

**Spring Branch Independent School District
Agenda Item Information**

Date of Board Meeting: November 26, 2007

Subject: Request for Consideration and Possible Action to Dispose of District Property
Identified Under Harris County Appraisal District Account 1165710000005

Administrator Responsible:

Name: Karen Wilson

Position: Associate Superintendent for Finance

Purpose of Agenda Item:

Information only Action needed Report

Additional Information and/or Back-Up:

Consideration and possible action regarding a modified deed superseding the original deed transferring Spring Branch Independent School District's interest in real property described as Unrestricted Reserve E of Town & Country North, Section 1, a Subdivision in Harris County, Texas approved on August 27, 2007 and substituting the perpetual reversionary clause contained in the original deed with a 25 year reversionary clause.

This property is known as the Lumpkin Road property. The SBISD Board previously approved transfer of the property to HCC August 27, 2007. This modification has been requested by HCC and approved by Commissioner Raddack.

To: Karen Wilson
Associate Superintendent of Finance
Spring Branch ISD

From: Lary Reap

Subject: Lumpkin Road Property

Lumpkin Road Property
Easement
Access
Cost to HCC
Letter from Centerpoint Energy
Permit from the City of Houston

Lumpkin Road Property:

The property currently is owned by Spring Branch Independent School District as trustee for the taxing entities, pursuant to a tax foreclosure sale that took place around June 2003.

The property consists of an approximately 1.2977 acre tract located to the east of Lumpkin Road and North of a right-a-way in favor of the city of Houston that is titled "Larston Drive". Larston Drive is not paved and the city has indicated that it does not intend to construct a road over its right-a-way. HCC has been working with the taxing entities that were a part of the tax foreclosure judgment and requesting approval of conveyance to HCC with a waiver of taxes owed to that entity pursuant to tax resale under section 39.05 of the Texas tax code, which permits taxing entity to convey property for less than judgment or fair market value if all taxing entities consent. Thus far the city of Houston and Harris county have consented to convey the property to HCC and waive any monies owed to them from back taxes. Still remaining are the Port of Houston, Harris County Department of Education, and the Harris Country Hospital District. HCC has made contacts at each and are still working to obtain approval from those entities.

Spring Branch to convey the property to HCC for educational use as parking. If HCC uses property for any other reason than for public use for next 25 years, property will go back to taxing entities. In return Spring Branch will receive \$40,000 intuition for Spring Branch Dual credit students. Memorial High School will receive \$7,500; Northbrook High School, \$7,500; Spring Woods High School, \$7,500; Stratford High School, \$7,500; Career Center, \$5,000; and Spring Branch Educational Center, \$5,000. Money that is not used by each school will carry over until money is depleted.

Easement:

The property is encumbered by numerous easements. In addition to 10 foot building set back lines along the southerly and westerly boundaries of the small piece of land, there are seven other easement over, across and above almost 1/2 of the property or more. Among the easement is a 50 foot easement in favor of Centerpoint along the entire northern portion of the property. In this easement are power poles and overhead transmission lines as well as a transmission tower in the center of the property. South of and adjacent to the 50 foot northern Centerpoint easement is a 10 foot utility easement extending from the Northern boundary to the southern boundary of the property. Through parts of the utility easement are gas and electrical lines. The foregoing easements permit Centerpoint to remove any structures or obstructions from either the easement area or the adjacent property if its unreasonably interferes with its use of the easement area. The last two referenced easement also include an aerial easement extending from 16-20 feet above ground. Extending the full length of the property along its southern boundary is a 10 foot sanitary sewer easement. the southeast corner of the property, which is enclosed by a chain link fence is encumbered by a lift station easement, a lift station and a power pole. HCC has been working with Centerpoint to obtain permission to encroach over the easements and to place gravel for parking. Centerpoint wants to ensure that the parking surface is not so high that its trucks cannot get under the transmission lines to conduct repairs. As long as the utility and Centerpoint easements and facilities exist as on this property, no permanent building or structure will be permitted and any temporary structure will require approval from the entity holding the easement.

Access:

There is no legal or physical access to the property. Larston Drive, which extends along the southern boundaries of the property has never been paved and HCC understands that the city does not intend to pave or develop the property for roadway purposes. Thus, there is no access from Larston to the property. There is no access from Lumpkin Road, which is west of the property. The paving ends about 20 feet west of the property line. There is a drainage ditch in the city's right-of-way between the end of the paving on Lumpkin Road and the boundary line of the property. The northern and eastern boundaries abut property owned by private parties. The city has granted preliminary approval for HCC to place a culvert in the drainage ditch and construct a driveway over that through the city's right-of-way between the end of the paving on Lumpkin up to the property line and has issued a permit for such construction. The permit expires December 14, 2007.

Cost to HCC :

Besides the \$40,000 for students at Spring Branch ISD, the estimated cost for construction of the culvert and driveway at around \$15,000 and obtaining permits and related cost for using the city's right-of-way at around \$34,000. HCC has estimated the cost of placing gravel over the surface of the property at around \$50,000 or a little more for materials and labor.



CenterPoint Energy
P.O. Box 1700
Houston, TX 77251-1700

August 7, 2007

Mr. Orlando J. Teran P.E., R.L.P.S
Teran Group
888 West Sam Houston Parkway, Suite 250
Houston, TX 77042

RE: Preliminary Review of Proposed Parking Area upon CenterPoint Energy's
Brittmore - Sauer Transmission Right of Way East of Lumpkin Road. Map B-431

Dear Mr. Teran,

CenterPoint Energy has completed its preliminary review of the information you recently submitted for using land under a transmission easement just east of Lumpkin Road for parking purposes. This review found that there is sufficient clearance right now to park vehicles under these electrical facilities but certain requirements must be fulfilled before final permission can be granted.

One is final engineering drawings must be presented showing the proposed parking layout, the materials to be used in the building of the parking lot and the final elevation of the actual parking surface height from natural ground.

With that information we will conduct our final review and approval process and respond with a formal agreement letter for this request once it is approved.

If there are any questions, please call me at (713) 207-6804.

Sincerely,

James M. Spurgeon
Principal
Survey & Right of Way

6/14/07
man
4998-2



Department of Public Works and Engineering
Planning & Development Services Division

**SIDEWALK-DRIVEWAY-CURB & GUTTER-CULVERT PARKING LOT
PERMIT APPLICATION**

City Of Houston

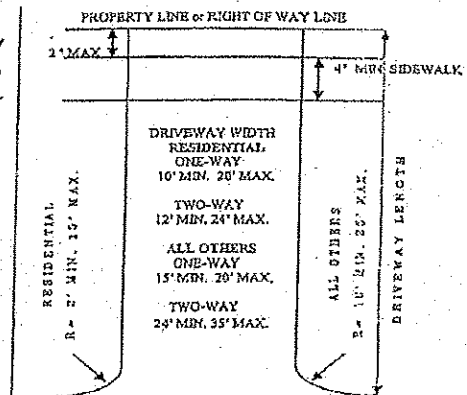
This is a permit application for a Sidewalk-Driveway-Curb-Gutter-Culvert-Parking lot within the city limits of Houston, Texas. Carefully complete all necessary information.

PROJECT NUMBER*: 7052519 DATE: 6/14/07
JOB SITE:
Owner or Contractor*: HCCS 4492 Cost of Improvement: \$10,000
Job Address*: 118 Lumphkin Rd City: Houston Zip: 77043
Email: oiteran@terangroup.com Fax: 713 244 9795 Phone No*: 713 244 9794
(* = must be completed)

I hereby apply for a permit to do the following work in front of and on, property located at: _____ Street, which is between _____ Street and _____ Street.

Sidewalks:
Width: _____ ft. Length: _____ ft. Street: _____
Width: _____ ft. Length: _____ ft. Street: _____
Width: _____ ft. Length: _____ ft. Street: _____

Driveways:
Width: 20 ft. Length: _____ ft. Street: LUMPKIN RD
Width: _____ ft. Length: _____ ft. Street: _____
Width: _____ ft. Length: _____ ft. Street: _____



PARKING AREA: (Sq. Ft.) _____

Surface Material: _____

Sidewalk, Driveway and Curb and Gutter Bond Number: _____

NOTES:

- No culvert pipe of less than the inside diameter of the nearest upstream culvert pipe shall be installed. In no case will culvert pipe of less than 24"RCP (inside diameter) be allowed. Refer to the Public Works drawing No. 02754-2.
 - Driveways are prohibited when abutting local street where there is less than 20 feet of unobstructed depth from the right-of-way to any obstruction.
 - All parking lots require Storm Drainage approval.
 - Driveway for curb & gutter street: Use Public Works and Engineering drawing No.02754-01.
- I certify that I have a contract to do the work listed above, which I will construct in strict accordance with the ordinance of the City of Houston and on the line and grades as established by the Director of Public Works

LONG RUN CULVERT PIPE: The culvert pipe in excess of the normal maximum 40 foot wide driveway culvert requires a submittal of a plan and profile type drawing prepared by an engineer licensed in the State of Texas to the Engineering Service Office at 611 Walker Lobby. For further information contact Zia Mohammadi @ 713-837-7383, see Houston Amendments to 2003 International Building Code, section 3110.13.2. and C.O.H. Design Manual Chapter 9, as applicable to site specific requirements.

APPLICANT INFORMATION: WARNING!

Any false statement hereon may result in criminal prosecution; the city will rely upon the representations application in issuing the permit applied for; the issuance of a permit does not authorize construction on or use of a property in violation of deed restrictions, and any construction on or use of the property in violation of deed restrictions render the permit void.

THIS PLAN WAS APPROVED IN THE STOP OFFICE FOR COMPLIANCE WITH THE ELECTRICAL, PLUMBING AND CODE COMPLIANCE AND IS SUBJECT SOLELY TO FIELD INSPECTION.

APPROVED
TRAFFIC DESIGN
BY [Signature] DATE 6/14/07

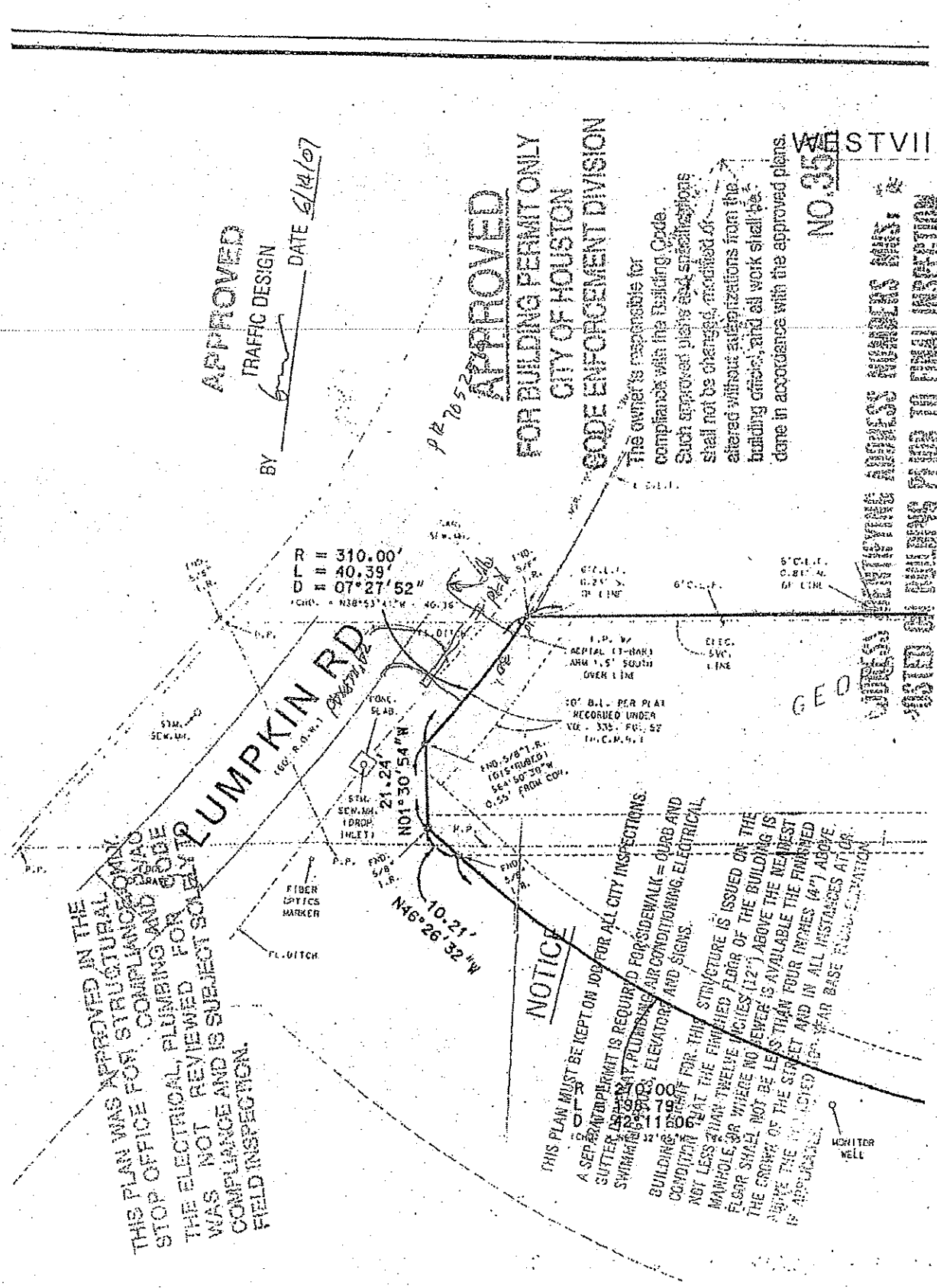
APPROVED
FOR BUILDING PERMIT ONLY
CITY OF HOUSTON
CODE ENFORCEMENT DIVISION

The owner is responsible for compliance with the Building Code. Such approved plans and specifications shall not be changed, modified or altered without authorization from the building official, and all work shall be done in accordance with the approved plans.

NO. 35

WEST VII

APPROVED FOR THE CITY OF HOUSTON
CITY ENGINEER
CITY OF HOUSTON
ARTICLE V OF THE CITY CHARTER



NOTICE

THIS PLAN MUST BE KEPT ON JOB FOR ALL CITY INSPECTIONS. A SEPARATE PERMIT IS REQUIRED FOR SIDEWALK = CURB AND GUTTER, PLUMBING, AIR CONDITIONING, ELECTRICAL, SWIMMING POOL, ELEVATORS AND SIGNS. BUILDING DEPARTMENT FOR THIS STRUCTURE IS ISSUED ON THE FLOOR SHALL NOT BE LESS THAN FOUR INCHES (4") ABOVE THE GROUND OF THE STREET AND IN ALL INSTANCES AT LEAST NOT LESS THAN TWELVE (12") ABOVE THE NEAREST FLOOR OR WHERE NO FLOOR IS AVAILABLE THE NEAREST ABOVE THE FINISHED 100% FINISH FLOOR. NEAR BASE ROAD ELEVATION IS APPLICABLE.

07052519

Notice of confidentiality rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your social security number or your driver's license number

(Language pursuant section 11.008 of the Texas Property Code)

THE STATE OF TEXAS

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TAX RESALE DEED

COUNTY OF HARRIS

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§

That, in accordance with TEX. TAX CODE ANN. § 34.05 (Vernon 2001), the SPRING BRANCH INDEPENDENT SCHOOL DISTRICT, holding title, pursuant to TEX. TAX CODE ANN. § 34.01(k) (Vernon Supp. 2004-2006), for the use and benefit of itself and HARRIS COUNTY, the HARRIS COUNTY DEPARTMENT OF EDUCATION, the PORT OF HOUSTON AUTHORITY OF HARRIS COUNTY, the HARRIS COUNTY FLOOD CONTROL DISTRICT, the HARRIS COUNTY HOSPITAL DISTRICT, and the CITY OF HOUSTON, taxing units of the State of Texas, hereinafter collectively referred to as "Grantor," for and in consideration of the sum of TEN and NO/100 DOLLARS (\$10.00) and other good and valuable consideration to Grantor paid by HOUSTON COMMUNITY COLLEGE SYSTEM ("Grantee") the receipt and sufficiency of which is hereby acknowledged and confessed, has GRANTED and CONVEYED and by these presents does GRANT and CONVEY unto said Grantee all right, title and interest of the SPRING BRANCH INDEPENDENT SCHOOL DISTRICT AND HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, CITY OF HOUSTON in the property herein conveyed, acquired by tax foreclosure sale heretofore held, in Cause No. 2001-54285, styled Spring Branch Independent School District vs. Old Katy Road 28 Ltd., said property being described as:

UNRESTRICTED RESERVE E OF TOWN & COUNRTY NORTH, SECTION 1, A SUBDIVISION IN HARRIS COUNTY, TEXAS AS RECORDED IN VOLUME 335, PAGE 52 OF THE MAP RECORDS OF HARRIS COUNTY TEXAS; (HCAD ACCT 116-571-000-0005), and as more particularly described by metes and bounds on the attached Exhibit "A" ("Property")

Restriction

Grantee acknowledges, covenants, and agrees by its acceptance hereof, that the Property may not be sold, granted, or conveyed and shall be used only for public community college and related purposes until October 31, 2032 ("Restriction Period"), and thereafter, the Property may be used for any purpose or purposes and the Grantee may sell, lease, or otherwise convey the Property to be used for any purpose or purposes. In the event that Grantee attempts to sell, grant, or convey the Property or in the event that the Grantee fails to use the Property for community college or related purposes

during the Restriction Period, Grantor may reenter the Property and title shall revert to Grantor. The covenant and restriction contained in this paragraph shall cease on November 1, 2032.

EXCEPT FOR THE WARRANTY OF TITLE AS SET FORTH HEREIN, GRANTOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE PROPERTY, AND THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AS TO THE PROPERTY, AND THE CONVEYANCE OF THE PROPERTY IS "AS IS," "WHERE IS," AND "WITH ALL FAULTS," AND GRANTOR HAS DISCLAIMED ANY IMPLIED WARRANTIES WITH RESPECT TO THE PROPERTY.

Grantor and Grantee intend for there to be a merger of assessment liens, if any, and tax liens with the title in the Property, and Grantor intends for Grantee to receive the Property free and clear of all assessment liens, if any, and tax liens.

This conveyance is further made and accepted subject to the following matters: (a) any and all rights of redemption that may affect the Property; (b) any restrictions, covenants, conditions, easements, encumbrances, and outstanding mineral interests, if any, but only to the extent they affect the Property, are valid and in effect on the date hereof and are shown of record in Harris County, Texas; and (c) all zoning laws, regulations, and ordinances of municipal and/or other governmental authorities, if any, but only to the extent that they affect the Property and are valid and in effect on the date hereof.

Grantee assumes and agrees to pay taxes for the calendar year 2007, but only to the extent required by applicable law.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said HOUSTON COMMUNITY COLLEGE DISTRICT, its successors and assigns forever, so that neither the SPRING BRANCH INDEPENDENT SCHOOL DISTRICT AND HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, CITY OF HOUSTON nor any person claiming under it or them shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Additional Restriction

SUBJECT however to the following covenant, condition and restrictions:

- (a) The above described realty, or any part thereof, shall not be used in the operation of, or in conjunction with, any school or other institution of learning, study or instruction which discriminates against any person because of his race, color or

national origin, regardless of whether such discrimination be effected by design or otherwise.

- (b) The above described realty, or any part thereof, shall not be used in the operation of, or in conjunction with, any school or other institution of learning, study or instruction which creates, maintains, reinforces, renews, or encourages, or which tends to create, maintain, reinforce, renews or encourage a dual school system.

These restrictions and conditions shall be binding upon grantee and grantee's successors, assigns, heirs, and personal representatives for a period of fifty (50) years from the date hereof.

The foregoing restrictions and the other covenants hereafter set out are covenants running with the land, and each and every parcel thereof, and shall be fully binding upon any person, firm, partnership, corporation, trust, church, club, governmental body, or other organization or entity whatever (whether private or governmental in nature), without limitation hereinafter acquiring any estate, title, interest or property in said land, whether by descent, purchase or otherwise, and no act or omission upon the part of grantor herein, its successors and assigns, shall be a waiver of the operation or enforcement of such restrictions; but neither restriction shall be construed to be a condition subsequent or special limitation on the estate thereby conveyed.

It is further covenanted, that third party beneficiaries of the restrictions set forth above shall be as follows:

- (1) As to the restrictions set out in (a) above, any person prejudiced by its violation;
- (2) As to the restriction set out in (b) above, any public school district or any person prejudiced by its violation; and
- (3) As to either or both of the restrictions set out in (a) and (b) above, the United States of America, as plaintiff, and the America G.I. Forum, the League of United Latin American Citizens (LULAC), and the National Association for the advancement of Colored People (NAACP), as intervenors, in the U.S. v. Texas Civil Action No. 5281, Tyler Division, U.S. District County, Eastern District of Texas; reported in U.S. v. Texas 321 F. Supp. 1043 (E.D. Tex. 1970); U.S. v. Texas 330 F. Supp. 235 (E.D. Tex.. 1971); aff'd with modifications sub. nom. U.S. v. State of Texas and J. W. Edgar, et al., 447 F.2d 441 (5th Cir. 1971); stay den. Sub. nom. Edgar v. U.S., 404 U.S. 1206 (1971); cert. den. 404 U.S. 1016 (1972).

It is further covenanted that in case of violation of either or both of the above restrictions, any of the third party beneficiaries above alluded to is authorized and empowered to prosecute proceedings at law or in equity against any person, firm, partnership, corporation, trust, church, club, governmental body or other organization or entity whatever (whether private or governmental in nature), without limitation:

- (A) To enforce either or both of such restrictions relation to the use of the above described realty;
- (B) To abate or prevent violations of either or both of such restrictions; and
- (C) To recover damages for a breach or either or both such restrictions.

It is further covenanted, that if any third party beneficiary referred to above shall prosecute proceedings at law or in equity for the aforesaid purposes, such third party beneficiary may recover reasonable attorney's fees from the violator or violators of either or both of such restrictions, if the Court finds that the proceedings were necessary to bring about the compliance therewith.

Grantee accepts the property without warranty and in "AS IS, WHERE IS" condition and subject to any environmental conditions that might have or still exist on said property including, but not limited to, any and all faults, fault lines, or other geological defects, on, across, or affecting the property, and subject to any title defects and deficiencies, and subject to the right of redemption, if any, provided under the Texas Property Tax Code.

IN TESTIMONY WHEREOF, THE SPRING BRANCH INDEPENDENT SCHOOL DISTRICT, TRUSTEE has caused these presents to be executed this _____ day of _____ 2007.

SPRING BRANCH INDEPENDENT
SCHOOL DISTRICT

HARRIS COUNTY

By _____

By

MIKE FALICK
President, Board of Trustees

ED EMMETT
County Judge

HARRIS COUNTY DEPARTMENT
AUTHORITY
OF EDUCATION

PORT OF HOUSTON
OF HARRIS COUNTY

By _____

By

JOHN E. SAWYER

H. THOMAS KORNEGAY

Superintendent

Executive Director

HOUSTON COMMUNITY COLLEGE SYSTEM

By _____
MARY SPANGLER, Ed.D
Chancellor

HARRIS COUNTY FLOOD
CONTROL DISTRICT

HARRIS COUNTY HOSPITAL
DISTRICT

By _____
ROBERT ECKELS
County Judge
Officer

By
DAVID S. LOPEZ
President and Chief Executive

CITY OF HOUSTON

HARRIS COUNTY EDUCATION
DISTRICT

By _____
BILL WHITE
Mayor

By
Printed Name:
Printed Title:

ACKNOWLEDGMENTS

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this ____ day of _____ 2007, by MIKE FALICK, as President of the Board of Trustees of Spring Branch Independent School District, on behalf of Spring Branch Independent School District.

Notary Public in and for the State of Texas

Notary's Name Printed:
My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____ 2007, by ROBERT ECKELS as County Judge of Harris County, Texas, on behalf of Harris County.

Notary Public in and for the State of Texas
Notary's Name Printed:
My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____ 2007, by JOHN E. SAWYER as Superintendent of Harris County Department of Education, on behalf of Harris County Department of Education.

Notary Public in and for the State of Texas
Notary's Name Printed:
My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____ 2007, by H. THOMAS KORNEGAY as Executive Director of Port of Houston Authority of Harris County, on behalf of Port of Houston Authority of Harris County.

Notary Public in and for the State of Texas
Notary's Name Printed:
My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____ 2007, by ED EMMETT as County Judge of Harris County, Texas, on behalf of Harris County Flood Control District.

Notary Public in and for the State of Texas

Notary's Name Printed:
My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____ 2007, by DAVID S. LOPEZ as President and Chief Executive Officer of Harris County Hospital District, on behalf of Harris County Hospital District.

Notary Public in and for the State of Texas
Notary's Name Printed:
My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____ 2007, by BILL WHITE as Mayor of City of Houston, on behalf of City of Houston.

Notary Public in and for the State of Texas
Notary's Name Printed:
My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____ 2007, by _____ as _____, on behalf of Harris County Education District.

Notary Public in and for the State of Texas
Notary's Name Printed:
My Commission Expires:

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____ 2007, by MARY SPANGLER, as Chancellor, on behalf of the _____

Houston Community College System.

Notary Public in and for the State of Texas
Notary's Name Printed:
My Commission Expires:

After Recording Return To:

Houston Community College System
c/o Bracewell & Giuliani LLP
Attn: Maureen R.M. Singleton
711 Louisiana Street, Suite 2300
Houston, Texas 77002