimes collectively called "Parties" or individually a "Party";

### WITNESSETH:

WHEREAS, Morrison has purchased from Apogee and is the owner of that certain tract of land located in Fort Bend County, Texas, as more particularly described as the "Morrison Property" on Exhibit A attached hereto and made a part hereof; and

WHEREAS, (i) Grand Parkway is the owner of that certain tract of land located in Fort Bend County, Texas, and herein called the "Northern Reserve Parcel" and more particularly described in Exhibit B-1 attached hereto and made a part hereof; (ii) Pacific is the owner of that certain tract of land located in Fort Bend County, Texas, and herein called the "Western Reserve Parcel" as more particularly described in Exhibit B-2 attached hereto and made a part hereof; and (iii) Sun Coast is the owner of that certain tract of land located in Fort Bend County, Texas, and herein called the "Southern Reserve Parcel" as more particularly described in Exhibit B-3 attached hereto and made a part hereof. The Northern Reserve Parcel, the Western Reserve Parcel and the Southern Reserve Parcel are hereinafter collectively called the "Owner's Property"), which Owner's Property is located contiguous with and adjacent to the Morrison Property; and

WHEREAS, Morrison acquired the Morrison Property from Apogee with the mutual understanding and plan that the Morrison Property shall be utilized and developed as a single-family residential community and that the Owner's Property shall be utilized and developed as first-class commercial reserves consisting of office buildings and/or shopping center businesses, or other uses permitted in the pertinent declaration of covenants, conditions and restrictions, now or hereafter existing; and

NOW, THEREFORE, in consideration of the foregoing and to provide and adopt a uniform plan of development to govern, control and to preserve the values and amenities of the Owner's Property and the Morrison Property, the Owner and Morrison hereby declare that their respective properties, the Owner's Property and the Morrison Property, shall be held, developed, sold and conveyed subject to the following restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of the Owner's Property and the Morrison Property, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof as well as Morrison and Owner, and their respective successors and assigns as owners of the Owner's Property and the Morrison Property. Further, in consideration of the premises, the promises and covenants of the Parties

hereto, the mutual benefits and advantages accruing to them, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## ARTICLE I.

### DEVELOPMENT REQUIREMENTS FOR BENEFIT OF NORTHERN AND WESTERN COMMERCIAL RESERVES

Section 1.1 Dedication and Use of Morrison Property for the Northern Commercial Reserve. In connection with the development of the Morrison Property as single family residential, Morrison agrees that it will dedicate, restrict, convey or reserve sufficient land area to accommodate the required drainage detention area which in the opinion of the engineer for the Fort Bend County Municipal Utility District No. 50 (hereinafter the "MUD") is necessary for the development of the Northern Commercial Reserve as a shopping center; provided, however, the Owner shall be responsible for the incremental cost of any additional land area required for the development of the Northern Commercial Reserve above and beyond the drainage detention area necessary for Morrison's intended use of the Morrison Property as a single family residential development. Owner agrees to pay to Morrison the cost of such additional land (based upon the purchase price paid by Morrison to Owner) and Owner's proportionate share (calculated on a per acre basis) of the cost of the construction of detention facility. The Owner's funds shall be deposited with an escrow agent acceptable to Owner and Morrison prior to the commencement of construction of the drainage facility, with such funds to be disbursed to Morrison as construction of the facility progresses. In the event Owner fails to deposit such funds, Morrison's obligations under this paragraph with respect to the increase capacity shall terminate.

Section 1.2 Oversizing of Certain Utilities for the Western Commercial Reserve. Morrison hereby further agrees that it will permit and allow the oversizing of the water, sewer and drainage system located within the Morrison Property to sufficiently accommodate the necessary water, sewer and drainage system required in connection with the Western Commercial Reserve as such needs and requirements are determined by the engineer for the MUD, provided, however, that the Owner shall be responsible for the incremental costs of any oversizing required above and beyond those necessary for Morrison's intended use of the Morrison Property as a single family residential development. The plans and budget for oversizing of utilities shall be subject to Owner's prior written approval not to be unreasonably withheld or delayed, provided, however, that Owner agrees that it will reasonably cooperate with Morrison in oversizing its utility lines in a timely fashion so that it will not delay Morrison's development and construction activities for its property. In this regard, Owner hereby agrees to respond within ten (10) days from the date of written notice with the decisions with respect to the utilities and to deposit in an escrow account such funds as is necessary for Morrison to commence its construction and to pay for Owner's share of the oversizing, all to be determined by Morrison's engineer preparing the necessary plans and specifications for utilities.

## ARTICLE II.

### OPERATION AND USES OF THE MORRISON PROPERTY

Section 2.1 Restriction on Land Use and Lot Sizes. Morrison hereby agrees that it will restrict the Morrison Property to a single family residential development so that the minimum lot size per each lot within the platted subdivision being 50' in width with at least 200 lots of at least 60' in width.

Section 2.2 Restrictive Covenants. Morrison hereby agrees that upon the recording of the plat or plats for the development of the Morrison Property into single family residential use that it will prepare and file of record a Declaration of Covenants, Conditions and Restrictions in substantially the form which is currently of record in connection with its Wortham Falls, Section One subdivision, such Declaration being recorded under County Clerk's File No. W185179, Film Code Reference No. 558-44-0274 of the Harris County Real Property Records, a copy of which has been furnished to the Owner, with certain modifications pertaining to residential owners and builders membership classifications, assessment rates and amounts, square footage requirements, possible elimination of cluster mail boxes and similar revisions or changes in the development items and requirements.

### ARTICLE III.

#### CONSTRUCTION OF PEEK ROAD, BELLEFONTE BOULEVARD AND BELLAIRE BOULEVARD

Section 3.1 Dedication and Construction of Peek Road, Bellefonte Boulevard and Bellaire Boulevard. Owner hereby agrees that it will dedicate the ultimate right of way and all necessary utility easements upon, over and across the Owner's Property and any other property owned by Owner as is required and approved by Fort Bend County, City of Houston or other governmental or quasi-governmental authority having jurisdiction to dedicate and connect Peek Road or Bellefonte Boulevard from FM1093 to Bellaire Boulevard and the portion of Bellaire Boulevard from Peek Road or Bellefonte Boulevard to the eastern boundary line of the Morrison Property, at the location shown on the survey attached hereto as Exhibit "C" and made a part hereof, so that the Morrison Property which will have (i) as part of Peek Road's or Bellefonte Boulevard's eastern boundary line a common boundary line with the western boundary line of the Morrison Property, and (ii) as part of Bellaire Boulevard's northern boundary line a common boundary line with the southern boundary line of the Morrison Property, so that the Morrison Property will have direct access thereto all along its entire western and southern boundary lines. If either Owner or Morrison is required by any governmental or quasi-governmental authority to pay for the cost of construction of any part of Peek Road, Bellefonte Boulevard or Bellaire Boulevard (including any storm water drainage located therein, in connection with any platting of its property or any other land use or development activity requiring the approval or consent of such governmental or quasi-governmental authority), then Owner and Morrison hereby agree that it shall be responsible and obligated to pay or otherwise fund or secure the amount necessary to pay for any such required construction for the portion of the road (including any such storm water drainage therein) lying immediately adjacent to the common boundary line between such road and its property up to one-half (1/2) of the ultimate width of such road. The timing of the payment, funding or securing of such cost shall be dependent on the requirement of the governmental or quasi-governmental authority and shall be timely made so as not to delay any such consent or approval.

#### ARTICLE IV.

##### EASEMENTS AND INFRASTRUCTURE FOR THE BENEFIT OF THE MORRISON PROPERTY

Section 4.1 Granting of Easements. The Owner hereby agrees that it will dedicate and grant at no cost or condition easements and access on, over and across Owner's Property, any other property owned by it, Peek Road, Bellefonte Boulevard, or Bellaire Boulevard for any utilities required for the development of the Morrison Property as a single family residential subdivision, including such easements and access for its electrical, gas, water, sewer and drainage lines, including an outfall drainage ditch to connect its outfall drainage to the Levee Improvement District No. 12 ("LID") drainage outfall ditch, the width of such easement to be determined and approved by Fort Bend County and the LID.

#### ARTICLE V.

##### MEMBERSHIP IN OWNER'S RECREATION FACILITIES

Section 5.1 Reciprocal Membership in Recreation Facilities. In the event Morrison constructs recreation facilities within its subdivision for homeowners located therein, then Morrison and Owner hereby agree that each shall allow and permit reciprocity of membership on the same terms and conditions as are available for its membership with the recreation facilities for the residents of the Owner's residential development in Parkway Lakes, Section 1, provided, however, that in the opinion and judgment of each Party the recreation facilities and amenities are of equal quality, type and character.

#### ARTICLE VI.

##### MISCELLANEOUS

Section 6.1 Estoppel Certificates. The Owner shall upon not less than thirty (30) days from receipt of written notice from the other Party execute and deliver to such other Party a certificate in recordable form stating that (i) either this Agreement is unmodified and in full force and effect or is modified (and stating the modification); and (ii) whether or not to the best of its knowledge the other Party is in default in any respect under this Agreement and if in default, specifying such default.

Section 6.2 Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon deposit in the United States Mail as Certified Mail, Return Receipt Requested, postage prepaid, and addressed to the party being notified at the address given below (or such other address which any party may designate for itself from time to time hereafter by written notice to the other parties):

Morrison: Morrison Homes of Texas, Inc.  
9807 Whithorn Drive  
Houston, Texas 77095  
Attn: Division President

With a copy to:

Baker Botts L.L.P  
3000 One Shell Plaza  
910 Louisiana  
Houston, Texas 77002  
Attn: Greg N. Martin

Owner:

Robert B. Ferguson/Joseph T. Waring  
Apogee Investments, Inc.  
21711 Westheimer  
Richmond, Texas 77469

Michael Cox  
Trend Investment Services  
Three Riverway, Suite 120  
Houston, Texas 77056

With a copy to:

R. Stephen Ressler  
Chernosky Smith Ressler Smith PLLC  
2200 Post Oak Boulevard  
Suite 300  
Houston, Texas 77056

### Section 6.3 Approval Rights.

(a) Nothing contained in this Agreement shall limit the right of a Party to exercise its business judgment, or to act, in a subjective manner, with respect to any matter as to which it has specifically been granted such right, or the right to act in its sole discretion or sole judgment, whether or not such action is "objectively" reasonable under the circumstances, and any such exercise shall not be deemed inconsistent with any covenant of good faith and fair dealing otherwise implied by law to be part of this Agreement. The Parties intend by this Agreement to set forth their entire understanding with respect to the terms, covenants, conditions and standards pursuant to which their obligations are to be judged and their performance measured.

(b) Unless provision is made for a specific time period, each response to a request for an approval or consent shall be given by the Person to whom directed within thirty (30) days of receipt. Each disapproval shall be in writing and, subject to (A) above, the reasons shall be clearly stated. If a response is not given within any required time period, the requested Party shall be deemed to have given its approval, provided that the notice sent to the requested Party states (i) the time period within which the requested Party must respond or, if no response is required, a statement to that effect and (ii) if applicable, that the failure to respond to the notice within the stated time period will be deemed to be the equivalent of the requested Party's approval of, or consent to, the subject matter of the notice.

(c) If Morrison or any of its successors and assigns approval is requested hereunder, then unanimous approval must be given by all parties owning an interest in the Morrison Property.

(d) Unless specifically stated herein where approval is required such approval shall not be unreasonably withheld or delayed.

Section 6.4 Assignment. The rights and obligations of any Party hereunder may be assigned in whole or in part.

Section 6.5 Limitation of Liability. Any Person acquiring fee or leasehold title to any of the Owner's Property or any portion thereof, shall be bound by this Agreement only as to the parcel or portion of the Owner's Property parcel acquired by such Person. In addition, such Person shall be bound by this Agreement only during the period such Person is the fee or leasehold owner of such parcel or portion of the parcel; and, upon conveyance or transfer of the fee or leasehold interest shall be released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue prior to such conveyance or transfer. Although Persons may be released under this Paragraph, the easements, covenants and restrictions in this Agreement shall continue to be benefits to and servitudes upon said parcels running with the land.

Section 6.6 Term and Binding Effect. The restrictions and obligations created and imposed herein shall be effective upon the date hereof, shall run with the Owner's Property, and shall continue in full force and effect until the latter to occur of (i) completion and receipt by Morrison of all reimbursements to which it is entitled to from the MUD and the LID, and (ii) the expiration of all of the construction warranties which have been extended or given by Morrison to the residents who have purchased homes from it within the Morrison Property. Upon termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Agreement, shall terminate and have no further force or effect; provided, however, that the termination of this Agreement shall not limit or affect any remedy at law or in equity that a Party may have against any other Party with respect to any liability or obligation arising or to be performed under this Agreement prior to the date of such termination. This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and assigns who become Parties hereunder, including any ground lessee under a ground lease to which the rights and obligations of the fee owner have been assigned (and such obligations have been assumed by the ground lessee) as contemplated in Section 6.4. Said restrictions and obligations shall be unaffected by any change in the ownership of any property covered by this Agreement or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein.

Section 6.7 Severability. In the event any provision or portion of this Agreement is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not effect the remainder hereof, and the remaining provisions shall continue in full force and effect at the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

Section 6.8 Attorneys' Fees. In the event of a breach hereof, the non-prevailing Party shall pay the reasonable court costs and attorney's fees of the prevailing Party(ies).

Section 6.9 Agreement Shall Continue Notwithstanding Breach. It is expressly agreed that no breach of this Agreement shall (i) entitle any Party to cancel, rescind, or otherwise

terminate this Agreement, or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of the Owner's Property. However, such limitation shall not affect in any manner any other rights or remedies which a Party may have hereunder by reason of any such breach.

Section 6.10 Time. Time is of the essence of this Agreement.

Section 6.11 No Waiver. The failure of any Party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that Party may have hereunder, at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

Section 6.12 Amendment. This Agreement may be amended by, and only by, a written agreement signed by all of the then current owners of the Owner's Property and the Morrison Property and shall be effective only when recorded in Fort Bend County, Texas; provided, however, that no such amendment shall impose any materially greater obligation on, or materially impair any right of, a Party or its Parcel without the consent of such Party. No consent to the amendment of this Agreement shall ever be required of any occupant or Person other than the Parties, nor shall any occupant or Person other than the Parties have any right to enforce any of the provisions hereof. Each Party may consider, approve or disapprove any proposed amendment to this Agreement as to which it has approval rights in its sole and absolute discretion without regard to reasonableness or timeliness.

Section 6.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

Section 6.14 Subordination of Lien Affecting Northern Reserve Parcel. Royal Oaks Bank, SSB ("Royal Oaks Bank") (i) is the present owner and holder of a lien against the Northern Reserve Parcel, said lien being evidenced by that certain Deed of Trust dated April 10, 2003, filed for record with the County Clerk of Fort Bend County, under County Clerk's File No. 2003054168, as the same may have been amended (the "Northern Reserve Parcel Deed of Trust"), and is the holder of a promissory note secured by said lien, and (ii) desires to subordinate said lien to this Agreement and all agreements, terms and conditions set forth in this Agreement. Accordingly, by execution of the joinder attached to this Agreement, Royal Oaks Bank does hereby subordinate its lien to this Agreement and all agreements, terms and conditions set forth in this Agreement and does hereby agree that a foreclosure of the Northern Reserve Parcel Deed of Trust will not terminate this Agreement or any of the agreements, terms and conditions set forth in this Agreement.


Section 6.15 Subordination of Lien Affecting Southern Reserve Parcel. Sterling Bank ("Sterling Bank") (i) is the present owner and holder of a lien against the Southern Reserve Parcel, said lien being evidenced by that certain Deed of Trust dated March 20, 2003, filed for record with the County Clerk of Fort Bend County, under County Clerk's File No. 2003039901 (the "Southern Reserve Parcel Deed of Trust"), and is the holder of a promissory note secured by said lien, and (ii) desires to subordinate said lien to this Agreement and all agreements, terms and conditions set forth in this Agreement. Accordingly, by execution of the joinder attached to this

Agreement, Sterling Bank does hereby subordinate its lien to this Agreement and all agreements, terms and conditions set forth in this Agreement and does hereby agree that a foreclosure of the Southern Reserve Parcel Deed of Trust will not terminate this Agreement or any of the agreements, terms and conditions set forth in this Agreement.

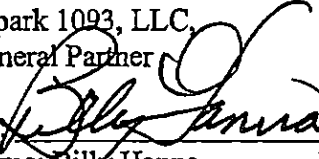


IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement to be effective as of the day and year first written above.

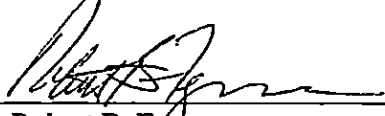
APOGEE INVESTMENTS, INC.

By:   
Name: Robert B. Ferguson  
Title: President

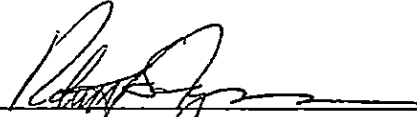
GRAND PARKWAY 1093, LP, as Owner  
of the Northern Reserve Parcel

By: Westpark 1093, LLC,  
its General Partner  
By:  Billy Hanna, President  
Name: Billy Hanna  
Title: ~~Manager~~ **PRESIDENT**

PACIFIC FINANCIAL, INC., as Owner of  
the Western Reserve Parcel

By:   
Name: Robert B. Ferguson  
Title: President

SUN COAST FINANCIAL, INC., as Owner  
of the Southern Reserve Parcel

By:   
Name: Robert B. Ferguson  
Title: President

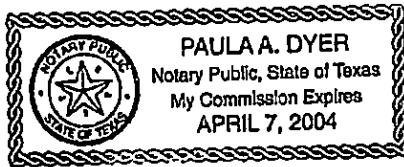
MORRISON HOMES OF TEXAS, INC., as  
owner of the Morrison Property

By: Bill Ulrich  
Name: Bill Ulrich  
Title: Division President

By: Scott Teeter  
Name: Scott Teeter  
Title: Vice President, Land Resources  
Management

STATE OF TEXAS           §  
                                     §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me on August 13, 2003, by Robert B. Ferguson, President of Apogee Investments, Inc., a Texas corporation, on behalf of said corporation.

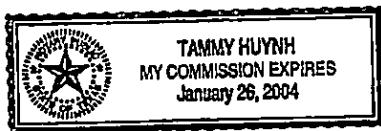


Paula A. Dyer  
Notary Public in and for the  
State of Texas

My commission expires: \_\_\_\_\_

STATE OF TEXAS           §  
                                     §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me on August 13, 2003, by Billy Hanna, ~~Manager~~ <sup>President</sup> of Westpark 1093, LLC, as General Partner of Grand Parkway 1093, LP, a Texas limited partnership, on behalf of said limited liability company and said limited partnership.

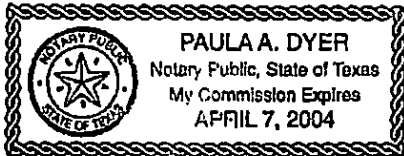


Tammy Huynh  
Notary Public in and for the  
State of Texas

My commission expires: \_\_\_\_\_

STATE OF TEXAS           §  
                                     §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me on August 13, 2003, by Robert B. Ferguson, President of Pacific Financial, Inc., a Texas corporation, on behalf of said corporation.

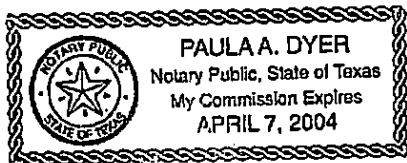


Paula A. Dyer  
Notary Public in and for the  
State of Texas

My commission expires: \_\_\_\_\_

STATE OF TEXAS           §  
                                     §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me on August 13, 2003, by Robert B. Ferguson, President of Sun Coast Financial, Inc., a Delaware corporation, on behalf of said corporation.



Paula A. Dyer  
Notary Public in and for the  
State of Texas

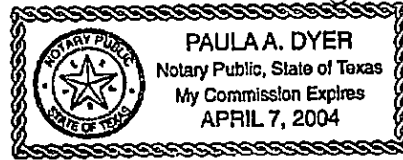
My commission expires: \_\_\_\_\_

STATE OF TEXAS           §  
                                     §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me on August 13, 2003, by Bill Ulrich, Division President, and by Scott Teeter, Vice President, Land Resources Management, of Morrison Homes of Texas, Inc., a Texas corporation, on behalf of said corporation.

Paula A. Dyer  
Notary Public in and for the  
State of Texas

My commission expires: \_\_\_\_\_



JOINDER BY ROYAL OAKS BANK

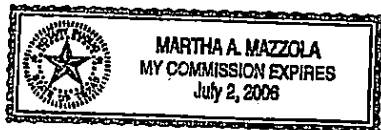
The undersigned joins herein to evidence its agreement to the provisions of Section 6.14 of this Agreement.

ROYAL OAKS BANK, SSB, as lienholder  
of the Northern Reserve Parcel

By: [Signature]  
Name: DAVID M. MCGUIRE  
Title: EVP & CLO

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

This instrument was acknowledged before me on Aug. 13, 2003 by  
David M. McGuire, EVP & CLO of Royal Oaks Bank, SSB, a  
\_\_\_\_\_ on behalf of said \_\_\_\_\_



[Signature]  
Notary Public in and for the  
State of Texas

My commission expires: \_\_\_\_\_

JOINDER BY STERLING BANK

The undersigned joins herein to evidence its agreement to the provisions of Section 6.15 of this Agreement.

STERLING BANK, as lienholder of the  
Southern Reserve Parcel

By: Robert F. Jenkins

Name: Robert F. Jenkins

Title: Sr. Vice President

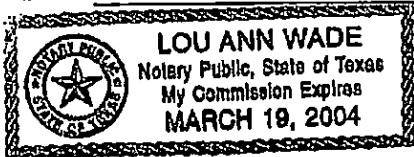
STATE OF TEXAS

§

COUNTY OF HARRIS

§

This instrument was acknowledged before me on August 13, 2003 by  
Robert F. Jenkins, Sr. Vice Pres. of Sterling Bank, a \_\_\_\_\_ on  
behalf of said \_\_\_\_\_.



Lou Ann Wade

Notary Public in and for the  
State of Texas

My commission expires: \_\_\_\_\_

**Exhibit A**

**Morrison Property**

**Exhibit A-1** Plat Showing a Land Title Survey of a 134.4288 acre tract (Tract I) and a 3.0109 acre tract (Tract II), John G. Thomas & Associates, Inc. Surveyor John G. Thomas certified 5/27/03.

**Exhibit A-2** Save and Except a 7.6852 acre tract (called 7.6881 acres in instrument recorded at Volume 2335, Page 62 of the Deed Records of Fort Bend County, Texas) from Exhibit A-1 Plat.



**EXHIBIT A-1**

July 15, 2003

Fieldnotes for 137.4397 acres of land out of the George Fields Survey, Abstract No. 591, the Brooks and Burleson Survey, Abstract No. 145, and the William Stanley Survey, Abstract No. 599 in Fort Bend County, Texas, being out of and a part of that certain 549.573 acre tract of land as described in deed recorded in Volume 577, Page 387 of the Deed Records of Fort Bend County, being all of that certain 23.6057 acre tract of land conveyed to VW Westheimer Partners L.P., as described in deed recorded under County Clerk's File No. 2000108275 of the Official Public Records of Fort Bend County, all of that certain 9.3568 acre tract of land conveyed to Tommy Moss, et al as described in deed recorded in Volume 2156, Page 376 of the said Deed Records, all of that certain called 7.6892 acre tract of land conveyed to Reinhard Munscher, et al as described in deed recorded in Volume 2689, Page 1477 of the said Deed Records, all of that certain called 7.6881 acre tract of land conveyed to Kurt Webber Trustee as described in deed recorded in Volume 2335, Page 62 of the said Deed Records, all of that certain called 12.7245 acre tract of land conveyed to Peter Mosel, Trustee as described in deed recorded under County Clerk's File No. 9757566 of the said Official Public Records, and all of that certain called 11.1659 acre tract of land described as Tract 3 in deed to Coastal Sun Development, Inc. recorded under County Clerk's File No. 1999029347 of the said Official Public Records, being known as Tracts 5, 8A, 8B, 9B-1, 9B-2, 10-A, and 10-B respectively of Park Westheimer, an unrecorded subdivision, and being further out of and a part of that certain called 5.50 acre tract of land conveyed to VW Westheimer Partners, L.P. as described in deed recorded under County Clerk's File No. 2000108274 of the said Official Public Records, out of and a part of that certain 29.7817 acre tract of land conveyed to Apogee Investments, Inc. as described in deed recorded under County Clerk's File No. 2002131440 of the said Official Public Records, out of and a part of that certain called 8.6706 acre tract of land conveyed to Sun Coastal Financial, Inc. as described in deed recorded under County Clerk's File No. 2002038800 of the said Official Public Records, out of and a part of that certain called 18.8244 acre tract of land conveyed to VW Westheimer Partners, L.P. as described in deed recorded under County Clerk's File No. 2000108275 of the said Official Public Records, and out of and a part of that certain called 22.6566 acre tract of land conveyed to VW Westheimer Partners, L.P. as described in deed recorded under County Clerk's File No. 2000108275 of the said Official Public Records, being known as Tracts 3B, 4, 8C and 8D, 9A and 15 respectively of said Park Westheimer, and being further out and a part of that certain 38.60849 acre tract of land conveyed to Pacific Financial, Inc as described in deed recorded under County Clerk's File No. 1999109097 of the said Official Public Records, said 137.4397 acres being more particularly described in two tracts of land by metes and bounds as follows:

**Tract I**  
**(134.4288 acres)**

**BEGINNING** at a 5/8 inch steel rod found in the South line of that certain 100 foot wide tract of land conveyed to the Metropolitan Transit Authority of Harris County, Texas, formally known as the S.A. and A.P. Railroad right-of-way, as described in deed recorded under County Clerk's File No. 9277986 of the said Official Public Records, marking the Northeast corner of the said 549.573 acre tract and the herein described tract, said point also being the Northeast corner of the said 23.6057 acre Tract 5, said point also being the Northwest corner of that certain 562.84 acre tract of land as described in deed recorded in Volume 325, Page 161 of the said Deed Records;

Thence, South 05°32'16" West with the West line of the said 562.84 acre tract and the East line of the said 549.73 acre tract and with the East line of said Tract 5, at 1380.44 feet passing a 5/8 inch steel rod set for the Southeast corner of said Tract 5, at 1461.64 feet passing a 1/2 inch steel pipe found marking the Northeast corner of said Tract 10-A, at 2312.19 feet passing a 1/2 inch steel pipe found marking the Southeast corner of said Tract 10A and the Northeast corner of said Tract 10B, and continuing with the East line of said Tract 10-B in all, a total distance of 3162.09 feet to a 3/4 inch steel rod set in the North line of Bellaire Boulevard, based on a 120.00 foot right-of-way, for the Southeast corner of said Tract 10B and the herein described tract;

Thence, South 85°40'00" West with the North line of said Bellaire Boulevard and the South line of said Tract 10B, at 540.13 feet passing the Southwest corner of said Tract 10B and the Southeast corner of said Tract 9B-2, at 913.04 feet passing a point of curve to the right having a radius of 25.00 feet at the beginning of the East line of South Park Drive, based on an 80.00 foot right-of-way, and continuing in all a total distance of 1020.38 feet to a ¾ inch steel rod set for the most Southerly Southwest corner of the herein described tract;

Thence, North 00°05'00" East with the West line of said South Park Drive, at 23.14 feet passing a point of tangency at the North end of a cut-back line for said Bellaire Boulevard, and continuing with the East line of aforesaid Tract 9A in all, a total distance of 501.68 feet to a ¾ inch steel rod set at an outside ell corner;

Thence, South 85°40'00" West, crossing said Tract 9A, at 401.59 feet passing the West line of said Tract 9A and the East line of the aforesaid 38.60849 acre tract, crossing the said 38.60849 acre tract, at 1051.49 feet passing the West line of the said 38.60849 acre tract and the East line of aforesaid Tract 8C, and continuing across said Tract 8C in all, a total distance of 1452.59 feet to a ¾ inch steel rod set in the East line of Peak Road (formally Bellfort Boulevard), based on a 120.00 foot right-of-way, for the most Westerly Southwest corner of the herein described tract;

Thence, North 00°05'00" East with the East line of said Peak Road and with the West line of aforesaid Tract 8C, at 159.42 feet passing the Northwest corner of said Tract 8C and the Southwest corner of said Tract 8B, and continuing with the West line of said Tracts 8B and 8A, at 1155.11 passing a 5/8 inch steel rod set at the South end of a cut-back line for Park Westheimer Boulevard, at 1285.50 feet passing a 5/8 inch steel rod set at the North end of a cut-back line for said Park Westheimer Boulevard and the Southwest corner of aforesaid Tract 3B, and continuing with the West line of said Tract 3B in all, a total distance of 1459.71 feet to a ¾ inch steel rod set for the most Southerly Northwest corner of the herein described tract;

Thence, North 87°39'36" East crossing said Tract 3B, at 400.32 feet passing the East line of said Tract 3B and the West line of the said 38.60849 acre tract, and continuing across the said 38.60849 acre tract in all, a total distance of 1049.27 feet to a ¾ inch steel rod set in the East line of the said 38.60849 acre tract and the West line of aforesaid Tract 4 at an inside ell corner of the herein described tract;

Thence, North 00°06'07" East, 798.60 feet with the East line of the said 38.60849 acre tract and the West line of said Tract 4 to a ¾ inch steel rod set at an outside ell corner, said point also being the Southwest corner of that certain 8.0904 acre tract of land conveyed to Analytical Computer Services, Inc. as described in deed recorded under County Clerk's File No. 2002131442 of the said Official Public Records;

Thence, North 85°40'00" East, 881.11 feet with the South line of the said 8.0904 acre tract to a ¾ inch steel rod set in the East line of said Tract 4 and the West line of aforesaid Tract 5 at an inside ell corner of the herein described tract;

Thence, North 00°05'00" East with the East line of the said 8.0904 acre tract and with the common line between said Tracts 4 and 5, at 11.96 feet leaving said common line and crossing said Tract 5 in all, a total distance of 401.19 feet to a ¾ inch steel rod set in the aforesaid South line of the said Metropolitan Transit Authority Tract and the North line of the aforesaid 549.573 acre tract for the most Northerly Northwest corner of the herein described tract, said point also being in the North line of said Tract 4;

Thence, North 85°40'00" East with the South line of the said Metropolitan Transit Authority tract and the North line of said Tract 4, at 251.38 feet passing a 5/8 inch steel rod set at the Northeast corner of said Tract 4 and the Northwest corner of said Tract 5 and continuing with the North line of said Tract 5 in all, a total distance of 841.60 feet to the PLACE OF BEGINNING and containing 134.4288 acres of land, more or less.

Tract II  
(3.0109 Acres)

Commencing at a 5/8 inch steel rod found in the South line of that certain 100 foot wide tract of land conveyed to the Metropolitan Transit Authority of Harris County, Texas, formally known as the S.A. and A.P. Railroad right-of-way, as described in deed recorded under County Clerk's File No. 9277986 of the said Official Public Records, marking the Northeast corner of the said 549.573 acre tract and the herein described tract, said point also being the Northeast corner of the said 23.6057 acre Tract 5, said point also being the Northwest corner of that certain 562.84 acre tract of land as described in deed recorded in Volume 325, Page 161 of the said Deed Records;

Thence, South 05°32'16" West, 3283.89 feet with the West line of the said 562.84 acre tract and with the East line of the said 549.573 acre tract to a 5/8 inch steel rod set in the South line of Bellaire Boulevard, based on a 120.00 foot right-of-way, for the Northeast corner and PLACE OF BEGINNING for the herein described tract of land, said point also being the Northeast corner of aforesaid Tract 15;

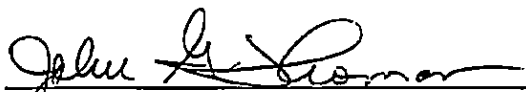
Thence, continuing with the West line of the said 562.84 acre tract and with the East line of the said 549.573 acre tract, South 05°32'16" West, 1092.97 feet to a point in the center of a 135.00 foot drainage easement in favor of Fort Bend County Drainage District as described in deed recorded in Volume 1929, Page 2198 of the said Deed Records for the Southeast corner of said Tract 15 and the herein described tract, said point also being the Northeast corner of that certain called 17.8723 acre tract of land known as Tract 20-A of said Park Westheimer, being described as Tract 5 in deed to Coastal Sun Development, Inc. recorded under County Clerk's File No. 1999029347 of the said Official Public Records;

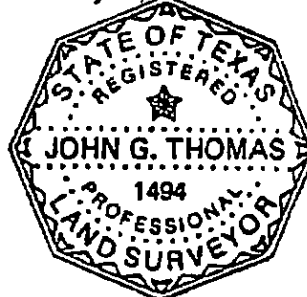
Thence, South 85°40'00" West, 121.80 feet with the center of the said drainage easement and with the South line of said Tract 15 and the North line of Tract 20-A to the Southwest corner of the herein described tract;

Thence, North 05°32'16" East, 1092.97 feet to a 5/8 inch steel rod set in the South line of said Bellaire Boulevard for the Northwest corner of the herein described tract;

Thence, North 85°40'00" East, 121.80 feet with the South line of said Bellaire Boulevard to the PLACE OF BEGINNING and containing 3.0109 acres of land, more or less, together with Tract I totaling 137.4397 acres of land, more or less.

This description is based on the land title survey and plat (Job No. 03-14260U) made under the direction of John G. Thomas, Registered Professional Land Surveyor on May 27, 2003.

  
John G. Thomas, R.P.L.S. No. 1494



**Tract 9B-2:**

A 7.6881 acre tract of land out of a 549.662 acre tract of land in the Brooks and Burleson Survey, Abstract #145, Fort Bend County, Texas.

For Connection Begin in the centerline of the S.A. & A.P. Railroad North 85 deg. 40' East, along the centerline of said railroad a distance of 2233.07 feet from S.A. & A.P. Railroad 25th mile post West of Houston, Texas; THENCE, South 4 deg. 20' East, a distance of 50.0 feet to a 5/8" iron rod found for corner in the southerly right-of-way line of the above mentioned railroad, said corner being the northeast corner of said 549.662 acre tract; THENCE, South 05 deg. 32' 16" West, 1461.64 feet to corner; THENCE, South 85 deg. 40' West, 702.25 feet along the south line of Park Westheimer Boulevard to a corner; THENCE, South 0 deg. 5' West, 840.13 feet to the northeast corner of and PLACE OF BEGINNING for this tract;

THENCE, South 0 deg. 5' West 840.13 feet to the southeast corner of this tract;

THENCE, South 85 deg. 40' West, 372.99 feet along the north line of Bellaire Boulevard (120 feet wide) to point of curve;

THENCE, along curve to the right with the following data:

Delta = 94 deg. 25'  
Radius = 25.0 feet;  
Length = 41.20 feet;  
Chord = 36.69 feet;  
Tangent = 27.01 feet to Point of Tangency;

THENCE, North 0 deg. 5' East, 813.13 feet along the east line of South Park Drive to the northwest corner of this tract

THENCE, North 85 deg. 40' East, 400 feet to the northeast corner of the tract and the PLACE OF BEGINNING and containing 7.6881 acres.



*Thomas Land Surveying, Inc.*

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EXHIBIT B-1

August 8, 2003

## Tract B1

Fieldnotes for 8.0904 acres of land, out of Tract 4 of Park Westheimer, an unrecorded subdivision, being out of the George Fields Survey, Abstract No. 591 in Fort Bend County, Texas, being out of and a part of that certain 549.573 acres of land described in deed recorded in Volume 577, Page 387 of the Deed Records of Fort Bend County, and being further out of and a part of that certain called 29.7817 acre tract of land conveyed to Apogee Investments, Inc. as described in deed recorded under County Clerk's File No. 2002131440 of the Official Public Records of Fort Bend County, and being that same tract of land conveyed to Analytical Computer Services, Inc. and Bill Bronstead, doing business as Westpark 1093, as described in deed recorded under County Clerk's File No. 2002131442 of the said Official Public Records, said 8.0904 acres of land being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch steel rod set in the South line of the S.A. & A.P. Railroad, based on a 100.00 foot right-of-way, at the Northeast corner of the said 549.573 acre tract, said point also being the Northwest corner of that certain 562.84 acre tract of land as described in deed recorded in Volume 325, Page 161 of the said Deed Records;

Thence, South 85°40'00" West, with the South line of the said railroad and the North line of the said 549.573 acre tract, at 590.22 feet passing the Northeast corner of the said 29.7816 acre tract and continuing in all, a total distance of 841.60 feet to a 5/8 inch steel rod set for the Northeast corner and PLACE OF BEGINNING for the herein described tract of land;

Thence, South 00°05'00" West, 401.19 feet to a 5/8 inch steel rod set for the Southeast corner of the herein described tract, said point being in the East line of the said 29.7816 acre tract and the West line of that certain 23.6057 acre tract of land conveyed to V W Westheimer Partners, L.P. as described in deed recorded under County Clerk's File No. 2000108275 of the Official Public Records;

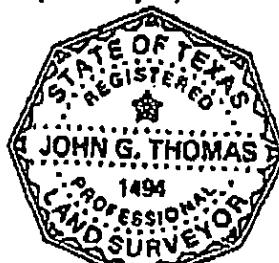
Thence, South 85°40'00" West, 881.11 feet to a 5/8 inch steel rod set for the Southwest corner of the herein described tract, said point also being in the East line of a 38.60849 acre tract as described in deed to Pacific Financial, Inc. recorded under County Clerk's File No. 1999109097 of the said Official Public Records;

Thence, North 00°06'07" East, 401.20 feet with the East line of the said 38.60849 acre tract to a 5/8 inch steel rod set in the South line of the said S.A. & A.P. Railroad and the North line of the said 549.573 acre tract for the Northwest corner of the herein described tract;

Thence, North 85°40'00" East, 880.98 feet with the South line of the said S.A. & A.P. Railroad and the North line of the said 549.573 acre tract to the PLACE OF BEGINNING and containing 8.0904 acres or 352,417 square feet of land, more or less.

This description is based on the land title survey and plat (Job No. 03-14260MC) made under the direction of John G. Thomas, Registered Professional Land Surveyor on May 27, 2003.

  
John G. Thomas, R.P.L.S. No. 1494



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# *Thomas Land Surveying, Inc.*

Surveying • Planning • Project Management

## **EXHIBIT B-2**

June 11, 2003

### **Tract B2**

Fieldnotes for 21.7610 acres of land out of the George Fields Survey, Abstract No. 591, and the Brooks & Burleson Survey, Abstract No. 145 in Fort Bend County, Texas, being out of and a part of that certain 38.60849 acre tract of land conveyed to Pacific Financial, Inc. as described in deed recorded under County Clerk's File No. 1999109097 of the Official Public Records of Fort Bend County, out of and a part of that certain called 5.50 acre tract of land conveyed to VW Westheimer Partners, L.P. described as Tract 3B of Park Westheimer, an unrecorded subdivision, in deed recorded under County Clerk's File No. 2000108274 of the said Official Public Records, and being further out of and a part of that certain called 29.7816 acre Tract 4 of said Park Westheimer conveyed to Apogee Investments, Inc. as described in deed recorded County Clerk's File No. 2002131440 of the said Official Public Records, said 21.7610 acres of land being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch steel rod set in the South line of the S.A. & A.P. Railroad, based on a 100.00 foot right-of-way, at the Northeast corner of the said 549.573 acre tract, said point also being the Northwest corner of that certain 562.84 acre tract of land as described in deed recorded in Volume 325, Page 161 of the Deed Records of Fort Bend County;

Thence, South 85°40'00" West, with the South line of the said railroad and the North line of the said 549.573 acre tract, at 590.22 feet passing the Northeast corner of the said 29.7816 acre Tract 4, and continuing in all, a total distance of 1722.57 feet to a 5/8 inch steel rod set for the Northeast corner and PLACE OF BEGINNING for the herein described tract of land;

Thence, South 00°06'07" West at 300.84 feet passing a 5/8 inch steel rod set at an ell corner in the West line of said Tract 4 and the East line of the said 38.60849 acre tract and continuing with the East line of the said 38.60849 acre tract and the West line of the said 29.7817 acre Tract 4 in all a total distance of 1199.81 feet to a 5/8 inch steel rod set for the Southeast corner of the herein described tract of land;

Thence, South 87°39'36" West at 648.95 feet passing a 5/8 inch steel rod set in the West line of the said 38.60849 acre tract and the East line of aforesaid Tract 3B and continuing in all a total distance of 1049.27 feet to a 5/8 inch steel rod set in the East line of Peck Road, based on a 120.00 foot right-of-way, for the Southwest corner of the herein described tract;

Thence, North 00°05'00" East, 398.05 feet with the East line of said Peck Road to a ¾ inch steel pipe found marking the Northwest corner of said Tract 3B, said point also being the Southwest corner of Tract 3-A of said Park Westheimer;

Thence, North 85°40'00" East, 401.17 feet with the South line of said Tract 3-A and the North line of said Tract 3B to a 5/8 inch steel rod set at an inside ell corner, said point being the Southeast corner of said Tract 3-A and the Northeast corner of said Tract 3B;

Thence, North 00°05'09" East, 464.56 feet with the East line of said Tract 3-A and the West line of the said 38.60849 acre tract to an angle point;

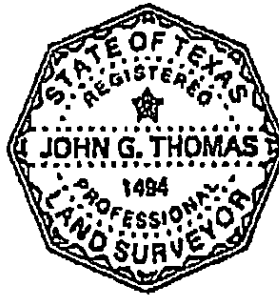
Thence, continuing with the East line of said Tract 3-A and the West line of the said 38.60849 acre tract North 18°54'43" West, 309.33 feet to a 5/8 inch steel rod set in the South line of the said S.A. & A.P. Railroad for the Northwest corner of the said 38.60849 acre tract, said point also being the Northeast corner of said Tract 3-A;

August 8, 2003  
21.7610 acres  
Page 2

Thence, North  $85^{\circ}40'00''$  East, 751.66 feet with the South line of the said S.A. and A.P. Railroad to the  
PLACE OF BEGINNING and containing 21.7610 acres of land, more or less.

This description is based on the land title survey and plat (Job No. 03-14260MC) made under the direction of  
John G. Thomas, Registered Professional Land Surveyor on May 27, 2003.

  
John G. Thomas, R.P.L.S. No. 1494





3:30 AM

JOHN THOMAS

# Thomas Land Surveying, Inc.

Surveying • Planning • Project Management

August 11, 2003

## EXHIBIT B-3

Tract B3  
(Revised)

Fieldnotes for 8.3350 acres of land out of the George Fields Survey, Abstract No. 591, the Brooks & Burleson Survey, Abstract No. 145, and the William Stanley Survey, Abstract No. 599 in Fort Bend County, Texas, being out of and a part of that certain 549.573 acre tract of land as described in deed recorded in Volume 577, Page 387 of the Deed Records of Fort Bend County, and being out of and a part of that certain called 8.6706 acre tract of land conveyed to Sun Coast Financial, Inc. as described in deed recorded under County Clerk's File No. 2002038800 of the Official Public Records of Fort Bend County, being known as Tracts 8C and 8D of Park Westheimer, an unrecorded subdivision, and being further out of and a part of that certain 38.0849 acre tract of land conveyed to Pacific Financial, Inc. as described in deed recorded under County Clerk's File No. 1999109097 of the said Official Public Records, said 8.3350 acres of land being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch steel rod set in the South line of the S.A. & A.P. Railroad, based on a 100.00 foot right-of-way, at the Northeast corner of the said 549.573 acre tract, said point also being the Northwest corner of that certain 562.84 acre tract of land as described in deed recorded in Volume 325, Page 161 of the said Deed Records;

Thence, South 85°40'00" West, 2474.23 feet with the South line of the S.A. & A.P. Railroad to the Northwest corner of the said 38.60849 acre tract;

Thence, South 18°54'43" East, 309.33 feet (called 308.64 feet in vesting deed) with the West line of the said 38.60849 acre tract to an angle point;

Thence, continuing with the West line of the said 38.0849 acre tract South 00°05'09" West, at 2162.89 feet passing a 5/8 inch steel rod set for the Northeast corner of the said 8.6706 acre Tract 8C and 8D and the Southeast corner of that certain 9.3568 acre tract of land described as Tract 8-A and 8-B of said Park Westheimer conveyed to Tommy Moss, et al, as described in deed recorded in Volume 2156, Page 376 of the said Deed Records, and continuing with the East line of said Tract 8C in all, a total distance of 2322.31 feet to the PLACE OF BEGINNING for the herein described tract of land;

Thence, North 85°40'00" East, 325.09 feet to a 5/8 inch steel rod set for the Northeast corner of the herein described tract;

Thence, South 00°05'00" West, at 151.68 feet passing a 5/8 inch steel rod set for the Northeast corner of said Tract 8D, and the most Southerly Northwest corner of that certain called 18.0363 acre tract of land described as Tract 9-A of said Park Westheimer conveyed to VW Westheimer Partners, L.P. as described in deed recorded under Film Code No. 2000108275 of the said Official Public Records, and continuing in all, a total distance of 501.68 feet to a 1/4 inch steel rod found in the North line of Bellaire Boulevard, based on a 120.00 foot right-of-way, for the Southeast corner of said Tract 8D and the herein described tract, said point also being the Southwest corner of said Tract 9-A;

Thence, South 85°40'00" West, 699.18 feet with the North line of Bellaire Boulevard to a 5/8 inch steel rod set at a point of curve to the right at the South end of a cut-back line for Peck Road, based on a 120.00 foot right-of-way, said curve having a radius of 25.00 feet and a central angle of 94°25'00";

Thence, in a Northwesterly direction with the said curve to the right having a radius of 25.00 feet (chord bearing North 47°07'30" West, 36.69 feet), an arc distance of 41.20 feet to a 5/8 inch steel rod set in the East line of said Peck Road at a point of tangency for the Southwest corner of the herein described tract;

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JOHN THOMAS & ASSOCIATES FAX:281 440 7737

PAGE 3

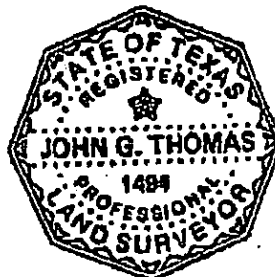
August 11, 2003  
8.3350 acres  
Page 2

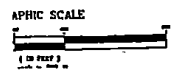
Thence, North 00°05'00" East, 474.67 feet with the East line of said Peck Road to a 5/8 inch steel rod set for the Northwest corner of the herein described tract;

Thence, North 85°40'00" East, 401.10 feet to the PLACE OF BEGINNING and containing 8.3350 acres of land, more or less.

This description is based on the land title survey and plat (Job No. 01-14260MC) made under the direction of John G. Thomas, Registered Professional Land Surveyor on May 27, 2003.

  
John G. Thomas, R.P.L.S. No. 1494



[illegible]

PLAT SHOWING A LAND TIT  
SURVEY OF A 134.4288 ACRE TRACT  
AND A 3.0109 ACRE TRACT OF LA  
OUT OF THE GEORGE FIEL  
SURVEY, A-591, BROOKS  
BURLESON SURVEY, A-145 AND  
WILLIAM STANLEY SURVEY, A-  
IN FORT BEND COUNTY, TEXAS.

DATE: 07/15/03 SCALE: 1" =

JOHN K. THOMAS & ASSOCIATES, INC.  
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EMAIL: jthomas@jthomas.com  
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