

2021-0028

**INTRODUCED BY: MATTHEW JEWELL, PARISH PRESIDENT
(DEPARTMENT OF PARKS AND RECREATION)**

ORDINANCE NO. 21-2-2

An ordinance to approve and authorize the execution of an Act of Donation by Ashton Plantation Estates, L.L.C. to St. Charles Parish for a certain parcel of land situated on the corner of Ashton Boulevard and runs east along the Railroad tracks.

WHEREAS, St. Charles Parish is continuously searching for ways to enhance recreational opportunities for its residents, and with the popularity of soccer on the rise this donation will be valuable by increasing the inventory of soccer fields for St. Charles Parish residents; and,

WHEREAS, Ashton Plantation Estates, L.L.C. is offering to donate approximately 4.5 acres of land to St. Charles Parish; and,

WHEREAS, it is the desire of the Parish Council to accept said Act of Donation.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the Act of Donation attached hereto by Ashton Plantation Estates, L.L.C. to St. Charles Parish for a certain parcel of land as more fully shown on sketch by Gassen Surveying, LLC, Louis J. Gassen Jr., PLS, dated April 22, 2020 is hereby approved and accepted.

SECTION II. That the Parish President is hereby authorized to execute said Act of Donation on behalf of St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: DONALDSON, FONSECA, DARENSBOURG GORDON, CLULEE, GIBBS, DUFRENE, BELLOCK, FISHER, FISHER-PERRIER

NAYS: NONE

ABSENT: NONE

And the ordinance was declared adopted this 8th day of February, 2021, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: *Marilyn Bellock*
SECRETARY: *Michelle Dupontato*
DLVD/PARISH PRESIDENT: February 9, 2021
APPROVED: *[Signature]* DISAPPROVED: _____

PARISH PRESIDENT: *Matthew Jewell*
RETD/SECRETARY: February 9, 2021
AT: 3:31 pm RECD BY: *[Signature]*

ACT OF DONATION

UNITED STATES OF AMERICA

BY: ASHTON PLANTATION ESTATES, L.L.C.

STATE OF LOUISIANA

TO: ST. CHARLES PARISH

PARISH OF ST. CHARLES

BE IT KNOWN, that on the dates described below and before the undersigned Notaries, duly commissioned and qualified, in and for the Parish and State aforesaid, therein residing, and in the presence of the two competent witnesses hereinafter named and undersigned:

PERSONALLY CAME AND APPEARED:

ASHTON PLANTATION ESTATES, L.L.C., a Louisiana limited liability company, whose mailing address is, 100 Paillet Drive, Harvey, Louisiana, 70058, appearing herein through _____, duly authorized by Certificate of Authority dated _____,

Herein referred to as "Donor" who does by these presents, irrevocably donate, give, grant, transfer, set over, without any legal warranties of title, not even for the return of any consideration received by Donor, but full substitution and subrogation in and to all rights and actions of warranty which said Donor has may have against all preceding owners and sellers, and deliver unto

ST. CHARLES PARISH, a political subdivision of the State of Louisiana, herein represented by Matthew Jewell, its President, and whose mailing address is P.O. Box 302, Hahnville, Louisiana, 70057; and pursuant to Ordinance 21-2-2, adopted by St. Charles Parish Council on 2/8/21, a copy of which is attached hereto and made a part hereof (Hereinafter referred to as "Donee"),

the hereinafter described immovable property presently owned by Donor, and which is more fully described as follows (the "Property"):

**DESCRIPTION PARCEL AA
ASHTON PLANTATION**

A certain portion of ground situated in the Parish of St. Charles, State of Louisiana, on the West Bank of the Mississippi River, in Section 8, Township 13 South Range 21 East, designated as Parcel AA and being more particularly described as follows:

BEGIN at the intersection of the easterly right of way of Ashton Plantation Boulevard and the southerly right of way of the Union Pacific Railroad (formerly Texas and Pacific Railroad), proceed in a southeasterly direction along said right of way of Union Pacific Railroad along the arc of a curve to the left having a radius of 17,238.89 feet a distance of 943.39 feet (a chord of 943.27 feet and a chord bearing of S70°06'55"E),

thence S34°52'43"W a distance of 52.16 feet to a point of curvature, thence along the arc of a curve to the right having a radius of 17,288.89 feet a distance of 149.71 feet (a chord of 149.71 feet and a chord bearing of N71°23'05"W) to a point of reverse curve, thence along the arc of a curve to the left having a radius of 250.00 feet a distance of 202.46 feet (a chord of 196.97 feet and a chord bearing of S85°39'47"W), thence S62°27'47"W a distance of 93.10 feet to a point of curvature, thence along the arc of a curve to the right having a radius of 330.00 feet a distance of 215.10 feet (a chord of 211.31 feet and a chord bearing of S81°08'10"W), thence N80°11'28"W a distance of 318.49 feet to a point of curvature, thence along the arc of a curve to the left having a radius of 25.00 feet a distance of 41.07 feet (a chord of 36.61 feet and a chord bearing of S52°44'33"W) to the easterly right of way of Ashton Plantation Boulevard, thence along said right of way along the arc of a curve to the right having a radius of 770.00 feet a distance 213.49 feet (a chord of 212.81 feet and a chord bearing of N13°30'05"E), thence N21°26'40"E a distance of 179.74 feet to the POINT OF BEGINNING containing 197,349.05 square feet or 4.531 acres.

All as more fully shown on a plan by Gassen Surveying, LLC, Louis J Gassen Jr, PLS dated April 22, 2020.

To have and to hold the above described property (the "Property) unto Donee, its heirs, successors and assigns forever.

Said Donee does hereby accept this donation with gratitude and acknowledges delivery and possession thereof. Donor and Donee agree that the Property donated has a fair market value equal to the sum of \$285,000.00.

DONATION AS IS

Donee acknowledges that Donor makes no warranties, covenants, guarantees or representations whatsoever, express or implied, as to the condition of the Property or the Servitude Property. Donee expressly waives the warranty of fitness and the warranty against redhibitory vices and defects, whether apparent or latent, imposed by Louisiana Civil Code Articles 2520 through 2548. Donee further declares and acknowledges that Donee does hereby waive the warranty of fitness for intended purposes or guarantee against hidden or latent redhibitory vices under Louisiana law, and that warranty imposed by Louisiana Civil Code Articles 2475 and 2520, and any other applicable state or federal law and the jurisprudence thereunder. As a material and integral consideration for the execution of this Act of Donation by Donor, Donee waives and releases Donor from any and all claims and/or causes of action which Donee may have or hereafter may be otherwise entitled to, based on vices or defects in the Property, including all improvements located thereon, whether in the nature of redhibition, reduction of the purchase price, concealment, and/or any other theory of law, including but not limited to any rights under Louisiana Civil Code Articles 2520 through 2548. Donee further acknowledges that the Property is fit for the Donee's intended use and particular purpose.

Donee further acknowledges that Donee (a) had ample opportunity to fully inspect the Property, (b) has inspected the Property to the extent Donee desired, (c) desires to acquire the Property in its present condition, and (d) agrees to acquire the Property subject to any physical encroachments on the Property or any physical encroachments by improvements located on the Property onto adjacent property, including but not limited to any drainage unto the Property as a result of the Lafourche Basin Levee District Expropriation Cases and the levees and drainage systems, whether presently constructed or to be constructed in the future by the Lafourche Basin Levee District.

Without limiting the generality of the foregoing and as further consideration for this Act of Donation (the "Donation"), Donee, its assigns and transferees hereby accepts the Property as is, where is, in its existing environmental condition and waives, discharges, and releases Donor, its affiliates, predecessors, successors, assigns, agents, partners, officers, employees, directors and insurers from any and all claims and/or causes of action which Donee or its assigns or transferees may have or hereafter be otherwise entitled to, whether affecting person and/or property, for (i) any environmental liabilities arising from the Property, including any claims, demands, causes of actions (both public and private), judgments, attorneys' fees, costs, expenses, penalties and fines, imposed or assessed under any federal, state or local environmental law, rule, regulation, or ordinance involving the environment including, but without limitation Article 2315.3 of the Louisiana Civil Code, Statewide Order 29-B by Office of Conservation, Department of Natural Resources, State of Louisiana, the Louisiana Abandoned Oilfield Waste State Law (La. R.S. 30:71, et seq.), as amended, the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), as amended, the Comprehensive Environmental Response, Compensation and Liability Act, (42 U.S.C. § 9601, et seq.), as amended, The Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Superfund Amendments and Reauthorization Act of 1986, and the Toxic Substance Control Act (15 U.S.C. 2601, et seq.), as amended and/or (ii) the existence of any Hazardous Materials in, on, under or from the Property. "Hazardous Materials" means and includes mold, mildew, and other fungi (including but not limited to aspergillus/penicillium, bipolaris/derschlera, and stachybotrys), lead paint, asbestos, petroleum products and/or any materials defined as "hazardous pollutants", "toxic pollutants", "pollutants", "hazardous substances", "hazardous waste", "hazardous constituents" or "solid waste" or language of similar import in (a) the Comprehensive Environmental Response, Compensation and Liability Act of 1990, 42 U.S.C. §9601 et seq., (b) the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., (c) the Clean Air Act, 42 U.S.C. §7401 et seq., (d) the Clean Water Act, 33 U.S.C. §1251 et seq., and/or (e) any other federal, state or local environmental statute or ordinance and any regulations promulgated under any of the foregoing, all as amended from time to time, and any regulation, as well as any other substance or substances the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or law, or which is or becomes defined as or has the characteristics of a conventional, nonconventional, hazardous, toxic or solid waste, material, substance, pollutant or contaminant under any federal, state or local statute, regulation, rule or ordinance pertaining to human health and for the environment as amended.

Signature of Donee

RESERVATION OF MINERALS

Donor hereby reserves and retains an undivided one hundred (100%) percent mineral servitude (the "Mineral Servitude") in and to all oil, gas and other fugitive minerals occurring naturally in liquid or gaseous form, or of any elements or compounds in solution, emulsion, or association with such minerals, (collectively the "Minerals"), that are contained in or that are a part of the soil or geological formations on or underlying the Property, but without the right to enter upon or over the surface of the Property for the purpose of exploration, development, production and removal therefrom of the Minerals. This Mineral Servitude as defined herein specifically reserves to Donor (which term when used in connection with the reserved Mineral Servitude shall include Donor, its successors, assigns, lessees and operators) all executive rights and/or other rights to grant mineral leases or conveyances assigning, encumbering and/or affecting the Minerals that are contained in or that are a part of the soil or geological formations on or underlying the Property and the right to receive all royalties, rentals, bonuses and/or sales proceeds in connection with such mineral leases or conveyances and/or Minerals.

Donor shall have the right (i) to explore for, capture and produce Minerals and reduce them to possession and ownership, but without the right to enter upon or over the surface of the Property, (ii) with the prior written consent of the Donee, which shall not be unreasonably withheld, conditioned or delayed, to grant seismic surveys and/or seismic permits of the Property with the right to place seismic detection devices on the Property but it shall not include the right to place charges or other devices that create seismic vibrations or waves that originate from the Property, or that cause or result in damage or loss of trees or other disturbance of habitat and (iii) to receive all bonuses, rental and seismic permit fees arising from or related to the Minerals on the Property.

The parties acknowledge that the prescription for non-use shall not run against this reservation of Mineral Servitude and that this Mineral Servitude is imprescriptible, all in accordance with La. R.S. 31:149, in existence at the time of this Cash Donation. Nevertheless, the parties hereto further agree, as provided in La. R.S. 31:75, in existence at the time of this Cash Donation, that an interruption of prescription for the nonuse of the Mineral Servitude resulting from unit operations, whether conventional or compulsory, shall extend to the entirety of the Property regardless of the location of the well or of whether all or only part of the hereinabove described tract of land is included in the unit.

Notwithstanding the above, Donor and Donee agree that (i) the Mineral Servitude shall not include the right to utilize the surface of the Property for exploring and producing Minerals and reducing them to possession and ownership, other than the right to conduct seismic surveys, such as placing the seismic detection devices on the Property, as described above, (ii) the Mineral Servitude grants to Donor the right to explore for, drill or test for, or produce and reduce to possession all Minerals under this Mineral Servitude solely through surface operations or activities conducted on the surface of land other than the Property (unless expressly granted in writing by the then owner of the Property or portion thereof affected by such activities); provided however it is understood that Donor shall have the right to conduct off-site directional drilling or other means not involving the surface of the Property, including directional drilling underneath the Property, provided that the surface location for any such wells are not located on the Property and/or any buildings or other improvements located on the Property are not disturbed or affected by such directional drilling (unless permission is expressly granted in writing by the then owner of the Property or portion thereof affected by such activities), and (iii) the Mineral Servitude expressly reserves and retains in Donor all rights to explore, capture, produce, transport and drill Minerals contained in the subsurface of the Property for any and all purposes, including the right to explore, capture, produce, transport and drill Minerals as herein defined and the right to grant subsurface servitudes for the construction of pipelines, the transportation of Minerals and/or the exploration, capture, production, and drilling of Minerals.

Donor shall have the right to sell, transfer and/or assign (collectively a "Transfer"), in whole or in part, its rights and obligations under the Mineral Servitude; and upon the effective date of such a Transfer, the transferor of such Transfer shall have no liability, duty or obligation as to any obligation, duty or act to be performed hereunder as to the interest in the Mineral Servitude so Transferred arising after the effective date of the Transfer, and the prior owner of the Mineral Servitude shall have no liability for any damage caused after the date of the Transfer. The transferee of such Transfer of any rights and obligations under the Mineral Servitude shall be bound by the terms, stipulations and agreements as set forth in this Donation.

This Donation may be executed and delivered in any number of identical counterparts, and each counterpart hereof shall be deemed to be an original instrument, but all counterparts hereof taken together shall constitute but a single instrument.

[Remainder of the page is intentionally left blank with signatures to follow.]

THUS DONE AND PASSED at _____, Louisiana, on the day and date first above written, in the presence of the two undersigned competent witnesses, who hereunto sign their names with said appearers and me, Notary, after reading of the whole.

WITNESSES:

ASHTON PLANTATION ESTATES, LLC

BY: _____
Name:
Title:

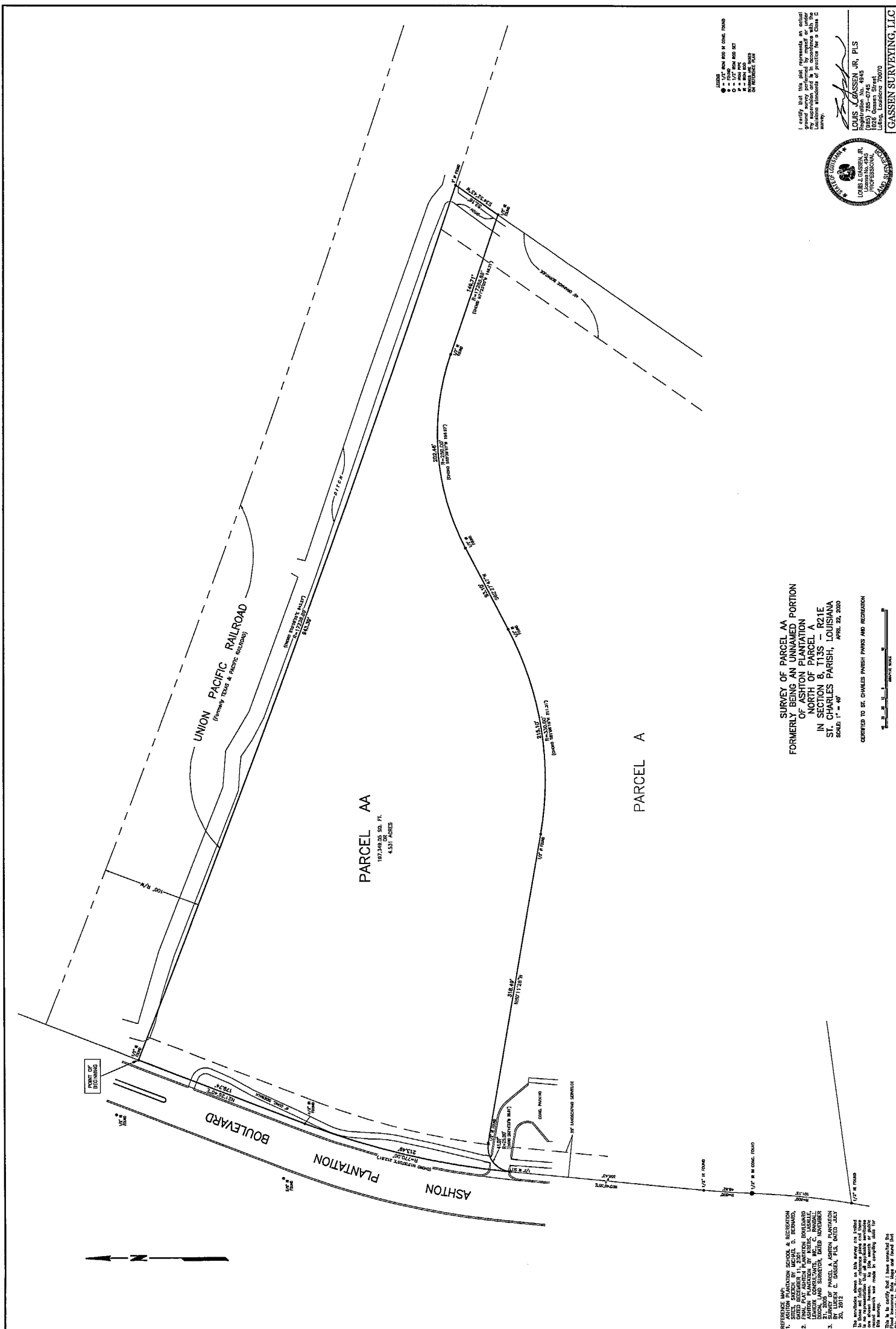
PRINTED NAME: _____
NOTARY PUBLIC, BAR NO. _____

THUS DONE AND PASSED at _____, Louisiana, on the day and date first above written, in the presence of the two undersigned competent witnesses, who hereunto sign their names with said appearers and me, Notary, after reading of the whole.

ST. CHARLES PARISH

BY: _____
MATTHEW JEWELL
PRESIDENT

PRINTED NAME: _____
NOTARY PUBLIC, BAR NO. _____



LEGEND
 ● - 1/4" IR TOG
 ○ - 1/4" IR TOG IN CONG. FOUND
 ○ - 1/4" IR TOG SET
 ○ - 1/4" IR TOG
 ○ - 1/4" IR TOG
 ○ - 1/4" IR TOG
 ○ - 1/4" IR TOG

REFERENCE MAPS:
 1. SURVEY OF SECTION 8, RECREATION DISTRICT, PARISH OF ST. CHARLES, LA, BY MICHAEL D. BERNARD, 11/11/2009.
 2. PARTIAL SURVEY OF ASHTON BOULEVARD, ASHTON PLANTATION, BY KEITH J. CASSELL, DICKINSON AND SHREVE, DATED NOVEMBER 20, 2012.
 3. SURVEY OF PARCEL A, ASHTON PLANTATION, BY LOUIS J. GASSIN, JR., PLS, DATED JULY 20, 2012.

The boundaries shown on this plan were found to have set with 1/4" IR TOG and there are shown to be in accordance with the survey. No other boundaries were shown on this survey.

This is to certify that I have surveyed this land and hereby certify that the same is the property of St. Charles Parish, Louisiana.

SURVEY OF PARCEL AA
 FORMERLY BEING AN UNNAMED PORTION
 OF ASHTON PLANTATION
 NORTH OF PARCEL A
 IN SECTION 8, T13S - R21E
 ST. CHARLES PARISH, LOUISIANA
 SCALE: 1" = 40'
 APRIL 22, 2020

CERTIFIED TO ST. CHARLES PARISH AND RECREATION DISTRICT

1" = 40'



I certify that this plan represents an actual survey of the land shown and is in accordance with the laws and regulations of the State of Louisiana.
 LOUIS J. GASSIN, JR., PLS
 PROFESSIONAL SURVEYOR
 No. 284
 Commission Expires 12/31/2024
 17777 Highway 107
 Lake Charles, Louisiana 70603

GASSIN SURVEYING, LLC