

18. **TAX ASSESSOR/COLLECTOR: Approve refunds over \$500 as detailed in Tax Assessor's Report dated August 25, 2003, for an amount totaling \$17,552.57.**

Moved by Commissioner Stavinoha, Seconded by Commissioner Prestage, duly put and unanimously carried (5-0), it is ordered to approve consent agenda items 6-18

Judge Hebert	yes	Commissioner Meyers	yes
Commissioner Stavinoha	yes	Commissioner Patterson	yes
Commissioner Prestage	yes		

19. **COMMISSIONER, PCT. 1:**

- A. Take all appropriate action on the Unimproved Property Contracts between Fort Bend County, Texas and Turner Adreac, L.C., relating to approximately 151.6 acres, Pct. 1.**

Moved by Commissioner Meyers, Seconded by Commissioner Stavinoha, duly put and unanimously carried (5-0), it is ordered to approve the Unimproved Property Contracts between Fort Bend County, Texas and Turner Adreac, L.C., relating to approximately 151.6 acres, Pct 1 subject to preparation of final agreement by County Attorney.

Judge Hebert	yes	Commissioner Meyers	yes
Commissioner Stavinoha	yes	Commissioner Patterson	yes
Commissioner Prestage	yes		

- B. Take all appropriate action on the Petition for Consent to the Creation of a Municipal Utility District to the City of Rosenberg over 151.6 acres and the Petition for Creation of Fort Bend County Municipal Utility District No. 148 to Texas Commission on Environmental Quality over 151.6 acres, Pct. 1.**

Moved by Commissioner Stavinoha, Seconded by Commissioner Prestage, duly put and unanimously carried (5-0), it is ordered approve the Petition for Consent to the Creation of a Municipal Utility District to the City of Rosenberg over 151 6 acres and the Petition for Creation of Fort Bend County Municipal Utility District No. 148 to Texas Commission on Environmental Quality over 151.6 acres, Pct 1 (agreement to be presented at a later date)

Judge Hebert	yes	Commissioner Meyers	yes
Commissioner Stavinoha	yes	Commissioner Patterson	yes
Commissioner Prestage	yes		

20. **COMMISSIONER, PCT. 4: Take all appropriate action on request by Alam Khandaker M to waive penalty and interest on property taxes in the amount of \$460.07 for Account #7765-02-002-0450-907 for tax years 2000 and 2001, Pct. 4.**

Moved by Commissioner Patterson, Seconded by Commissioner Meyers, duly put and unanimously carried (5-0), it is ordered to deny request by Alam Khandaker M to waive penalty and interest on property taxes in the amount of \$460.07 for Account #7765-02-002-0450-907 for tax years 2000 and 2001, Pct 4.

Judge Hebert	yes	Commissioner Meyers	yes
Commissioner Stavinoha	yes	Commissioner Patterson	yes
Commissioner Prestage	yes		

UNIMPROVED PROPERTY CONTRACT

1. **PARTIES:** Fort Bend County, a governmental entity (Seller) agrees to sell and convey to Terramark Holdings, L.C., a Texas limited liability company (Buyer) and Buyer agrees to buy from Seller the property described below.
2. **PROPERTY:** the real property situated in Fort Bend County, Texas described as follows: approximately 50.306 acre Tract of Land as more particularly described on the attached exhibit A, (known as Tract 3) together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships (the Property).

Property excludes any and all oil, gas, and mineral rights, including but not limited to: 1) a ½ non-participating royalty interest in and to all the oil, gas and other minerals on, in, under or that may be produced from the subject property as set forth in instruments recorded in Volume 609, Page 451, of the Deed Records of Fort Bend County; and, 2) ½ of all the oil, gas and other minerals, the royalties, bonuses, rentals and all other rights in connection with the same as set forth in instrument recorded under Clerk's file No. 9877354 of the County Clerk Official Records of Fort Bend County, Texas

3. **SALES PRICE:**

A.	Cash portion of Sales Price payable by Buyer at closing	\$ <u>779,743.00</u>
B.	Sum of all financing described below	\$ <u>0</u>
C.	Sales Price (Sum of A and B)	\$ <u>779,743.00</u>

Notwithstanding the above, if the survey of the Property to be furnished, as provided below, reflects that the number of net acres comprising the Property is more or less than 50.306, the sales price will be increased or reduced by the product of \$15,500.00 times the number of net acres of the Property more or less than 50.306.

4. **FINANCING:** Not Applicable
5. **EARNEST MONEY:** Upon execution of this contract by both parties, Buyer shall deposit \$15,000.00 as earnest money with Stewart Title Company, as escrow agent, at 14100 Southwest Freeway, Suite 200, Sugar Land, Texas 77478, Attn.: David Draper.

The \$15,000.00 previously deposited with and held by said Escrow agent as earnest money for a separate transaction between Seller and Buyer for the purchase of a contiguous parcel of land described as Tracts 1 and 2, which is subject of a separate contract shall be applied to this Agreement. The Earnest money shall not be applied to the purchase price of Tracts 1 and 2 at the closing of that transaction; but rather, the Earnest Money shall continue to be held in escrow until the closing of this Agreement

6. **TITLE POLICY AND SURVEY:**


- A. **TITLE POLICY:** Seller shall furnish to Buyer at Seller's expense an owner policy of title insurance (the Title Policy) issued by Stewart Title Company (the Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
- (1) Restrictive covenants common to the platted subdivision in which the Property is located.
 - (2) The standard printed exception for standby fees, taxes and assessments.
 - (3) Liens created as part of the financing described in Paragraph 4.
 - (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
 - (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
 - (6) The standard printed exception as to marital rights.
 - (7) The standard printed exception as to waters, tidelands, beaches, streams and related matters.
 - (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements. Buyer, at Buyer's expense, may have the exception amended to read, "shortages in area".
- B. **COMMITMENT:** Prior to 60 days before the closing date herein, Seller shall furnish to Buyer a commitment for title insurance (the Commitment) and, at Seller's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to mail or hand deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days.
- C. **SURVEY:** The survey must be made by a registered professional land surveyor acceptable to the Title Company and any lender. Buyer has acquired a survey at Buyer's expense. If the survey is not approved by the Title Company or Buyer's lender, a new survey will be obtained at Buyer's expense no later than 3 days prior to the Closing Date.

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D. **OBJECTIONS:** Within 10 days after Buyer receives the Commitment, Exception Documents and the survey, Buyer may object in writing to (i) defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6(A)(1) through (7) above; disclosed in the Commitment other than items 6(A)(1) through (8) above; (ii) any portion of the Property lying in the 100 year flood plain as shown on the current Federal Emergency Management Agency Map; or (iii) any exceptions which prohibit the following use or activity: N/A. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived. Seller shall cure the timely objections of Buyer or any third party lender within 15 days after Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured within such 15 day period, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer waives the objections.

E. **TITLE NOTICES:**

- (1) **ABSTRACT OR TITLE POLICY:** Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- (2) **MANDATORY OWNERS' ASSOCIATION MEMBERSHIP:** The Property is not subject to mandatory membership in an owners' association. If the Property is subject to mandatory membership in an owners' association, Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community in which the Property is located, you are obligated to be a member of the owners' association. Restrictive covenants governing the use and occupancy of the Property and a dedicatory instrument governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk. You are obligated to pay assessments to the owners' association. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of the Property.
- (3) **STATUTORY TAX DISTRICTS:** If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
- (4) **TIDE WATERS:** If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum

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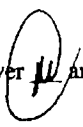
containing the notice promulgated by TREC or required by the parties must be used.

- (5) **ANNEXATION:** If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
- (6) **UNIMPROVED PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER:** If the Property is located in a certificated service area of a utility service provider and the Property does not receive water or sewer service from the utility service provider on the date the Property is transferred, §13.257, Texas Water Code, requires a notice regarding the cost of providing water or sewer services to the Property. An addendum containing the notice promulgated by TREC or required by the parties must be used.
- (7) **TEXAS AGRICULTURAL DEVELOPMENT DISTRICT:** The property is not located in a Texas Agricultural District.

7. **PROPERTY CONDITION:**

- A. **INSPECTIONS, ACCESS AND UTILITIES:** Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times.
NOTICE: Buyer should determine the availability of utilities to the Property suitable to the Buyer's needs.
- B. **ACCEPTANCE OF PROPERTY CONDITION:** Buyer accepts the Property in its present "AS-IS" condition.
- C. **COMPLETION OF REPAIRS:** N/A.
- D. **ENVIRONMENTAL MATTERS:** Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

8. **BROKERS' FEES:** All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

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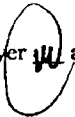
9. **CLOSING:**

- A. The closing of the sale will be on or before four (4) calendar years following the Closing of Tracts 1 & 2, (the Closing Date). If either party fails to close this sale by the Closing Date, the non-defaulting party will be entitled to exercise the remedies contained in Paragraph 15.
- B. At closing:
- (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
 - (2) Buyer shall pay the Sales price in good funds acceptable to the escrow agent.
 - (3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents required of them by this contract, the Commitment or law necessary for the closing of the sale and the issuance of the Title Policy.
- C. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.
- D. All covenants, representations and warranties in this contract survive closing.
- E. Buyer may, upon written notification to Seller and Title Company, assign this contract and all rights and obligations there under to a third party prior to closing.

10. **POSSESSION:** Seller shall deliver possession of the Property to Buyer at closing and funding.

11. **SPECIAL PROVISIONS:**

- A. Seller agrees to consent to the creation of a municipal utility district ("MUD") to provide utility service to the Property and to the annexation of the Property into the jurisdictional limits of such MUD and the City of Rosenberg, TX. Seller agrees to provide such written confirmation(s) of such consents as requested by Buyer, the MUD or the City of Rosenberg, Texas, within thirty (30) days after written request therefor. Seller further agrees that as additional conditions precedent to Closing, Buyer must (i) receive consent from the City of Rosenberg to the creation of the MUD, (ii) receive Preliminary Plat approval from the City of Rosenberg; (iii) annexation of the Property by the City of Rosenberg; and (iv) execution of a Water Supply And Wastewater Services Contract Between City Of Rosenberg, Texas, Fort Bend County, Texas and Purchaser.
- B. Buyer agrees to incur all expense and effort to undertake all actions necessary for the annexation of the property into the City and in the creation of a municipal utility


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district, including, but not limited to, payment of all applicable fees, the preparation of all documents whether to be executed by Buyer or Seller, or otherwise.

- C. Seller retains all minerals/ mineral rights; however, Seller agrees not to have a drill site on the property and to waive all of Seller's surface rights.
- D. Buyer and Seller agree that the conveyance of the Property is contingent upon Buyer having previously purchased and closed on property known as Tracts 1 and 2, respectively 50.962 acres and 50.337 acres (total 101.299 acres) more or less out of the Fort Bend County Call 159.309 acre Tract of Land, said property being the subject of another Unimproved Property Contract of similar execution date.
- E. Seller and Buyer agree to work out a mutually acceptable, non-exclusive drainage easement for Buyer's use and improvement of a portion of Seller's contiguous land (approximately 5.911 acres, known as Tracts C and H, respectively approximately 4.791 and 1.12 acres, CCF #9530027) for drainage purposes of the Property. The intent is that the agreement shall include, among other provisions, the following:
 - (1) Pre-approval in writing must be acquired from the Fort Bend County Drainage District before Buyer may make improvements or begin the construction thereof.
 - (2) Fort Bend County shall have first right of refusal for any and all spoils excavated from within its easement.

12. SETTLEMENT AND OTHER EXPENSES:

- A. The following expenses must be paid at or prior to closing:
 - (1) Expenses payable by Seller (Seller's Expenses):
 - (a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
 - (b) Seller shall also pay an amount not to exceed \$00.00 to be applied to Buyer's Expenses.
 - (2) Expenses payable by Buyer (Buyer's Expenses):
 - (a) Loan origination, discount, buy-down, and commitment fees (Loan Fees).
 - (b) Appraisal fees; loan application fees; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; mortgagee title policy with endorsements required by lender; loan-related inspection fees;


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photos, amortization schedules, one-half of escrow fee; transfer fees for cooperative or association membership for utility services; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee, repair inspection, underwriting fee and wire transfer, expenses incident to any loan, and other expenses payable by Buyer under this contract.

- B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess.


13. PRORATIONS AND ROLLBACK TAXES:

- A. **PRORATIONS:** Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.
- B. **ROLLBACK TAXES:** If this sale or Buyer's use of the Property after closing results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to closing, the Assessments will be the obligation of Buyer. If Seller's change in use of the Property prior to closing or denial of a special use valuation on the Property claimed by Seller results in Assessments for periods prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.
- 14. CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty loss after the effective date of the contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any obligations of Seller under Paragraph 7.
- 15. DEFAULT:** If Buyer fails to comply with this contract, Buyer will be in default, and Seller may, as its sole and exclusive remedy terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If, due to factors beyond Seller's control, Seller fails within the time allowed to make any non-casualty repairs or deliver the Commitment, or Survey, if required of Seller, Buyer may (a) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (b) terminate this contract as the sole remedy and receive the Earnest Money. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer

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may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. **MEDIATION:** It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
17. **ATTORNEY'S FEES:** The prevailing party in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding incurred by the prevailing party.
18. **ESCROW:** The escrow agent is not (a) a party to this contract and does not have liability for the performance or non-performance of any party to this contract, (b) liable for interest on the Earnest Money and (c) liable for any loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent. At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If both parties make written demand for the earnest money, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties. If one party makes written demand for the earnest money, escrow agent shall give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 30 days after notice to the other party, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursement of the earnest money. Escrow agent's notice to the other party will be effective when deposited in the U.S. Mail, postage prepaid, certified mail, return receipt requested, addressed to the other party at such party's address shown below. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.
19. **REPRESENTATIONS:** Seller represents that as of the Closing Date (a) there will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing payment of any loans assumed by Buyer and (b) assumed loans will not be in default. If any representation of Seller in this contract is untrue on the Closing Date, Buyer may terminate this contract and the earnest money will be refunded to Buyer.
20. **FEDERAL TAX REQUIREMENTS:** If Seller is a "foreign person," as defined by applicable law, or if Seller fails to deliver an affidavit to Buyer that Seller is not a "foreign person", then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax

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forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. **NOTICES:** All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by facsimile as follows:

To Buyer at:

Terramark Holdings, L.C.
Attn.: Michael Van
322 Julie Rivers Drive.
Sugar Land, TX 77478
Telephone: (281) 240-9300
Facsimile: (281) 240-0044

To Seller at:

Fort Bend County
Attn.: County Judge
301 Jackson St., Suite 719
Richmond, TX 77469
Telephone: (281) 341-8608
Facsimile: (281) 341-8609


22. **AGREEMENT OF PARTIES:** This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are: None.
23. **TERMINATION OPTION:** None
24. **CONSULT AN ATTORNEY:** Real estate licensees cannot give legal advice. READ THIS CONTRACT CAREFULLY. If you do not understand the effect of this contract, consult your attorney BEFORE signing.

Buyer's

Attorney is: Dwight Donaldson
Address: 10497 Town and Country Way, Suite 855
Houston, Texas 77024
Email: dwdonaldson@msn.com
Telephone: (713) 465-8790
Facsimile: (713) 465-8799

Seller's

Attorney is: Ben W. Childers, County Attorney
Address: 301 Jackson St., Suite 728
Richmond, TX 77469
Telephone: (281) 341-4555
Facsimile: (281) 341-4557

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EXECUTED the ___ day of _____, 2003. (EFFECTIVE DATE.)(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

BUYER

Terramark Holdings, L.C.

BY: 

Michael Van, Executive Vice President

322 Julie Rivers Drive

Sugar Land, TX 77478

Telephone: (281) 240-9300

SELLER

Fort Bend County

BY: 

Robert E. Hebert, County Judge

Attn.: County Judge

301 Jackson St., Suite 719

Richmond, TX 77469

Telephone: (281) 341-8608

Attest: 

Dianne Wilson, PhD,

Fort Bend County Clerk

BROKER INFORMATION AND RATIFICATION OF FEE

Other Broker:

Pat Gubbels

License Number: 0151028

PO Box 1789

Rosenberg, TX 77471

Telephone: (281) 342-5100

Fax: (281) 342-5100

represents Buyer

Listing Broker: Reese Real Estate

Harold Ward

License Number: 0155755

PO Box 406

Rosenberg, TX 77471

Telephone: (281) 342-3127

Fax: (281) 342-2936

represents Seller

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RECEIPT

Receipt of Unimproved Property Contract and \$15,000.00 Earnest Money in the form of
_____ is acknowledged.

Escrow Agent: Stewart Title Company

Date: _____, 2003

By: _____

14100 Southwest Freeway, Suite 200

Telephone: _____

Sugar Land, Texas 77478

Facsimile: _____

PREPARED IN THE OFFICE OF:
Fort Bend County Attorney
Ben W. Childers
301 Jackson St., Suite 728
Richmond, TX 77469

Initialed for identification by Buyer ____ and Seller

HENRY STEINKAMP, JR. INC.
Land Boundary & Topographic Surveying
Rosenberg, Texas 77471
Telephone/Fax 281/342-2241

RECORDED ON 10-10-03
IN THE COMMISSIONER COURT
MINUTES OF 9-2-03

Franklin R. Schodek
Registered Professional Land Surveyor

James L. Syptak, Sr.
Registered Professional Land Surveyor

February 14, 2003

Tract 3.

A Field Note Description of a 50.306 Acre Tract of Land out of the Fort Bend County call 159.309 Acre Tract of Land (County Clerk's File #9877354) out of the original Albert Wleczyk call 180.22 Acre Tract (Volume 125, Page 524; Deed Records), in the S.A. Stone Survey No. 10, Abstract 392 and the Kinch Hillyer Survey, Abstract 747, Fort Bend County, Texas.

For Connection Begin at a 1 inch iron pipe found inside a 1-1/2 inch iron pipe marking the South corner of the said Albert Wleczyk original call 180.22 Acre Tract, the West corner of the Fort Bend County Fairgrounds original 66.9852 Acre Tract (Volume 2154, Page 2217; Official Records), the North corner of the Steve Wleczyk Tract and the East corner of the Pete Wleczyk call 147.3621 Acre Tract; THENCE, North 45deg.45' West (Base Bearing), 2246.20 feet along the Southwest line of a 177.4178 Acre Tract, same being the Southwest line of said 180.22 Acre Tract, to a 5/8 inch iron rod found inside a 1-1/2 inch iron pipe found for corner; THENCE, North 37deg.55'59" East, 100.61 feet to a capped 5/8 inch iron rod stamped "1535-4035" found marking the West corner of and place of beginning for this tract;

THENCE, North 37deg.55'59" East, 20.35 feet to a 5/8 inch iron rod found for corner;

THENCE, North 08deg.16' East, along the Easterly line of a 60 foot wide Road Easement, 559.25 feet to a 5/8 inch iron rod found for corner;

THENCE, North 44deg.21'23" East, along the Southeast line of Cottonwood School Road, 456.93 feet to a capped 5/8 inch iron rod stamped "1535-4035" set marking the North corner of this tract;

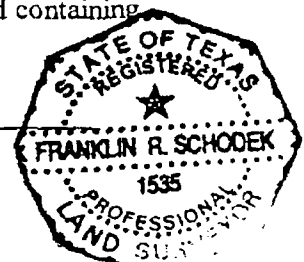
THENCE, South 45deg.45' East, 2440.34 feet to a capped 5/8 inch iron rod stamped "1535-4035" set marking the East corner of this tract;

THENCE, South 43deg.51'02" West, 929.71 feet to a capped 5/8 inch iron rod stamped "1535-4035" found marking the South corner of this tract;

THENCE, North 45deg.45' West, 2116.84 feet to the place of beginning and containing 50.306 Acres of Land.

Signed: _____

Registered Professional Land Surveyor No. 1535



50.306C2.wps

December 18, 2007

36. **Meet in Closed Session to deliberate the following matters as authorized by the Texas Government Code:**

- A. **§ 551.071. Consultation With Attorney.** Commissioners Court will meet in Closed Session to seek the advice of its attorney about pending or contemplated litigation; a settlement offer; or on a matter in which the duty of the attorney to Commissioners Court under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Texas Government Code Chapter 551.

Litigation: Cause No. 06-CV-153669; Thomas Clayton v. Fort Bend County, Texas;
In the 240th Judicial District Court of Fort Bend County, Texas.

- B. **§ 551.072. Deliberation Regarding Real Property.** Commissioners Court will meet in Closed Session to deliberate the purchase, exchange, lease or value of real property.

Land Matters, Precinct 1; 50.306-acre tract of land.

Closed Session:

Convened at 2:32 p.m.

Adjourned at 2:45 p.m.

Reconvene:

Reconvened at 2:46 p.m.

37. **Reconvene Open Session and consider taking action on the following matters:**

- A. **§ 551.071. Consultation With Attorney.**

Litigation: Cause No. 06-CV-153669; Thomas Clayton v. Fort Bend County, Texas;
In the 240th Judicial District Court of Fort Bend County, Texas.

Moved by Commissioner Stavinoha, Seconded by Commissioner Meyers, duly put and unanimously carried (4-0), it is ordered to authorize the County Attorney to negotiate the complete terms and provisions for full and final settlement of the lawsuit styled Thomas Clayton v. Fort Bend County, Texas, currently pending in the 240th Judicial District Court of Fort Bend County, Texas, under Cause No. 06-CV-153669 and authorize the County Judge to execute all necessary documents.(Fund 100410101/63000)

Judge Hebert	absent	Commissioner Meyers	yes
Commissioner Stavinoha	yes	Commissioner Patterson	yes
Commissioner Prestage	yes		

- B. **§ 551.072. Deliberation Regarding Real Property.**

Land Matters, Precinct 1; 50.306-acre tract of land.

Moved by Commissioner Stavinoha, Seconded by Commissioner Meyers, duly put and unanimously carried (4-0), it is ordered to approve First Amendment to Unimproved Property Contract on the 50.306 acre tract entered into between Fort Bend County and Terramark Communities LTD on December 23, 2003 and authorize Commissioner Precinct 2 to execute all necessary documents.

Judge Hebert	absent	Commissioner Meyers	yes
Commissioner Stavinoha	yes	Commissioner Patterson	yes
Commissioner Prestage	yes		

38. **Adjournment.**

Commissioners Court adjourned at 2:49 p.m. on Tuesday, December 18, 2007.

FIRST AMENDMENT TO UNIMPROVED PROPERTY CONTRACT

THIS FIRST AMENDMENT TO UNIMPROVED PROPERTY CONTRACT (the "First Amendment") is entered into by and between TERRAMARK COMMUNITIES, LTD., formerly known as Terramark Holdings, L.C. ("Buyer") and FORT BEND COUNTY ("Seller").

WHEREAS, Buyer and Seller have executed and entered into that certain Unimproved Property Contract (the "Contract") covering the approximate 50.306 acre tract of land in Fort Bend County, Texas, as described in the Contract (the "Property") and the Contract and the \$15,000.00 Earnest Money deposited by Buyer thereunder have been previously escrowed with Stewart Title - Fort Bend under GF# 02310416; and

WHEREAS, Seller and Purchaser desire to amend the Contract as herein set forth;

Seller and Buyer hereby agree as follows:

1. Buyer shall pay to Seller an extension fee of \$7,500.00 in consideration of the Seller's agreement to extend the Closing Date until December 23, 2008 (the "First Extension"). Paragraph 3 of the Contract is amended to read: "The Sales Price shall be equal to and calculated at \$16,250.00 times the number of net acres in the Property as shown by the Survey."
2. Buyer shall have the right to further extend the Closing Date until December 23, 2009, upon payment on or before December 23, 2008, by Buyer to Seller of an additional extension fee of \$7,500.00 (the "Second Extension"). Upon exercise by Buyer of the Second Extension, Paragraph 3 of the Contract shall be amended to read: "The Sales Price shall be equal to and calculated at \$17,000.00 times the number of net acres in the Property as shown by the Survey."
3. Unless otherwise defined herein, all capitalized words and/or terms used herein shall have the meanings and be defined as set forth in the Contract.
4. Except as hereby amended, the Contract shall to continue in full force and effect as written.

12-27-07 orig. ret. to Glen at CO Attorney

RECORDED ON 1-4-08
IN THE COMMISSIONER COURT
MINUTES OF 12-18-07

EXECUTED by Buyer and Seller on the dates set out below.

Date: November 28, 2007

Buyer:

TERRAMARK COMMUNITIES, LTD., a Texas
limited partnership, formerly known as Terramark
Holdings, L.C.

By: Joel R. Scott
Name: Joel R. Scott
Title: President

Date: December 18, 2007

Seller:

FORT BEND COUNTY

By: Robert Hebert
Name: Robert Hebert
Title: County Judge

ATTEST:

Dianne Wilson
Dianne Wilson, County Clerk

1st Amend - Fort Bend County - Terramark Communities, Ltd.