City of Houston, Texas, Ordinance No. 2022-<u>570</u>

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 8.8027 ACRES COMMONLY KNOWN AS 10340 WALLISVILLE ROAD, HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF SOUTHWEST OILFIELD PRODUCTS INC.; 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(c) 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, on March 07, 2021, SOUTHWEST OILFIELD PRODUCTS INC. ("Applicant") applied to the Director of Houston Public Works, requesting that the City Council support a municipal setting designation ordinance for property that is located

generally at 10340 Wallisville Road (8.8027 acres), Houston, Harris County, Texas 77013; and

WHEREAS, on December 06, 2021, the Director of Houston Public Works conducted a public meeting via Microsoft Teams, 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 Regulatory and Neighborhood Affairs Council Committee, designated by the Mayor, conducted a public hearing on January 11, 2022; 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 concentrations of contaminants of concern exceed 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 Houston Public Works 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 Regulatory and Neighborhood Affairs Council Committee 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 property 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:

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 Houston Public Works 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 Houston Public Works shall send a certified copy of this ordinance to the Applicant, the TCEQ, and the EPA.

Section 10. That the Applicant shall provide the Director of Houston Public Works 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 Houston Public Works 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 20th day of July , 2022. APPROVED this day of, 2022.
	Mayor of the City of Houston
fore	Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the egoing Ordinance is
(Re	epared by Legal Department Wurke J Goldon C/jb 04/25/2022 Senio Assistant City Attorney quested by Carol Ellinger Haddock, P.E., Director, Houston Public Works) D. File No. 063-2200064-001)

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Meeting 7/20/2022

Aye	No	
/ /		Mayor Turner
****	5454	Council Members
/		Peck
Absent on Pers	onal Business	Jackson
/		· Kamin
-		Evans-Shabazz
Absent on Pers	onal Business	Martin
Absent		Thomas
/		Huffman
✓		Cisneros
- V		Gallegos
√		Pollard
-		Castex-Tatum
Absent		Knox
✓		Robinson
Absent due to d	eath in the family	Kubosh
Absent		, Plummer
		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW Date: 7/26/2022

EXHIBIT "A"

Survey of Designated Property

FIBLD NOTE DESCRIPTION OF 2,3360 ACRES (101,045 SQUARE FEET)
BEING THE RESIDUE OF THAT CERTAIN CALLED 3.6 ACRE TRACT
CONVEYED TO LEMAN FAMILY TRUST, BY INSTRUMENT RECORDED UNDER
HARRIS COUNTY CLERK'S FILE NO. 20120604477 OF THE HARRIS
COUNTY DEED RECORDS AND LOCATED IN THE REELS & TROBOUGH
SURVEY, A-59, HARRIS COUNTY, TEXAS, SAID 2,3360 ACRE TRACT
BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS
FOLLOWS (ALL COORDINATES AND BEARINGS ARE BASED ON THE TEXAS
STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL WONE, ALL
DISTANCES ARE SURFACE AND MAY BE CONVERTED TO GRID BY
MULTIPLYING A COMBINED SCALE FACTOR OF 0,99989729):

COMMENCING at (X=3,158,902.20, Y=13,854,680.76) a point in the original right-of-way line of Oates Road (60 feet wide) for the Northeast corner of that certain 1.20523 acre tract (Tract 23) described in dead to FVD, Ltd., recorded under H.C.O.F. No. U126977, in the mast line of said called 3.5 acre tract and the Southeast corner of that certain called 0.1387 some tract (right-of-way easement for the widening of Oates Road) conveyed to the City of Houston by instrument recorded under H.C.C.F. No. 20080203151;

THENCE, South 87°36'29" West, a distance of 16.03 feet to an "X" out in concrete found in the West right-of-way line of Oates Road (80 feet wide) for the Southwest corner of said called 0.1387 acre tract, said "X" also marks the Southeast corner and POINT OF BRGINNING (X=3,138,886.18, Y=13,854,680.09) of the herein described

THENCE, South 87°36'29" West, along the North line of said called 1.20323 acre tract, a distance of 333.76 feet (called 350.00 feet) an "X" cut in concrete set in the West line of said called 3.6 acre tract for the Southeast corner of that certain called 1.09807 acre tract recorded under H.C.C.F. No. E146101 and the Southwest corner of the herein described tract;

WHENCE, North 02°34'27" West (called North), along the West line of said 3.6 some tract, a distance of 298.14 feet to a 1-inch iron pipe found for the Southwest corner of that certain called 5.4 some tract recorded under H.C.C.F. No. 20120604473, said iron pipe also marks the Northwest corner of said called 3.6 some tract and the herein described tract;

THENCE, North 87°36'29" Bast (called 8 89°85' E), along the North Line of said called 3.6 acre tract, a distance of 345.38 feet (called 350.00 feet) to a 6/8 inch iron rod with cap set in the West right-of-way line of Oates Road (80 feet wide), for the Northeast corner of the herein described tract;

THENCE, in a Southerly direction, along the West line of said called 0.1387 acre tract, being the West right-of-way line of Oakes Road, the following three (3) courses and distances:

THENCE, South 02°27'31" East, 57.17 feet to a 5/8 inch iron rod with cap set for the Point of Curvature of a curve to the Right;

THENCE, along and with said ourse to the Right, having radius of 1960,00 feet, a central angle of 03°28'28", an arc length of 138.86 feet and a chord bearing and distance of 8 00°43'17" E, 118.84 feet to a 5/8 inch iron rod with cap set for the Point of Tangency of tevano bise

THENCE, South 01.00.57" West, 122.40 feet to the POINT OF BEGINNING and containing 2.3380 acres (101,845 square feet) of lend, more or

CENTURY ENGINEERING, INC. Dated this 29th day of May, 2018 Revised this 2nd day of August, 2018 Revised this 21st day of August, 2018 Revised this 6th day of September, 2018

Bernerd N. Johnson Registered Professional Land Surveyor No. 4314

CEI JOB NO. 15045-00.00 (QW17) SV 15045A.T

TRACT II

FIELD NOTE DESCRIPTION OF 1.0984 ACRES (47,845 SQUARE FEET)
BRING ALL OF THAT CERTAIN CALLED 1.09807 AGRE TRACT DESCRIBED
BY INSTRUMENT RECORDED UNDER HARRIS COUNTY CLERK'S FILE NO.
EL46101 OF THE HARRIS COUNTY DEED RECORDS AND LOCATED IN THE
RESIDES & TROBOUGH SURVEY, A-59, HARRIS COUNTY, TEXAS, SAID
1.0984 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY MOTES
AND BOUNDS AS FOLLOWS (ALL COORDIANTES AND BEARINGS ARE BASED
ON THE TEXAS ETATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL
SONE, ALL DISTANCES ARE SURFACE AND MAY BE CONVERTED TO GRID
BY MULTIPLYING A COMBINED SCALE PACTOR OF 0.99989729)!

COMMENCING at (X=3,158,902.20, Y=13,854,680.76) a point in the original right-of-way line of Oates Road (60 feet wide) for the Northeast corner of that certain 1.20523 acre tract (Tract 23) described in deed to FVL, Ltd., recorded under H.C.C.F. No. U126977, in the East line of that certain called 3.6 acre tract recorded under H.C.C.F. No. 20120604477 and the Southeast corner of that certain called 0.1387 acre tract (right-of-way easement for the widening of Oates Road) conveyed to the City of Houston by instrument recorded under H.C.C.F. No. 20080283151;

THENCE, South 87°36'29" West, along the North line of said called 1.20523 aore tract, at 16.03 feet pass an "X" out in concrete found in the West right-of-way line of Oates hoad (80 feet wide) for the Southwest corner of said called 0.1387 acre tract, and continuing a total distance of 349.79 feet to an "X" out in concrete set in the West line of said called 3.6 acre tract for the Southeast corner of that certain called 1.09807 acre tract and the POINT OF BEGINNING (X=3,158,552.72, Y=13,854,636.16) of the herein described tract/

THENCE, South 87°36'29" West (called N 89°56' W), along the South line of said called 1.09807 some tract, a distance of 50.00 feet to a point for the Southwest corner of the herein described tract, from which a fence corner post bears 8 87°35' W, 0.40 feet;

THENCE, North 02°34'27" West (called North), along the West line of said 1,09807 acre tract, a distance of 951.93 feet (called 952.00 feet) to a 5/8 inch iron rod with cap found in the South right-of-way line of Wallieville Road (width varies) for the Northwest corner of the herein described tract, said iron rod falling in the arc of a curve to the Right;

THENCE, in an Easterly direction, along the South right-of-way line of Wallisville Road, with said curve to the Right, having radius of 1096,28 feet, a central angle of 02°39'33", an arc length of 50.88 feet and a chord bearing and distance of N 76°46'16" E, 50.88 feet to a 5/8 inch iron rod with cap found for the Northwest corner of that certain called 5.4 acre tract reworded under H.C.C.F. No. 20120604473, said iron rod also marks the Northeast corner of said called 1.09807 acre tract and the herein described tract;

THENCE, South 02°34'27" East (called South), along the Mast line of said 1.09807 acre tract, at 663.36 feet pass a 1-inch iron pipe found for the southwest corner of said called 6.4 acre tract and continuing a total distance of 961.50 feet (called 961.24 feet) to the POINT OF REGINNING and containing 1.0984 acres (47,845 aguare feet) of land, more or less.

CEMEURY ENGINEERING, INC.
Dated this 29th day of May, 2018
Revised this 2nd day of August, 2018
Revised this 21st day of August, 2018
Revised this 6th, day of September, 2018

Berneid F. Volumon Registered Professional Land Surveyor No. 4314

CHI JOB NO. 18045-00.00 (QN17) SV 19045A.T



TRACT III

FIGLO NOTE DESCRIPTION OF 5.3663 ACRES (233,756 SQUARE FEET)
BEING THE RESIDUE OF THAT CHRYAIN CALLED 5.4 ACRE TRACT
CONVEYED TO LEMAN FAMILY TROST, BY INSTRUMENT RECORDED UNDER
HARRIS COUNTY CLERK'S FILE NO. 20120604473 OF THE HARRIS
COUNTY DEED RECORDS AND LOCATED IN THE REELS & TROBOUGH
SURVEY, A-69, BARRIS COUNTY, TEXAS, SAID 5.3663 ACRE TRACT
BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS
FOLLOWS (ALL COORDINATES AND BEARINGS ARE BASED ON THE TEXAS
STATE PLANE COORDINATE SYSTEM, SOUTH CHNTRAL SONE, ALL
DISTANCES ARE SURFACE AND MAY BE CONVERTED TO GRID BY
MULTIPLYING A COMBINED SCALE FACTOR OF 0.99989729)(

BEGINNING at (X=3,156,040.32, Y=13,855,625,62) a 5/8 inch iron rod with dap set at the intersection of South right-of-way line of Walliaville Road (Width varies) and the West right-of-way line of Oates Road (80 feet wide) for the Northwest corner of that certain called 0.1387 acre tract (right-of-way easement for the widening of Oates Road) conveyed to the City of Houston by instrument recorded under H.C.C.F. No. 20080283151, said iron rod also marks the Northerly most Northeast corner of the herein described tract;

THENCE, south 47°26'03" East, along the cutback line at said intersection, a distance of 21.22 feet to a 5/8 inch iron rod with cap found in the West right-of-way line of Oates Road (80 feet wide) for outback of said called 0.1387 acre tract and the Easterly most Northeast corner of the herein described tract;

THENCE, south 02°27'31" East along the West line of West right-of-way line of Oates Road (80 feet wide) and said called 0.1387 agree tract, a distance of 663.46 feet to a 5/8 inch iron rod with cap set in the South line of said called 8.4 agree tract for the Southeast corner of the herein described tract;

THENCE, South 87°36'29" West, along the South Line of said called 5.4 acre tract, a distance of 345.38 feet to a 1-inch iron pipe found in the East Line of that certain called 1.09807 acre tract recorded under H.C.C.F. No. E146101 for the Southwest corner of said called 5.4 acre tract and the herein described tract;

THENCE, North 02°34'27" West (called North), along the East line of said 1.09807 agre tract, a distance of 663.36 feet (called 665.51 feet) to a 5/8 inch iron rod found in the South right-of-way line of said Wallieville Road for the Northwest corner of said called 5.4 agre tract and the herein described tract, said iron rod falling in the arc of a curve to the Right;

THENCE, in a Easterly direction, along the South right-of-way line of Wallieville Road, with said curve to the Right, having radius of 1096.20 feet, a central angle of 09°29'21", an arc length of 181.56 feet and a chord bearing and distance of N 82°80'49" B, 101.36 feet to a 5/8 inch iron rod with dap set for the Point of Tangency of said curve/

THENCE, North 87°35'24" East, continuing along the South right-or-way line of Wallisville Road, a distance of 180.97 feet to the POINT OF BEGINNING and containing 5.3663 acres (233,756 square feet) of land, more or less.

CENTURY ENGINEERING, INC.

Dated this 29th day of May, 2018

Revised this 2nd day of August, 2018

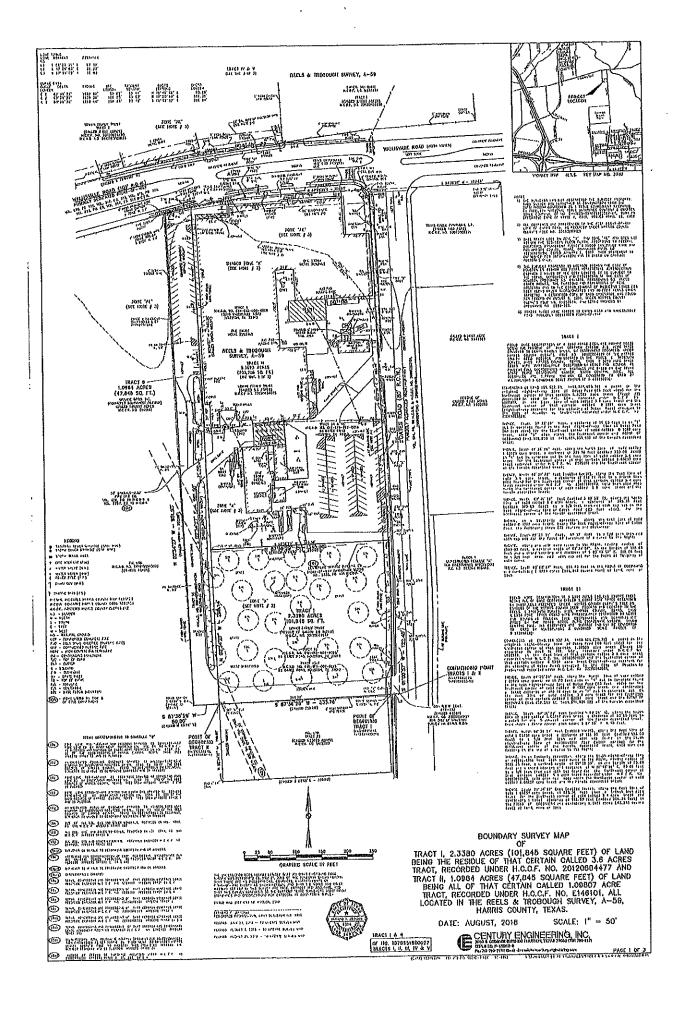
Revised this 21st day of August, 2018

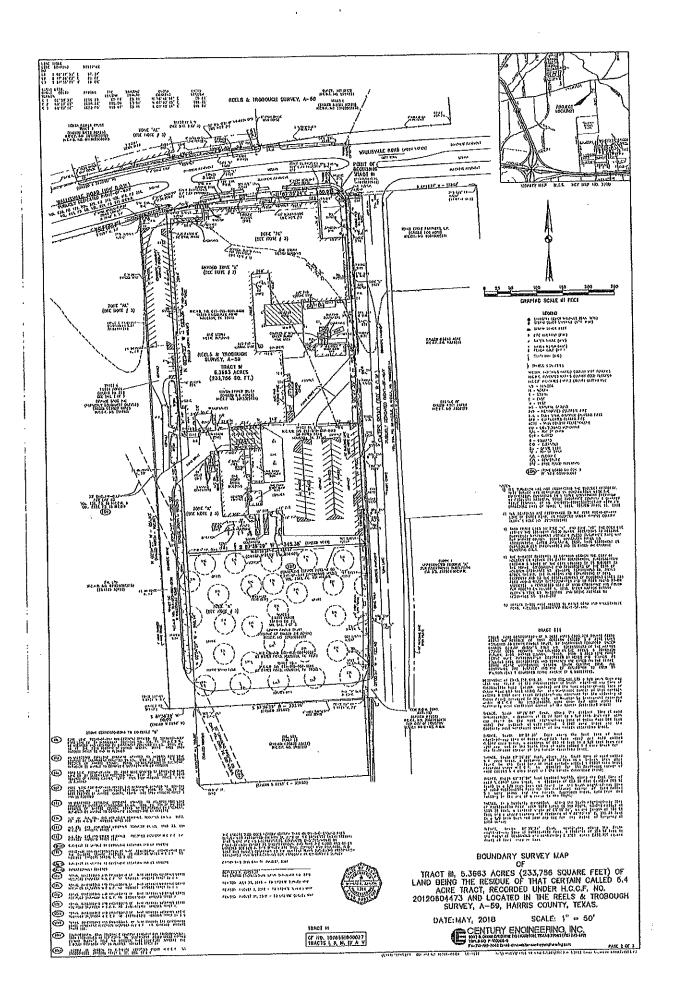
Revised this 6th day of September, 2018

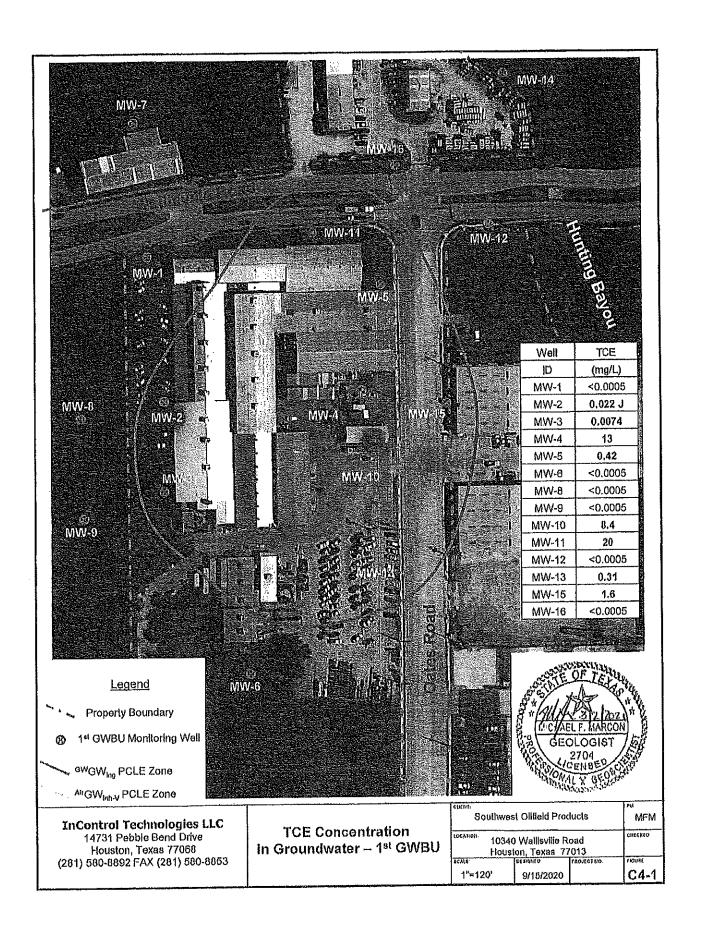
Bernerd F. Johnson Registered Professional Land Surveyor No. 4314

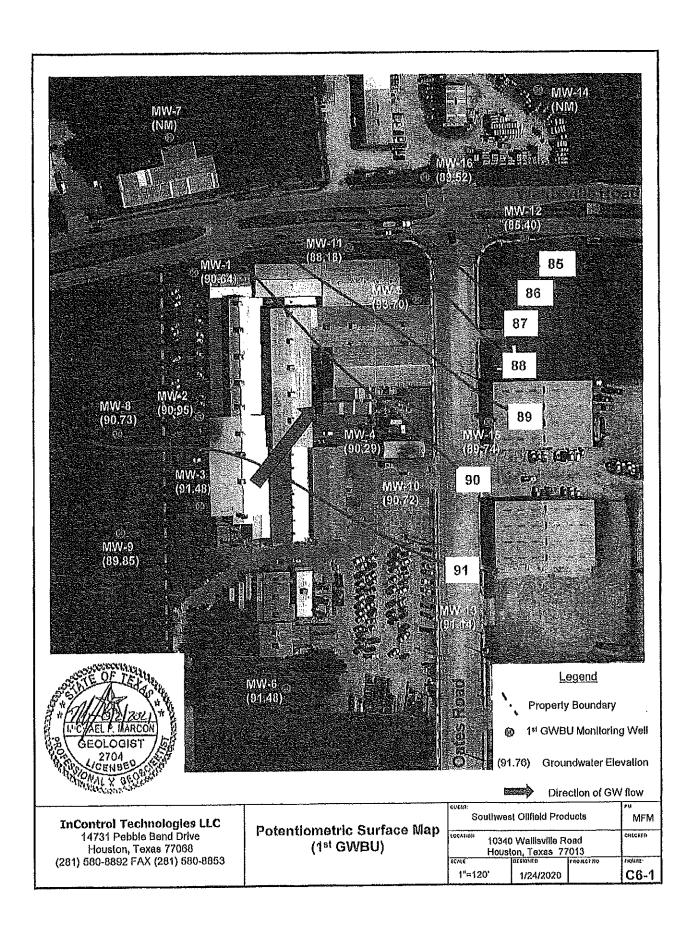
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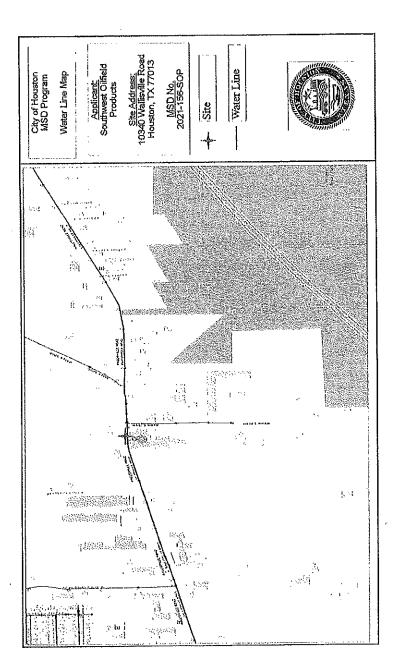
Municipal Setting Designation

Map 2020-156-SOP

MSD Site Parcel

Library

This map represents the best information available to the City. The City does not warrant its accuracy or completeness. Fleidverification should be performed as necessary.



I, PAT J. DANIEL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy of Ordinance 2022-570 passed and adopted by the City Council of said City on the 20th day of July, 2022, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 28th day of July, 2022.

Pat J. Daniel City Secretary