

City of Houston, Texas, Ordinance No. 2015-740

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 54.0464 ACRES COMMONLY KNOWN AS RESCAR COMPANIES, AT 407 WEST BRENTWOOD DRIVE, CHANNELVIEW, HARRIS COUNTY, TEXAS, AND SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; CONTAINING OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

\* \* \* \* \*

**WHEREAS**, Subchapter W, "Municipal Setting Designations," of Chapter 361, "Solid Waste Disposal Act," of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality ("TCEQ") to create municipal setting designations; and

**WHEREAS**, on August 22, 2007, by Ordinance No. 2007-959, the City Council adopted Article XIII, of chapter 47, Code of Ordinances, Houston, Texas, to provide a process for establishing municipal setting designation ordinances and amended that process on July 14, 2010, by Ordinance No. 2010-556; and

**WHEREAS**, Sections 47-765(f) and 47-767(a) of the Code of Ordinances, Houston, Texas, authorize municipal setting designation ordinances that prohibit the use of designated groundwater as potable water and thereby enable the TCEQ to certify a municipal setting designation for designated property; and

**WHEREAS**, in September 2014, **Rescar Companies** ("Applicant") applied to the Director of the Public Works and Engineering Department, requesting that the City Council support a municipal setting designation ordinance for properties that are located generally at 407 West Brentwood Drive in Channelview, Texas 77530; and

**WHEREAS**, on June 25, 2015, the Director of the Public Works and Engineering Department conducted a public meeting at the Martin L. Flukinger Community Center, 3123 E. Sam Houston Parkway N., Channelview, TX 77530 as required by section 47-764 of the Code of Ordinances, and notified the community when the City Council public hearing would occur; and

**WHEREAS**, the Transportation, Technology, and Infrastructure City Council committee, designated by the Mayor, conducted a public hearing on July 16, 2015; and

**WHEREAS**, the City Council finds that:

(1) the application meets the eligibility criteria of Section 361.803 of the Texas Health and Safety Code;

(2) the municipal setting designation will not have an adverse effect on the current or future water resource needs or obligations of the City of Houston;

(3) there is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of designated property; and

(4) this Municipal Setting Designation Ordinance is necessary because the concentration of contaminants of concern exceeds human ingestion protective concentration levels, and the establishment of a municipal setting designation will allow the property to be brought back into productive use; and

**WHEREAS**, City Council finds that the Director of the Public Works and Engineering Department on behalf of City Council, in accordance with the Charter of the City of Houston, state law, and the ordinances of the City of Houston, has given the

required notices, the Technology, Transportation and Infrastructure Committee of City Council has held the required public hearing regarding this Municipal Setting Designation Ordinance and all procedural requirements have been satisfied; **NOW, THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That for purposes of this Municipal Setting Designation Ordinance, the “designated property” means the tracts totaling 54.0464 acres as described in Exhibit “A”, attached to this Ordinance and incorporated by reference herein.

**Section 2.** That for purposes of this Municipal Setting Designation Ordinance, “designated groundwater” means groundwater beneath the designated property to a depth not to exceed 200 feet that is prohibited from use as potable water by this Ordinance.

**Section 3.** That use of the designated groundwater from beneath the designated property as potable water, as that term is defined in section 47-761 of the Code of Ordinances, Houston, Texas, is prohibited.

**Section 4.** That the designated property must receive a certificate of completion or other analogous documentation issued by the TCEQ or the United States Environmental Protection Agency (“EPA”) showing that any site investigations and response actions required pursuant to Section 361.808 of the Texas Health and Safety Code have been completed to the satisfaction of the TCEQ or EPA within the time period required by them.

**Section 5.** That the City Council supports the application to the TCEQ for a municipal setting designation on the designated property, with the following comment:

(1) The TCEQ and the EPA, as agencies charged to protect human health and the environment, are requested to thoroughly review the conditions on the designated property and issue a certificate of completion only when all contaminants of concern, through the applicable routes of exposure, have been addressed.

**Section 6.** That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations and all ordinances, rules, and regulations of the City of Houston. The City Council's approval of a municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

**Section 7.** That approval of this Municipal Setting Designation Ordinance shall not be construed to subject the City of Houston to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

**Section 8.** That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Applicant shall provide the director of the Public Works and Engineering Department with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the City's geographic information system and its integrated land management system, and shall provide an electronic file showing the location of the designated property and the designated groundwater to the Harris County Appraisal District in a format compatible with its system.

**Section 9.** That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Director of the Public Works and Engineering Department shall send a certified copy of this ordinance to the Applicant, to TCEQ and to EPA.

**Section 10.** That the Applicant shall provide the Director of the Public Works and Engineering Department with a copy of the municipal setting designation certificate issued by the TCEQ pursuant to section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

**Section 11.** That within 30 days after receipt of the municipal setting designation certificate from the TCEQ, the Director of the Public Works and Engineering Department shall file a certified copy of this Municipal Setting Designation Ordinance in the deed records of Harris County.

**Section 12.** That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 13.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on that date and shall take effect

immediately upon its passage and approval by the mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 5<sup>th</sup> day of August, 2015.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is AUG 1<sup>st</sup> 2015.

  
\_\_\_\_\_  
City Secretary

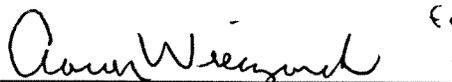
(Prepared by Legal Department

(PMG/ng/07/22/2015

(Requested by Dale A. Rudick, P.E., Director, Public Works and Engineering Department)

(L.D. File No. 066-1400007-001)

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\_\_\_\_\_  
Assistant City Attorney

For Phillip Goodwin

| AYE     | NO      |                        |
|---------|---------|------------------------|
| /       |         | <b>MAYOR PARKER</b>    |
| ....    | ....    | <b>COUNCIL MEMBERS</b> |
| /       |         | STARDIG                |
| /       | ABSENT  | DAVIS                  |
| /       |         | COHEN                  |
|         | ABSENT  | BOYKINS                |
|         | ABSENT  | MARTIN                 |
| /       |         | NGUYEN                 |
|         | ABSENT  | PENNINGTON             |
| /       |         | GONZALEZ               |
| /       |         | GALLEGO S              |
| /       |         | LASTER                 |
| /       |         | GREEN                  |
| /       |         | COSTELLO               |
| /       |         | ROBINSON               |
| /       |         | KUBOSH                 |
| /       |         | BRADFORD               |
| /       |         | CHRISTIE               |
| CAPTION | ADOPTED |                        |

**EXHIBIT "A"**

**METES AND BOUNDS DESCRIPTION**

LEGAL DESCRIPTION OF  
54.0464-ACRE TRACT OF LAND

Being a 54.0464-acre (2,354,263 sq. ft.) tract of land out of the Peter J. Duncan Survey, Abstract 232, being all of a called 34.6387 acre tract as recorded in Harris County Clerk File No. (HCCF#) P025606 a Quitclaim Deed to Rescar of Channelview, Inc., also being all of a called 6.014 acre tract as recorded in HCCF# S977172 a General Warranty Deed to Rescar Industries, Inc., also being part of a called 153,767 SF (3.53 AC) Centerpoint Energy Houston 85' Wide Fee Strip per Harris County Appraisal District Real Property Account Information No. (HCADRPAI#) 0420930000159 (Tax Year:2012), also being all of called 0.65 acre tract as recorded in Volume 1236, Page 117 & 118 Harris County Deed Records (HCDR.) a Deed to Houston Lighting & Power Company (Centerpoint Energy Houston) a 50' Wide Fee Strip, also being a part of a called 152,939 SF (3.51 AC) Centerpoint Energy Houston 50' Wide Fee Strip per HCADRPAI# 0420930000026 & 218, also being all of a called 2.1495 acre Channelview Medical Center Condominiums a plat as recorded in Volume 148, Page 94 Harris County Condominium Records (HCCR) also being part of called 9.0330 acre Restricted Reserve "A" of Channelview Medical Center a plat as recorded in Volume 326, Page 28 Harris County Map Record (HCMR), also being all of a called 5.7264 acre tract as recorded in HCCF# T745129 a General Warranty Deed to Harrods Eastbelt, Ltd. and being more particularly described by metes and bounds as follows:

All bearings are based on the NAD83 Texas State Plane Coordinate System South Central Zone.

**BEGINNING** at the Northeast corner of Lot 5, Block 11 of Old River Terrace Fourth Section a subdivision as recorded in Volume 17, Page 50 HCMR being in the South line of the Houston North Shore R.R. Missouri-Pacific System (100' wide) and the West right-of-way line of South Brentwood Drive (60' wide) also being the Northeast corner of the said Rescar of Channelview, Inc called 34.6387. acre tract and the most Northeasterly corner of herein described tract of land;

THENCE S 21°05'01" E along the West line of said South Brentwood Drive, and the East line of said Lot 5 of Old River Terrace Section 4, a distance of 46.30 feet to point for corner from which a found mag nail with shiner bears S 54d41'51" E - 1.63' the most Northerly corner of the SWS Services Co., Inc. tract as recorded under HCCF# 20110278993 (Tr-1&2) and a corner of the herein described tract of land;

THENCE S 68°54'59" W along a common South line of said Rescar of Channelview, Inc. tract and the North line of said SWS Services Co., Inc. tract, a distance of 257.15 feet to a point for a corner of the herein described tract of land;

THENCE S 05°07'59" W along a common West line of said Rescar of Channelview, Inc. tract and the East line of said SWS Services Co., Inc. tract, a

distance of 87.20 feet to a point for corner from which a 5/8-inch iron rod found for a corner of the herein described tract of land;

THENCE S 25°55'01" E along a common line being the East line of said Rescar of Channelview, Inc. tract and a North line of said SWS Services Co., Inc. tract, a distance of 72.80 feet to a 5/8-inch iron rod found for corner of the herein described tract of land;

THENCE S 62°31'59" W along a common line being the South line of said Rescar of Channelview, Inc. tract and the West line of said SWS Services Co., Inc. tract, a distance of 75.00 feet to a iron rod with cap found in the centerline of a 50 feet wide Harris County Flood Control District (HCFCD) Easement as recorded in Volume 2685, Page 439 HCDR for a interior corner of the herein described tract of land;

THENCE S 27°23'01" E along the centerline of said HCFCD Easement and the common East line of said Rescar of Channelview, Inc. tract and the West line of said SWS Services Co., Inc. tract, a distance of 150.75 feet to a iron rod with cap found for corner of the herein described tract of land;

THENCE S 11°38'01" E along the centerline of said 50 feet wide HCFCD Easement and a East line of said Rescar of Channelview, Inc. tract, a distance of 246.10 feet to a point for the Southwest corner of said SWS Services Co., Inc. tract in the South line of said Old River Terrace Fourth Section being an interior corner of said Rescar of Channelview, Inc. tract and of the herein described tract of land;

THENCE N 86°39'59" E along a common line being the North line of said Rescar of Channelview, Inc. tract and the South line of said Old River Terrace Fourth Section subdivision at a distance of 181.00 feet passing the Southeast corner of said SWS Services Co., Inc. tract, at a distance of 379.02 feet passing a 5/8-inch iron rod found for line at a distance of 529.31 feet passing a 5/8-inch iron rod for line continuing a total distance of 1428.34 feet to a point for the most Easterly North corner of said Rescar of Channelview, Inc. tract and of the herein described tract of land;

THENCE S 03°20'01" E along the most Easterly line of said Rescar of Cannelview, Inc. distance of 432.27 feet to a point in the North line of said called 153,767 SF (3.53 AC) Centerpoint Energy Houston 85' Wide Fee Strip for the most Easterly South corner of said Rescar of Cannelview, Inc. tract and of the herein described tract of land;

THENCE S 86°57'26" W along the North line of said called 153,767 SF (3.53 AC) Centerpoint Energy Houston 85' Wide Fee Strip a distance of 768.62 feet to point for an interior corner of the herein described tract of land;

THENCE S 03°32'52" E over and across said called 153,767 SF (3.53 AC) Centerpoint Energy Houston 85' Wide Fee Strip at a distance of 85 feet passing the North line of said called 152,939 SF (3.51 AC) Centerpoint Energy Houston

50' Wide Fee Strip at a distance of 135 feet passing the Northeast corner of said Harrods Eastbelt, LTD. tract and the start of the centerline of a ditch for a total a distance of 285.62 feet to a point for angle in the East line of the herein described tract of land;

THENCE S 07°13'55" W continuing along the East line of said Harrods Eastbelt, LTD. tract and centerline of ditch a distance of 85.72 feet to a point for angle in the East line of the herein described tract of land;

THENCE S 12°37'02" W continuing along the East line of said to Harrods Eastbelt, LTD. tract and centerline of ditch a distance of 246.96 feet to a point for angle in the East line of the herein described tract of land;

THENCE S 07°15'01" W continuing along the East line of said to Harrods Eastbelt, LTD. tract and centerline of ditch a distance of 48.00 feet to a point in the North Right of Way line of Interstate Highway 10 (300' Wide) for the Southeast corner of said to Harrods Eastbelt, LTD. tract and of the herein described tract of land;

THENCE S 72°30'19" W along the common South line of said Harrods Eastbelt, LTD. tract and the North line of said Interstate Highway 10 a distance of 396.50 feet to a point for the Southwest corner of said Harrods Eastbelt, LTD. tract and the Southeast corner of said Restricted Reserve "A" of Channelview Medical Center and the most Southwesterly corner of the herein described tract of land;

THENCE N 03°03'11" W along the common West line of said Harrods Eastbelt, LTD. tract and the East line of said Restricted Reserve "A" of Channelview Medical Center plat a distance of 279.61 feet to a point for corner of the herein described tract of land;

THENCE S 86°54'45" W over and across said Restricted Reserve "A" of Cannelview Medical Center at a distance of 525.55 feet passing a 5/8-inch iron rod found with cap for the Southeast corner of said Channelview Medical Center Condominiums continue a total distance of 568.67 feet to a 5/8-inch iron rod found with cap for Southwest corner of said Channelview Medical Center Condominiums and of the herein described tract of land;

THENCE N 03°05'17" W along the West line of said Channelview Medical Center Condominiums at a distance of 339.76 feet passing a 3/4-inch iron rod found in the South line of a 50 feet wide HL&P Fee strip and the common Northwest corner of said Channelview Medical Center Condominiums and the Southwest corner of called 0.65 acre tract as granted to Houston Lighting & Power Company (Centerpoint Energy Houston) continue at a distance of 389.76 passing the South line of said 85 feet wide fee strip continue for a total distance of 474.76 feet to the South line of said Rescar of Channelview, Inc. tract to a point for interior corner of the herein described tract of land;

THENCE S 86°57'24" W along the common South line of said Rescar of Cannelview, Inc. tract and the north line of said 85 feet wide fee strip at a distance of 445.00 feet passing the Southeast corner of said Rescar Industries,

Inc. tract continue along the common South line of said Rescar Industries, Inc. tract and the North line of said 85 feet wide fee strip a total distance of 1069.91 feet a 5/8-inch iron rod found with Terra Surveying cap for the Southeast corner of a Arco Pipe Line Company called 0.611 acre tract of land as recorded in HCCF# N115138 also being the Southwest corner of said Rescar Industries, Inc. tract and the herein described tract of land;

THENCE N 03°17'13" W along the common West line of said Rescar Industries, Inc. tract and the East line of said Arco Pipe Line Company tract a distance of 417.67 feet tract to a point for corner in the South line of said Rescar of Channelview, Inc. tract also being the Northeast corner of said Arco Pipe Line Company tract and the Northwest corner of said Rescar Industries, Inc for an interior corner of the herein described tract of land;

THENCE S 86°39'59" W along a common South line of said Rescar of Cannelview, Inc. tract and the North line of said Arco Pipe Line Company tract a distance of 123.63 feet to a point in the Southeast line of a Houston North Shore R.R. Missouri-Pacific System (100' wide) for a the most Westerly corner of said Rescar of Cannelview, Inc. tract and of the herein described tract of land;

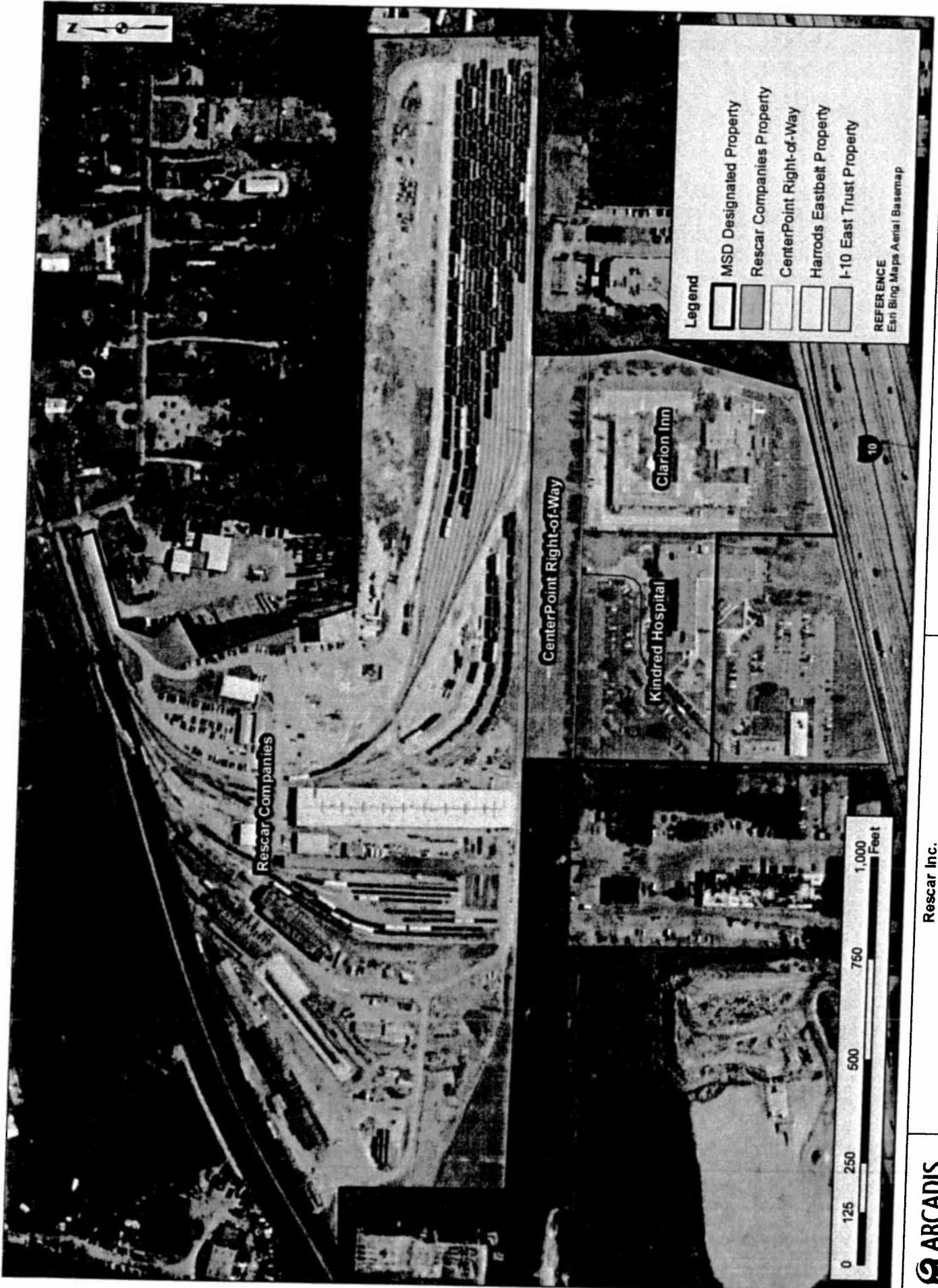
THENCE N 58°37'10" E along the common Northwesterly line of said Rescar of Cannelview, Inc. tract and the Southeast line of Houston North Shore R.R. Missouri-Pacific System a distance of 168.52 feet to a point for the beginning of a non-tangent curve to the right having a Radius of 2815.00 feet for point of the herein described tract of land;

THENCE in Northeasterly direction along the common Northwesterly line of said Rescar of Cannelview, Inc. tract and the Southeast line of said Houston North Shore R.R. Missouri-Pacific System having a Radius of 2815.00 feet, a length of 720.16 feet, a Delta of 14°39'29", a Chord Bearing of N 61°29'51" E -718.20 feet to a point of the herein described tract of land;

THENCE N 69°11'32" E along the common Northwesterly line of said Rescar of Cannelview, Inc. tract and the Southeast line of said Houston North Shore R.R. Missouri-Pacific System a distance of 1009.50 feet to the **Point of Beginning** containing 54.0464-acres (2,354,263 sq. ft.) of land;

Robert J. Armitage  
Registered Professional Land Surveyor No.5685  
AMANI ENGINEERING, Inc.  
8313 Southwest Freeway, Ste 350  
Houston, Texas 77074





**Legend**

- MSD Designated Property
- Rescar Companies Property
- CenterPoint Right-of-Way
- Harrods Eastbelt Property
- I-10 East Trust Property

**REFERENCE**  
 Esri Bing Maps Aerial Basemap



I, ANNA RUSSELL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy of Ordinance 2015-740 passed and adopted by the City Council of said City on the 5th day of August, 2015, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 12th day of August, 2015.



A handwritten signature in cursive script, reading "Anna Russell", is written over a horizontal line.

Anna Russell  
City Secretary of the City of Houston