



# RAILROAD COMMISSION OF TEXAS

## OIL AND GAS DIVISION

### **VOLUNTARY CLEANUP PROGRAM FINAL CERTIFICATE OF COMPLETION RELYING ON INSTITUTIONAL CONTROLS**

As provided for Chapter 91, Subchapter 0, Texas Natural Resource Code.

*I, WILLIAM B. MIERTSCHIN, ASSISTANT DIRECTOR OF THE SITE REMEDIATION SECTION, OIL AND GAS DIVISION, RAILROAD COMMISSION OF TEXAS, CERTIFY UNDER CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE, THAT NECESSARY RESPONSE ACTIONS HAVE BEEN COMPLETED FOR VOLUNTARY CLEANUP PROGRAM SITE VCP NO. 03-40003 AS OF 11 April 2008 FOR THE TRACT OF LAND DESCRIBED IN EXHIBIT "A", BASED ON THE AFFIDAVIT OF COMPLETION OF RESPONSE ACTION AND INSTITUTIONAL CONTROLS, EXHIBIT "B" AND WHICH ARE FURTHER DESCRIBED IN THE APPROVED FINAL REPORT FOR THE SITE. APPLICANTS WHO WERE NOT RESPONSIBLE PARTIES UNDER SECTION 91.113 ON THE DATE OF ISSUANCE OF THIS CERTIFICATE ARE QUALIFIED TO OBTAIN THE PROTECTION FROM LIABILITY PROVIDED BY CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE.*

EXECUTED this the 9 day of MAY 2008.

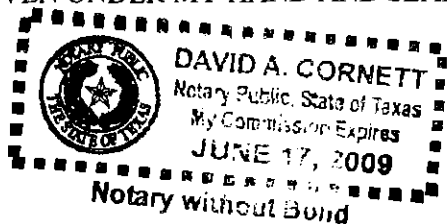
William B. Miertschin,  
Assistant Director, Site Remediation

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, personally appeared William B. Miertschin, Assistant Director, Remediation Division, of the Railroad Commission of Texas, known to me to be the person and agent of said commission whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 9 day of May 2008.



Notary Public in and for the State of Texas

***EXHIBIT A  
RAILROAD COMMISSION OF TEXAS  
VOLUNTARY CLEANUP PROGRAM  
LEGAL DESCRIPTION 25.354 Acre Tract***

***VCP No. 03-40003***

EXHIBIT "A"

LEGAL DESCRIPTION

TRACT 1

A TRACT OR PARCEL OF LAND CONTAINING 25 354 ACRES (1,104,403 SQUARE FEET), MORE OR LESS, IN THE AUGUST WHITLOCK SURVEY, A-793 AND BEING THE ROBERT WILSON LEAGUE, A-88, HARRIS COUNTY, TEXAS, AND BEING OUT OF A 37 3017 ACRE TRACT CONVEYED TO SOUTHBROOK CORPORATION BY KINGSWAY, INC BY DEED FILED FOR RECORD UNDER HARRIS COUNTY CLERK S FILE NO G614242, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY HARRIS COUNTY, TEXAS AND PARTIALLY BEING OUT OF RESERVE "E OF BAYBROOK VILLAGE, SECTION ONE (1), AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 339, PAGE 42, MAP RECORDS, HARRIS COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS



BEING 25 354 ACRES (1,104,403 SQUARE FEET), MORE OR LESS, IN THE AUGUST WHITLOCK SURVEY, A-793 AND BEING THE ROBERT WILSON LEAGUE, A-88, HARRIS COUNTY, TEXAS, AND BEING OUT OF A 37 3017 ACRE TRACT CONVEYED TO SOUTHBROOK CORPORATION BY KINGSWAY INC BY DEED FILED FOR RECORD UNDER HARRIS COUNTY CLERK'S FILE NO G614242, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY TEXAS, AND PARTIALLY BEING OUT OF RESERVE "E OF BAYBROOK VILLAGE, SECTION ONE (1), AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 339, PAGE 42, MAP RECORDS, HARRIS COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

BEGINNING AT A POINT MARKED BY A SET 5/8 INCH IRON ROD SET ON THE SOUTHEAST RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD 110 00 FEET WIDE, SAID POINT BEING THE NORTHEAST END OF A TRANSITION RIGHT-OF-WAY BETWEEN THE SOUTH RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, AND THE EAST RIGHT-OF-WAY LINE OF BAYBROOK SQUARE DRIVE, 70 00 FEET WIDE, SAID POINT FURTHER BEING A NORTHWEST CORNER OF SAID RESERVE "E",

THENCE, NORTH 77 DEGREES 51 MINUTES 10 SECONDS EAST, ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, A DISTANCE OF 226 95 FEET TO A POINT FOR CORNER MARKED BY A 1 INCH GALVANIZED IRON PIPE FOUND,

THENCE, SOUTH 12 DEGREES 08 MINUTES 50 SECONDS EAST, A DISTANCE OF 23 00 FEET TO A POINT FOR RE-ENTRANT CORNER MARKED BY A 5/8 INCH IRON ROD FOUND ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, AS WIDENED,

THENCE IN AN EASTERLY DIRECTION ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, VARIABLE WIDTH, WITH A CURVE TO THE LEFT WHOSE RADIUS IS 1505 69 FEET CENTRAL ANGLE IS 13 DEGREES 43 MINUTES 34 SECONDS, AND WHOSE CHORD BEARS NORTH 70 DEGREES 59 MINUTES 23 SECONDS EAST A DISTANCE, MEASURED ALONG THE ARC OF SAID CURVE OF 360 71 FEET TO A POINT FOR THE END OF SAID CURVE MARKED BY A 1 INCH GALVANIZED IRON PIPE FOUND,

THENCE, NORTH 77 DEGREES 51 MINUTES 10 SECONDS EAST, CONTINUING ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, A DISTANCE OF 108 87 FEET TO A POINT FOR CORNER MARKED BY A 5/8 INCH IRON ROD FOUND, ON THE WESTERLY RIGHT-OF-WAY LINE OF THE BAY AREA BOULEVARD GULF FREEWAY (U S 75/ I H 45) INTERCHANGE, SAME BEING ON A WEBSTER CITY LIMIT LINE,

THENCE, IN A SOUTHEASTERLY DIRECTION ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE BAY AREA BOULEVARD / GULF FREEWAY (U S 75/ I H 45) INTERCHANGE, SAME BEING A WEBSTER CITY LIMIT LINE WITH A CURVE TO THE LEFT WHOSE RADIUS IS 495 56 FEET, CENTRAL ANGLE IS 63 DEGREES 47 MINUTES 23 SECONDS AND WHOSE CHORD BEARS SOUTH 75 DEGREES 13 MINUTES 50 SECONDS EAST, AT 397 43 FEET PASS A RE-ENTRANT CORNER FOR THE WEBSTER CITY LIMITS AND FURTHER BEING A NORTHEAST CORNER OF SAID BAYBROOK VILLAGE, SECTION 1 IN ALL A DISTANCE, MEASURED ALONG THE ARC OF SAID CURVE, OF 551 73 FEET TO A POINT OF TANGENT MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE, NORTH 72 DEGREES 52 MINUTES 30 SECONDS EAST, CONTINUING ALONG SAID INTERCHANGE, A DISTANCE OF 119 84 FEET TO A POINT OF CURVE MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE IN A SOUTHEASTERLY DIRECTION CONTINUING ALONG SAID INTERCHANGE, WITH A CURVE TO THE RIGHT WHOSE RADIUS IS 371 72 FEET AND CENTRAL ANGLE IS 66 DEGREES 00 MINUTES 00 SECONDS, A DISTANCE OF 428 19 FEET TO A POINT OF TANGENT MARKED BY A 1 INCH GALVANIZED IRON PIPE FOUND ON THE SOUTHWEST RIGHT-OF-WAY LINE OF GULF FREEWAY (I H 45), CHORD BEARS SOUTH 74 DEGREES 07 MINUTES 30 SECONDS EAST, A DISTANCE OF 404 91 FEET

THENCE, SOUTH 41 DEGREES 07 MINUTES 30 SECONDS EAST, ALONG THE SOUTHWEST RIGHT-OF-WAY LINE OF GULF FREEWAY (I H 45), A DISTANCE OF 397 82 FEET TO A 5/8 INCH IRON ROD SET FOR CORNER SAID POINT BEING LOCATED NORTH 41 DEGREES 07 MINUTES 30 SECONDS WEST, A DISTANCE OF 159 92 FEET FROM A 1 INCH GALVANIZED IRON PIPE MARKING THE EAST CORNER OF SAID 37 3017 ACRE TRACT,

THENCE, NORTH 86 DEGREES 07 MINUTES 30 SECONDS WEST, A DISTANCE OF 35 36 FEET TO AN ANGLE POINT MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE, SOUTH 48 DEGREES 52 MINUTES 30 SECONDS WEST, A DISTANCE OF 127 25 FEET TO A POINT OF CURVE MARKED BY A SET 5/8 INCH IRON ROD SET,

THENCE, IN A SOUTHWESTERLY DIRECTION WITH A CURVE TO THE RIGHT WHOSE RADIUS IS 80 00 FEET AND CENTRAL ANGLE IS 28 DEGREES 58 MINUTES 40 SECONDS, A DISTANCE OF 40 46 FEET TO A POINT OF TANGENT MARKED BY A SET 5/8 INCH IRON ROD SET,

THENCE, SOUTH 77 DEGREES 51 MINUTES 10 SECONDS WEST, A DISTANCE OF 736 76 FEET TO A POINT OF TANGENT MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE, IN A SOUTHWESTERLY DIRECTION WITH A CURVE TO THE RIGHT WHOSE RADIUS IS 80 00 FEET AND CENTRAL ANGLE IS 25 DEGREES 24 MINUTES 27 SECONDS, A DISTANCE OF 35 48 FEET TO A POINT OF TANGENT MARKED BY A 5/8 INCH IRON ROD FOUND CHORD BEARS SOUTH 89 DEGREES 26 MINUTES 36 SECONDS EAST,

THENCE, NORTH 76 DEGREES 44 MINUTES 22 SECONDS WEST, A DISTANCE OF 192 11 FEET TO A POINT OF CURVE MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE, IN A WESTERLY DIRECTION WITH A CURVE TO THE LEFT WHOSE RADIUS IS 50 00 FEET AND CENTRAL ANGLE IS 25 DEGREES 24 MINUTES 27 SECONDS, A CHORD BEARS NORTH 89 DEGREES 26 MINUTES 37 SECONDS WEST DISTANCE OF 22 17 FEET TO A POINT OF TANGENT MARKED BY A SET 5/8 INCH IRON ROD SET,

THENCE, SOUTH 77 DEGREES 51 MINUTES 10 SECONDS WEST, AT 103 65 FEET PAST A NORTHWESTERLY LINE OF WEBSTER CITY LIMITS, SAME BEING A SOUTHEASTERLY LINE OF SAID RESERVE "E", IN ALL A DISTANCE OF 694 46 FEET TO A POINT FOR CORNER MARKED BY AN "X" CUT IN CONCRETE, ON THE EAST RIGHT-OF-WAY LINE OF BAYBROOK SQUARE DRIVE, 70 00 FEET WIDE,

THENCE, NORTH 12 DEGREES 08 MINUTES 50 SECONDS WEST, ALONG THE EAST RIGHT-OF-WAY LINE OF BAYBROOK SQUARE DRIVE, A DISTANCE OF 696 81 FEET TO AN ANGLE POINT MARKED BY A 5/8 INCH IRON ROD FOUND, SAID POINT BEING THE SOUTHWEST END OF A TRANSITION RIGHT-OF-WAY LINE BETWEEN THE EAST RIGHT-OF-WAY LINE OF BAYBROOK SQUARE DRIVE AND THE SOUTH RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD,

THENCE, NORTH 32 DEGREES 51 MINUTES 10 SECONDS EAST, ALONG SAID TRANSITION RIGHT-OF-WAY LINE, A DISTANCE OF 21 21 FEET TO THE PLACE OF BEGINNING AND CONTAINING A 25 354 ACRES (1,104,403 SQUARE FEET) OF LAND

TRACT 2

ALL RIGHTS AND NON-EXCLUSIVE EASEMENTS CONTAINED IN "RECIPROCAL EASEMENT AGREEMENT" DATED AUGUST 31, 1992, EXECUTED BY AND BETWEEN CRESTFIELD REALTY, INC, A TEXAS CORPORATION AND SOUTHBROOK CORPORATION, A TEXAS CORPORATION, FILED FOR RECORD UNDER COUNTY CLERK'S FILE NO N852146, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS, AMENDED BY AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT DATED JULY 7, 1997, BY AND BETWEEN SOUTHBROOK CORPORATION AND THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, FILED FOR RECORD UNDER COUNTY CLERK'S FILE NO S5467274, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY HARRIS COUNTY TEXAS AND BY FIRST AMENDMENT TO THE AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT DATED JULY 19, 2001, BY AND BETWEEN SOUTHBROOK CORPORATION AND LINCOLN NATIONAL LIFE INSURANCE COMPANY, FILED FOR RECORD UNDER COUNTY CLERK'S FILE NO V229139, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS

**RECORDER'S MEMORANDUM:**  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts additions and changes were present at the time the instrument was filed and recorded.

**EXHIBIT "B"**  
**RAILROAD COMMISSION OF TEXAS**  
**VOLUNTARY CLEANUP PROGRAM**  
**AFFIDAVIT OF COMPLETION OF RESPONSE ACTION**  
**AND INSTITUTIONAL CONTROLS**

I, Keith Schinnerer, representing Lincoln National Life Insurance Co., L.P. ("Applicant"), have completed response actions necessary, pursuant to Chapter 91, Subchapter O, Texas Natural Resource Code, at the tract of land described in Exhibit "A" (Site) of this certificate pertaining to VCP No. 03-40003. At the time of the application, the Applicant owned the 25.254 acre parcel located in Harris County, Texas. The Applicant has submitted and received approval from the Railroad Commission of Texas Voluntary Cleanup Program on all plans and reports required by the Voluntary Cleanup Agreement. The plans and reports were prepared using a prudent degree of inquiry of the Site consistent with accepted industry standards to identify all contaminants, waste and contaminated media of regulatory concern. The response actions for the site have achieved response action levels as determined by the standards of the RRC and remain protective as long as the following institutional controls are maintained:

1. Use of the Property shall not be allowed for Residential Use as defined in the Restrictive Covenant.
2. Use of the groundwater beneath the Property shall not be allowed except for monitoring purposes.
3. Penetration or excavation for a purpose of the impacted groundwater zones should only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.
4. These restrictions shall be a covenant running with the land.
5. These restrictions were filed in the Harris County Clerk's office on 1 February 2008, Document 20080050677 (Attachment 1)

The response actions eliminate substantial present or future risk to public health and safety and to the environment from releases and threatened releases of contaminants at or from the Site. The Applicant has not acquired this certificate of completion by fraud, misrepresentation, or knowing failure to disclose material information. Further information concerning the response actions at this Site may be found in the final report at the central office of the RRC under VCP No. 03-40003.

The preceding is true and correct to the best of my knowledge and belief

Applicant

By: 

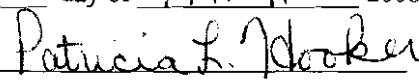
Print Name: Keith Schinnerer, Second Vice President, Delaware Investment Advisers, a series of Delaware Management Business Trust, Attorney-In-Fact

STATE OF  
COUNTY OF

BEFORE ME, personally appeared Keith Schinnerer, known to me to be the person and agent of said commission whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 12<sup>th</sup> day of March 2008.

Notary Public in and for the State of Indiana

  
PATRICIA L. HOOKER, Notary Public  
Resident of Allen County, Indiana  
My Commission Expires August 24, 2008





Phase I Environmental Site Assessment, August 3, 1999, Eckland Consultants;

Preliminary Phase II Environmental Assessment, October 14, 2000, Arcadis;

Continued Investigation and Closure Strategy Report, October 14, 1999, Arcadis;

Summary of Findings Report, October 2000, Arcadis;

Methane Recovery System Report, January 2000, Arcadis;

Methane Recovery System Monitoring and Supplemental Soil Gas Survey Report, August 2000, Arcadis;

Summary Report, May 9, 2003, Arcadis;

Soil Vapor Survey Report, April 14, 2004, ETI for Brown and Caldwell;

Soil and Groundwater Investigation Report, March 2005, Brown and Caldwell;

Soil and Groundwater Sampling and Analysis Report, March 1, 2006, Brown and Caldwell;

Soil Gas Closure Confirmation Report, July 2006, Brown & Caldwell.

Copies of the reports may be obtained from the Texas Railroad Commission, Site Remediation Division, P. O. Box 12967, 1701 N. Congress, Austin, Texas 78711-2967 (512-463-6765). Reference VCP Number 03-40003.

The response action has been approved by the Commission based on the presumption that the Property will be used exclusively for Commercial/Industrial Use, and will not be put to Residential Use, each as defined below, and the ground water beneath the Property will not be used for any purpose, except monitoring, as described in the Restrictive Covenant below. The Commission has determined that the Property currently meets standards for Commercial/Industrial Use. Based on information contained in the reports identified above, the chemicals of concern pose no significant present or future risk to humans or the environment based on Commercial/Industrial Use. The Commission does not require any further remediation of the Property as long as the Property is not put to Residential Use and the ground water is not used. This Restrictive Covenant is necessary to assure that all present and future owners of the Property are aware of its condition and do not use the property in any manner inconsistent with this restriction. If any person desires to use the Property in the future for Residential Use, and/or the use the ground water beneath the Property, the Commission must be notified at least 60 days in advance of such use. Additional response action contemplating a change in land use or in the size of the assumed exposure area may be necessary. For purposes of this Restrictive Covenant, the term "**Residential Use**" means use for dwellings such as single family houses and multi-

family apartments, children's homes, nursing homes, residential portions of government-owned lands (local, state or federal), day care facilities, educational facilities, hospitals, ranch and farm land, and parks (local, state or federal). For the purposes of this Restrictive Covenant, the term "Commercial/Industrial Use" means the land is not used for human habitation or for other purposes with a similar potential for human exposure as defined for residential land. Examples of commercial/industrial land use include manufacturing; industrial research and development; utilities; commercial warehouse operations; lumber yards; retail gas stations; auto service stations; auto dealerships; equipment repair and service stations; professional offices (lawyers, architects, engineers, real estate, insurance, etc.); medical/dental offices and clinics (not including hospitals); financial institutions; office buildings; any retail business whose principal activity is the sale of food or merchandise; personal service establishments (health clubs, barber/beauty salons, mortuaries, photographic studios, etc.); churches (not including churches providing day care or school services other than during normal worship services); motels/hotels (not including those which allow residence); agricultural lands; and portions of government-owned land (local, state, or federal) that have commercial/industrial activities occurring. Land use activities consistent with Commercial/Industrial Use include but are not necessarily limited to activities having the North American Industrial Classification System code numbers 11 - 21 inclusive; 22 except 22131; 23 - 56 inclusive; 61 except 61111, 61121, and 61131; 62 except 62211, 62221, 62231, 62311, 62322, 623311, 623312, 62399, and 62441; 71 except 71219; 72 except 721211 and 72131; 81 inclusive; and 92 excluding 92214.

Texas Baybrook Square Center, L.P., is the Owner of the Property, formerly owned by Lincoln. In consideration of the Response Action leading to final approved remediation of the Property, and other good and valuable consideration receipt of which is hereby acknowledged, the Owner of the Property has agreed to place the following restrictions ("Restrictive Covenant") on the Property in favor of the Commission and the State of Texas. Now therefore, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following Restrictive Covenants in favor of the Commission and the State of Texas are placed on the Property described in Exhibit "A," to-wit:

1. Use of the Property shall not be allowed for Residential Use as defined in this Restrictive Covenant.
2. Use of the ground water beneath the Property shall not be allowed except for monitoring purposes.
3. Penetration or excavation of the impacted groundwater zones for any purpose should only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.
4. These restrictions shall be a covenant running with the land.

For additional information, contact:

Railroad Commission of Texas  
Site Remediation  
P. O. Box 12967  
1701 N. Congress  
Austin, Texas 78711-2967

Reference Railroad Commission of Texas Voluntary Cleanup Program No.: 03-40003

As of the date of this Covenant, the record owner of fee title to the Property is Texas Baybrook Square Center, L.P.

This Restrictive Covenant may be rendered of no further force or effect only by a release executed by the Commission and filed in the same Real Property Records as those in which this Restrictive Covenant is filed.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

TEXAS BAYBROOK SQUARE CENTER, L.P.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

*See attached*

STATE OF \_\_\_\_\_  
(\_\_\_\_\_) COUNTY

BEFORE ME, on this the \_\_\_\_ day of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public in and for the State of \_\_\_\_\_,  
County of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

03-09-2003 11:04:35 AM

(7)  
/v  
/v

TEXAS BAYBROOK SQUARE CENTER, L.P., a Delaware limited partnership


By: TEXAS BAYBROOK SQUARE CENTER GP, LLC, a Delaware limited liability company, its general partner


By: BAYBROOK SQUARE CENTER REIT, LLC, a Delaware limited liability company, its sole member

By: PRINCIPAL ENHANCED PROPERTY FUND, L.P., a Delaware limited partnership, its managing member

By: PRINCIPAL ENHANCED PROPERTY FUND GP, LLC, a Delaware limited liability company, its general partner

By: PRINCIPAL REAL ESTATE INVESTORS, LLC, a Delaware limited liability company, its sole member

By   
 Kelly J. McVicker  
 Senior Acquisitions Consultant

By   
 Donald H. Lippstein  
 Assistant Managing Director  
 Equity Closing

0040-62-500 AM

Return 4/1 ✓

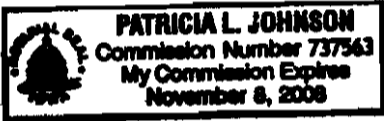
Smith, Robertson, Elliott, Glen, Klein & Bell L.L.P.  
 201 West 6th Street, Suite 1100  
 Austin, TX 78701

STATE OF IOWA    )  
                                  )  
COUNTY OF POLK    )

On this 17th day of January, 2008, before me, the undersigned, a Notary Public in and for the said State, personally appeared Kelly J. McVicker and Donna H. Lutcavish, to me personally known to be the identical persons whose names are subscribed to the foregoing instrument, who being by me duly sworn, did say that they are the Senior Acquisitions Consultant and Assistant Managing Director, Equity Closing, respectively, of PRINCIPAL REAL ESTATE INVESTORS, LLC, a Delaware limited liability company, the sole member of PRINCIPAL ENHANCED PROPERTY FUND GP, LLC, a Delaware limited liability company, which is the general partner of PRINCIPAL ENHANCED PROPERTY FUND, L.P., a Delaware limited partnership, which is the managing member of BAYBROOK SQUARE CENTER REIT, LLC, a Delaware limited liability company, which is the sole member of TEXAS BAYBROOK SQUARE CENTER GP, LLC, a Delaware limited liability company, which is the general partner of TEXAS BAYBROOK SQUARE CENTER, L.P., a Delaware limited partnership; and that the seal affixed to the instrument is the seal of PRINCIPAL REAL ESTATE INVESTORS, LLC; that the instrument was signed and sealed on behalf of the company by PRINCIPAL REAL ESTATE INVESTORS, LLC, by authority of the member of PRINCIPAL ENHANCED PROPERTY FUND GP, LLC, general partner of PRINCIPAL ENHANCED PROPERTY FUND, L.P., managing member of BAYBROOK SQUARE CENTER REIT, LLC, sole member of TEXAS BAYBROOK SQUARE CENTER GP, LLC, general partner of TEXAS BAYBROOK SQUARE CENTER, L.P.; and that the aforesaid individuals each acknowledged the execution of the foregoing instrument to be the voluntary act and deed of PRINCIPAL REAL ESTATE INVESTORS, LLC, by it and by them voluntarily executed.



\_\_\_\_\_  
Notary Public in and for said State  
My Commission Expires:  
[Affix Notarial Stamp or Seal]



Acknowledged this 23<sup>rd</sup> day of January, 2008 by The Lincoln National Life Insurance Company, as Applicant "A" under VCP 03-40003.

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**THE LINCOLN NATIONAL LIFE  
INSURANCE COMPANY**

By: Delaware Investment Advisers, a series of  
Delaware Management Business Trust,  
Attorney-In-Fact

Signature: Keith A. Schinnerer

Printed Name: Keith A. Schinnerer

Title: 2<sup>nd</sup> Vice President

STATE OF INDIANA  
( Allen ) COUNTY

BEFORE ME, on this the 23<sup>rd</sup> day of January, 2008, personally appeared Keith A. Schinnerer known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 23<sup>rd</sup> day of January, 2008.

Patricia L. Hooker

Notary Public in and for the State of Indiana,  
County of Allen

My Commission Expires:

PATRICIA L. HOOKER, Notary Public  
Resident of Allen County, Indiana

My Commission Expires August 24, 2008

Accepted as Third Party Beneficiary this 21<sup>st</sup> day of December, 2007

RAILROAD COMMISSION OF TEXAS

By: David W. Cooney, Jr.

Name: David W. Cooney, Jr.

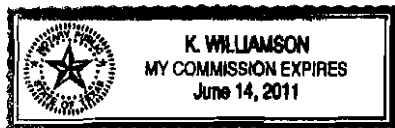
Title: Attorney, Special Counsel Section

*Jr*

STATE OF TEXAS  
TRAVIS COUNTY

BEFORE ME, on this the 21<sup>st</sup> day of December 2007, personally appeared David W. Cooney, Jr. known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 21<sup>st</sup> day of December, 2007



K. Williamson  
Notary Public in and for the State of Texas,  
County of TRAVIS  
My Commission Expires: 6-14-2011

HP 353-79-0413

EXHIBIT "A"

LEGAL DESCRIPTION

TRACT 1

A TRACT OR PARCEL OF LAND CONTAINING 25 354 ACRES (1,104,403 SQUARE FEET), MORE OR LESS, IN THE AUGUST WHITLOCK SURVEY, A-793 AND BEING THE ROBERT WILSON LEAGUE, A-88, HARRIS COUNTY, TEXAS, AND BEING OUT OF A 37 3017 ACRE TRACT CONVEYED TO SOUTHBROOK CORPORATION BY KINGSWAY, INC BY DEED FILED FOR RECORD UNDER HARRIS COUNTY CLERK S FILE NO G614242, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY HARRIS COUNTY, TEXAS AND PARTIALLY BEING OUT OF RESERVE "E OF BAYBROOK VILLAGE, SECTION ONE (1), AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 339, PAGE 42, MAP RECORDS, HARRIS COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

*D*  
*ll*

BEING 25 354 ACRES (1,104,403 SQUARE FEET), MORE OR LESS, IN THE AUGUST WHITLOCK SURVEY, A-793 AND BEING THE ROBERT WILSON LEAGUE, A-88, HARRIS COUNTY, TEXAS, AND BEING OUT OF A 37 3017 ACRE TRACT CONVEYED TO SOUTHBROOK CORPORATION BY KINGSWAY INC BY DEED FILED FOR RECORD UNDER HARRIS COUNTY CLERK'S FILE NO G614242, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY TEXAS, AND PARTIALLY BEING OUT OF RESERVE "E OF BAYBROOK VILLAGE, SECTION ONE (1), AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 339, PAGE 42, MAP RECORDS, HARRIS COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

BEGINNING AT A POINT MARKED BY A SET 5/8 INCH IRON ROD SET ON THE SOUTHEAST RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD 110 00 FEET WIDE, SAID POINT BEING THE NORTHEAST END OF A TRANSITION RIGHT-OF-WAY BETWEEN THE SOUTH RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, AND THE EAST RIGHT-OF-WAY LINE OF BAYBROOK SQUARE DRIVE, 70 00 FEET WIDE, SAID POINT FURTHER BEING A NORTHWEST CORNER OF SAID RESERVE "E",

THENCE, NORTH 77 DEGREES 51 MINUTES 10 SECONDS EAST, ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, A DISTANCE OF 226 95 FEET TO A POINT FOR CORNER MARKED BY A 1 INCH GALVANIZED IRON PIPE FOUND,

THENCE, SOUTH 12 DEGREES 08 MINUTES 50 SECONDS EAST, A DISTANCE OF 23 00 FEET TO A POINT FOR RE-ENTRANT CORNER MARKED BY A 5/8 INCH IRON ROD FOUND ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, AS WIDENED,



THENCE IN AN EASTERLY DIRECTION ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, VARIABLE WIDTH, WITH A CURVE TO THE LEFT WHOSE RADIUS IS 1505 69 FEET CENTRAL ANGLE IS 13 DEGREES 43 MINUTES 34 SECONDS, AND WHOSE CHORD BEARS NORTH 70 DEGREES 59 MINUTES 23 SECONDS EAST A DISTANCE, MEASURED ALONG THE ARC OF SAID CURVE OF 360 71 FEET TO A POINT FOR THE END OF SAID CURVE MARKED BY A 1 INCH GALVANIZED IRON PIPE FOUND,

THENCE, NORTH 77 DEGREES 51 MINUTES 10 SECONDS EAST, CONTINUING ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD, A DISTANCE OF 108 87 FEET TO A POINT FOR CORNER MARKED BY A 5/8 INCH IRON ROD FOUND, ON THE WESTERLY RIGHT-OF-WAY LINE OF THE BAY AREA BOULEVARD GULF FREEWAY (U S 75/ I H 45) INTERCHANGE, SAME BEING ON A WEBSTER CITY LIMIT LINE,

THENCE, IN A SOUTHEASTERLY DIRECTION ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE BAY AREA BOULEVARD / GULF FREEWAY (U S 75/ I H 45) INTERCHANGE, SAME BEING A WEBSTER CITY LIMIT LINE WITH A CURVE TO THE LEFT WHOSE RADIUS IS 495 56 FEET, CENTRAL ANGLE IS 63 DEGREES 47 MINUTES 23 SECONDS AND WHOSE CHORD BEARS SOUTH 75 DEGREES 13 MINUTES 50 SECONDS EAST, AT 397 43 FEET PASS A RE-ENTRANT CORNER FOR THE WEBSTER CITY LIMITS AND FURTHER BEING A NORTHEAST CORNER OF SAID BAYBROOK VILLAGE, SECTION 1 IN ALL A DISTANCE, MEASURED ALONG THE ARC OF SAID CURVE, OF 551 73 FEET TO A POINT OF TANGENT MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE, NORTH 72 DEGREES 52 MINUTES 30 SECONDS EAST, CONTINUING ALONG SAID INTERCHANGE, A DISTANCE OF 119 84 FEET TO A POINT OF CURVE MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE IN A SOUTHEASTERLY DIRECTION CONTINUING ALONG SAID INTERCHANGE, WITH A CURVE TO THE RIGHT WHOSE RADIUS IS 371 72 FEET AND CENTRAL ANGLE IS 66 DEGREES 00 MINUTES 00 SECONDS, A DISTANCE OF 428 19 FEET TO A POINT OF TANGENT MARKED BY A 1 INCH GALVANIZED IRON PIPE FOUND ON THE SOUTHWEST RIGHT-OF-WAY LINE OF GULF FREEWAY (I H 45), CHORD BEARS SOUTH 74 DEGREES 07 MINUTES 30 SECONDS EAST, A DISTANCE OF 404 91 FEET

THENCE, SOUTH 41 DEGREES 07 MINUTES 30 SECONDS EAST, ALONG THE SOUTHWEST RIGHT-OF-WAY LINE OF GULF FREEWAY (I H 45), A DISTANCE OF 397 82 FEET TO A 5/8 INCH IRON ROD SET FOR CORNER SAID POINT BEING LOCATED NORTH 41 DEGREES 07 MINUTES 30 SECONDS WEST, A DISTANCE OF 159 92 FEET FROM A 1 INCH GALVANIZED IRON PIPE MARKING THE EAST CORNER OF SAID 37 3017 ACRE TRACT,

THENCE, NORTH 86 DEGREES 07 MINUTES 30 SECONDS WEST, A DISTANCE OF 35 36 FEET TO AN ANGLE POINT MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE, SOUTH 48 DEGREES 52 MINUTES 30 SECONDS WEST, A DISTANCE OF 127 25 FEET TO A POINT OF CURVE MARKED BY A SET 5/8 INCH IRON ROD SET,

THENCE, IN A SOUTHWESTERLY DIRECTION WITH A CURVE TO THE RIGHT WHOSE RADIUS IS 80 00 FEET AND CENTRAL ANGLE IS 28 DEGREES 58 MINUTES 40 SECONDS, A DISTANCE OF 40 46 FEET TO A POINT OF TANGENT MARKED BY A SET 5/8 INCH IRON ROD SET,

THENCE, SOUTH 77 DEGREES 51 MINUTES 10 SECONDS WEST, A DISTANCE OF 736 76 FEET TO A POINT OF TANGENT MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE, IN A SOUTHWESTERLY DIRECTION WITH A CURVE TO THE RIGHT WHOSE RADIUS IS 80 00 FEET AND CENTRAL ANGLE IS 25 DEGREES 24 MINUTES 27 SECONDS, A DISTANCE OF 35 48 FEET TO A POINT OF TANGENT MARKED BY A 5/8 INCH IRON ROD FOUND CHORD BEARS SOUTH 89 DEGREES 26 MINUTES 36 SECONDS EAST,

THENCE, NORTH 76 DEGREES 44 MINUTES 22 SECONDS WEST, A DISTANCE OF 192 11 FEET TO A POINT OF CURVE MARKED BY A 5/8 INCH IRON ROD FOUND,

THENCE, IN A WESTERLY DIRECTION WITH A CURVE TO THE LEFT WHOSE RADIUS IS 50 00 FEET AND CENTRAL ANGLE IS 25 DEGREES 24 MINUTES 27 SECONDS, A CHORD BEARS NORTH 89 DEGREES 26 MINUTES 37 SECONDS WEST DISTANCE OF 22 17 FEET TO A POINT OF TANGENT MARKED BY A SET 5/8 INCH IRON ROD SET,

THENCE, SOUTH 77 DEGREES 51 MINUTES 10 SECONDS WEST, AT 103 65 FEET PAST A NORTHWESTERLY LINE OF WEBSTER CITY LIMITS, SAME BEING A SOUTHEASTERLY LINE OF SAID RESERVE "E", IN ALL A DISTANCE OF 694 46 FEET TO A POINT FOR CORNER MARKED BY AN "X" CUT IN CONCRETE, ON THE EAST RIGHT-OF-WAY LINE OF BAYBROOK SQUARE DRIVE, 70 00 FEET WIDE,

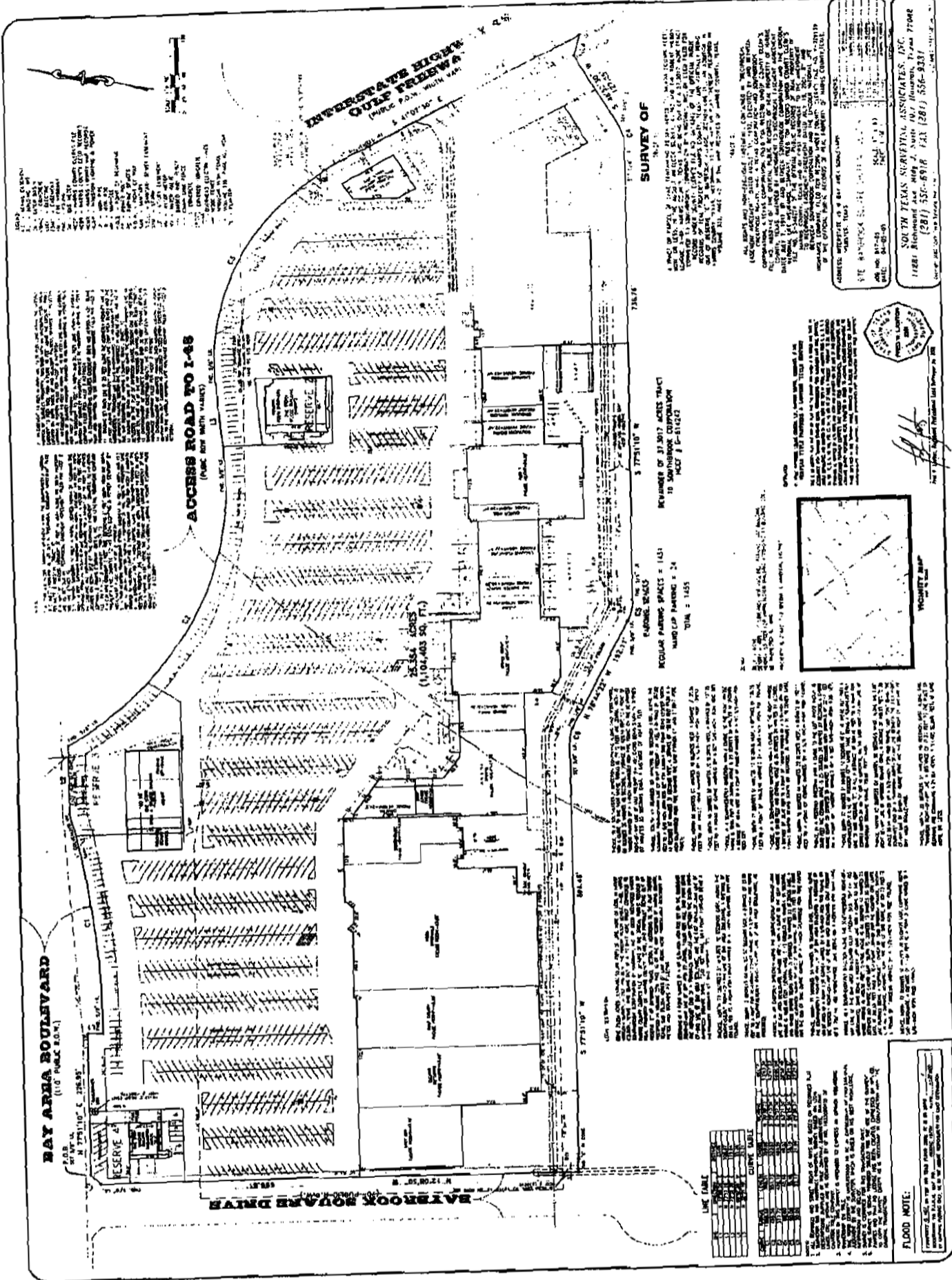
THENCE, NORTH 12 DEGREES 08 MINUTES 50 SECONDS WEST, ALONG THE EAST RIGHT-OF-WAY LINE OF BAYBROOK SQUARE DRIVE, A DISTANCE OF 696 81 FEET TO AN ANGLE POINT MARKED BY A 5/8 INCH IRON ROD FOUND, SAID POINT BEING THE SOUTHWEST END OF A TRANSITION RIGHT-OF-WAY LINE BETWEEN THE EAST RIGHT-OF-WAY LINE OF BAYBROOK SQUARE DRIVE AND THE SOUTH RIGHT-OF-WAY LINE OF BAY AREA BOULEVARD,

THENCE, NORTH 32 DEGREES 51 MINUTES 10 SECONDS EAST, ALONG SAID TRANSITION RIGHT-OF-WAY LINE, A DISTANCE OF 21 21 FEET TO THE PLACE OF BEGINNING AND CONTAINING A 25 354 ACRES (1,104,403 SQUARE FEET) OF LAND

TRACT 2

ALL RIGHTS AND NON-EXCLUSIVE EASEMENTS CONTAINED IN "RECIPROCAL EASEMENT AGREEMENT" DATED AUGUST 31, 1992, EXECUTED BY AND BETWEEN CRESTFIELD REALTY, INC, A TEXAS CORPORATION AND SOUTHBROOK CORPORATION, A TEXAS CORPORATION, FILED FOR RECORD UNDER COUNTY CLERK'S FILE NO N852146, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS, AMENDED BY AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT DATED JULY 7, 1997, BY AND BETWEEN SOUTHBROOK CORPORATION AND THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, FILED FOR RECORD UNDER COUNTY CLERK'S FILE NO S5467274, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY HARRIS COUNTY TEXAS AND BY FIRST AMENDMENT TO THE AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT DATED JULY 19, 2001, BY AND BETWEEN SOUTHBROOK CORPORATION AND LINCOLN NATIONAL LIFE INSURANCE COMPANY, FILED FOR RECORD UNDER COUNTY CLERK'S FILE NO V229139, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS

**RECORDER'S MEMORANDUM:**  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

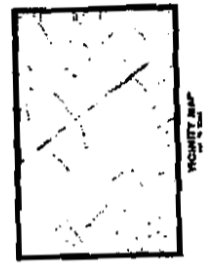


1. ALL RIGHTS AND INTERESTS IN THE TRACT ARE RESERVED TO THE SURVEYOR.  
 2. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE PUBLIC.  
 3. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE STATE.  
 4. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE COUNTY.  
 5. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE CITY.  
 6. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE TOWNSHIP.  
 7. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE DISTRICT.  
 8. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE FEDERAL GOVERNMENT.  
 9. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE STATE GOVERNMENT.  
 10. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE COUNTY GOVERNMENT.  
 11. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE CITY GOVERNMENT.  
 12. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE TOWNSHIP GOVERNMENT.  
 13. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE DISTRICT GOVERNMENT.  
 14. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE FEDERAL GOVERNMENT.  
 15. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE STATE GOVERNMENT.  
 16. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE COUNTY GOVERNMENT.  
 17. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE CITY GOVERNMENT.  
 18. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE TOWNSHIP GOVERNMENT.  
 19. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE DISTRICT GOVERNMENT.  
 20. THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE FEDERAL GOVERNMENT.

**SURVEY OF**  
 REVISIONS OF 33,807 ACRES TRACT  
 IN SOUTHWESTERN OKLAHOMA  
 ACCT # 15-14242  
 TOTAL = 1455  
 REGULAR PAVING SPACES = 143  
 HAND CAP PAVING = 24

ALL RIGHTS AND INTERESTS IN THE TRACT ARE RESERVED TO THE SURVEYOR.  
 THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE PUBLIC.  
 THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE STATE.  
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 THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE DISTRICT GOVERNMENT.  
 THE TRACT IS SUBJECT TO ALL RIGHTS AND INTERESTS OF THE FEDERAL GOVERNMENT.

**WARRANTY**  
 The Surveyor warrants that the survey was made in accordance with the laws and regulations of the State of Oklahoma and that the survey is true and correct to the best of his knowledge and belief.



**LINE TABLE**

LINE NO.	DESCRIPTION	LENGTH	AREA
1	...	...	...
2	...	...	...
3	...	...	...
4	...	...	...
5	...	...	...
6	...	...	...
7	...	...	...
8	...	...	...
9	...	...	...
10	...	...	...

**FLOOD NOTE:**  
 This survey was made in accordance with the laws and regulations of the State of Oklahoma and that the survey is true and correct to the best of his knowledge and belief.