

City of Houston, Texas, Ordinance No. 2022- 60

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 0.9816 ACRES COMMONLY KNOWN AS 1702 NANCE ST., HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF UG OLD HARDY LP; 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 26, 2021, **UG Old Hardy LP** ("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 1702 Nance Street (.09816 acres), Houston, Harris County, Texas 77002; and

WHEREAS, on November 01, 2021, the Director of Houston Public Works conducted a virtual public meeting via the Microsoft Teams Platform, 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 November 09, 2021; 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 26th day of January, 2022.

APPROVED this _____ day of _____, 2022.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is FEB 01 2022.

AT J. Harrel

City Secretary

(Prepared by Legal Department
(WC/jb 12/08/2021
(Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)
(L.D. File No. 063-2101017-001)

Wynne O. Collier

Senior Assistant City Attorney

Meeting 1/26/2022

Aye	No	
Out of city on city business		Mayor Turner
....	Council Members
✓		Peck
✓		Jackson
✓		Kamin
✓		Evans-Shabazz
✓		Martin
✓		Thomas
✓		Travis
✓		Cisneros
✓		Gallegos
✓		Pollard
✓		Castex-Tatum
✓		Knox
✓		Robinson
✓		Kubosh
✓		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW

Date: 2/1/2022

EXHIBIT "A"

Survey of Designated Property

EXHIBIT __, PAGE 1 OF 2 PAGES

County: Harris
Project: 1702 Nance
M&B No: 19-143(r)
CS Job No: 19086

METES AND BOUNDS DESCRIPTION OF 0.9816 ACRE

Being a tract of land containing 0.9816 acre, located in the John Austin Survey, Abstract 1, in Harris County, Texas; Said 0.9816 acre tract being all of Lots 1-6 and portions of Lots 7-12, Block 19, S.F. Noble Addition, a subdivision recorded in Volume 5, Page 69, of the Harris County Deed Records (H.C.D.R.), same being all of a called 0.9816 acre tract of land recorded in the name of UG Old Hardy LP in Harris County Clerks File Number (H.C.C.F. No.) RP-2020-266186; Said 0.9816 acre tract being more particularly described by metes and bounds as follows (all bearings are referenced to the Texas Coordinate System of 1983, South Central Zone):

BEGINNING, at a 5/8-inch capped iron rod found at a northerly east corner of said 0.9816 acre tract and the northeast corner of a tract of land recorded in the name of Easy Street Holdings, L.L.C. in H.C.C.F. No. RP-2018-535620 on the south Right-of-Way (R.O.W.) line of Nance Street (sixty feet wide per Volume 5, Page 69, of the H.C.D.R.);

THENCE, North 87° 41' 47" East, with the north line of said 0.9816 acre tract and the south R.O.W. line of said Nance Street, a distance of 18.66 feet to a 5/8-inch capped iron rod set for the northeast corner of the herein described tract on the west R.O.W. line of Elysian Street (width varies per H.C.C.F. No. 20140354637);

THENCE, South 03° 45' 24" West, with the east line of said 0.9816 acre tract and the west R.O.W. line of said Elysian Street, a distance of 301.69 feet to 5/8-inch capped iron rod set on the north R.O.W. line of Sterrett Street (sixty feet wide per Volume 5, Page 69, of the H.C.D.R.) for the most easterly southeast corner of said 0.9816 acre tract;

THENCE, with south lines of said 0.9816 acre tract the following three (3) courses:

1. South 87° 41' 47" West, with the north R.O.W. line of said Sterrett Street, a distance 36.81 feet to a 5/8-inch iron rod found for an angle point;
2. South 02° 18' 13" East, through and across said Sterrett Street, a distance of 19.40 feet to a 5/8-inch capped iron rod set for the most southerly southeast corner of said 0.9816 acre tract;
3. South 87° 41' 47" West, continuing through and across said Sterrett Street, a distance of 100.00 feet to a 5/8-inch iron rod set for the southwest corner of said 0.9816 acre tract on an extension of the east R.O.W. line of Hardy Street (unimproved, sixty feet wide per Volume 5, Page 69, of the H.C.D.R.);

EXHIBIT __, PAGE 2 OF 2 PAGES

THENCE, North 02° 18' 13" West, with west line of said 0.9816 acre tract and with the east R.O.W. line of said Hardy Street, a distance of 319.40 feet to a 5/8-inch capped iron rod set on the south R.O.W. line of said Nance Street for the northwest corner of said 0.9816 acre tract;

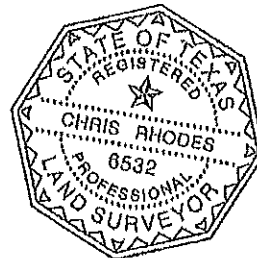
THENCE, North 87° 41' 47" East, with the north line of said 0.9816 acre tract and with the south R.O.W. line of said Nance Street, a distance of 100.00 feet to a 5/8-inch capped iron rod set at the northwest corner of said Easy Street Holdings, L.L.C. tract;

THENCE, with lines common to said 0.9816 acre tract and said Easy Street Holdings, L.L.C. tract the following three (3) courses:

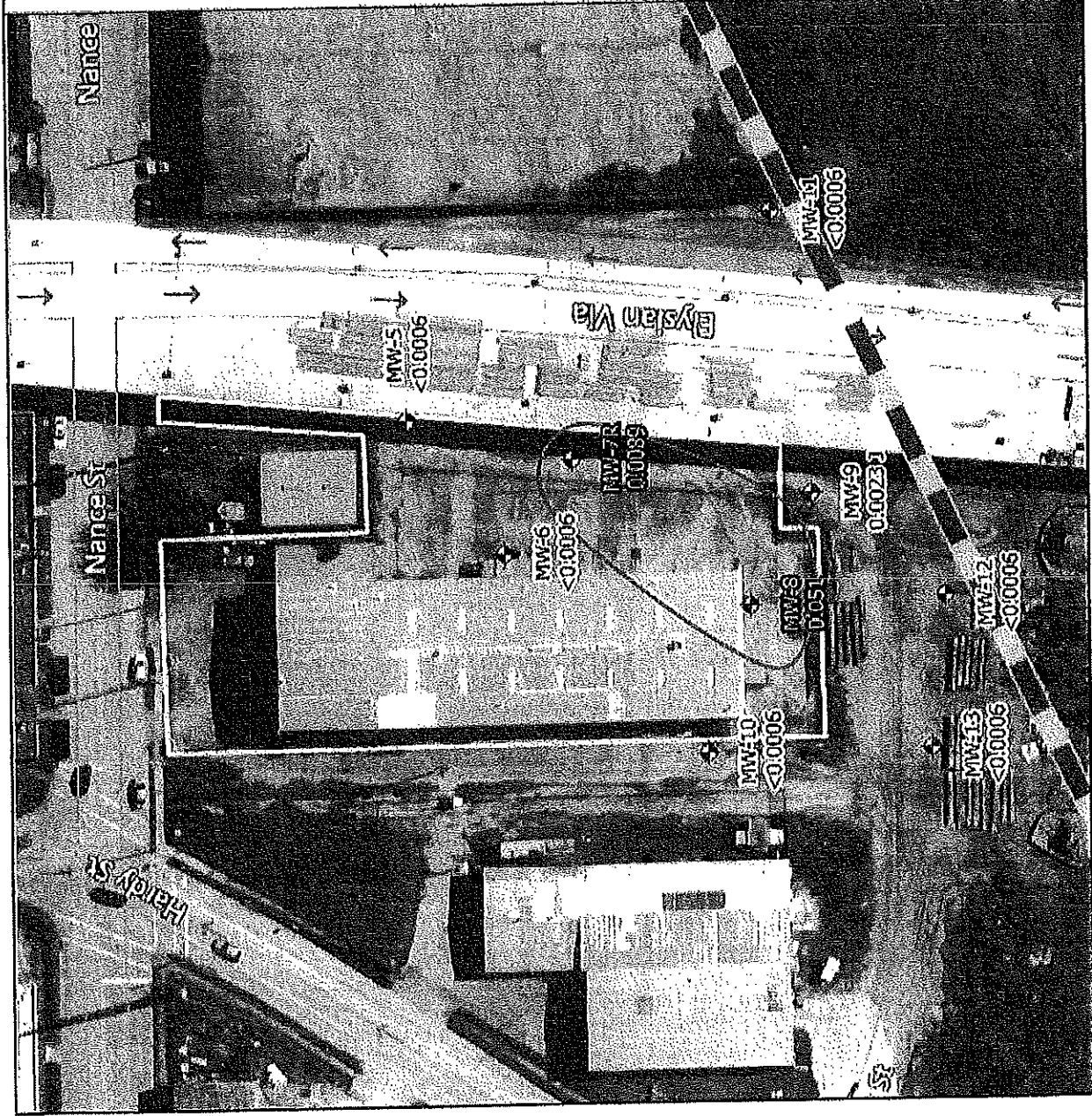
1. South 02° 18' 13" East, a distance of 100.00 feet to a 5/8-inch capped iron rod found at the southwest corner of said Easy Street Holdings, L.L.C. tract;
2. North 87° 41' 47" East, a distance of 50.00 feet to a 5/8-inch capped iron rod found at the southeast corner of said Easy Street Holdings, L.L.C. tract;
3. North 02° 18' 13" West, a distance of 100.00 feet to the **POINT OF BEGINNING** and containing 0.9816 acres of land.

An ALTA/NSPS Land Title Survey drawing of the herein described tract was prepared in conjunction with and accompanies this description.


Chris Rhodes, R.P.L.S.
Texas Registration Number 6532

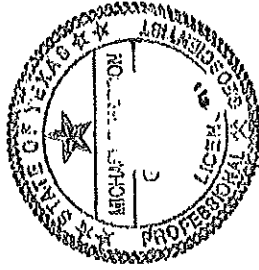


CVIL-SURV LAND SURVEYING, LC
PH: (713) 839-9181
June 5, 2019
Revised June 18, 2020



LEGEND

- Property Boundary
- Groundwater Monitoring Well
- PCE Zone (0.005 mg/L)



Apr 3/25/2021

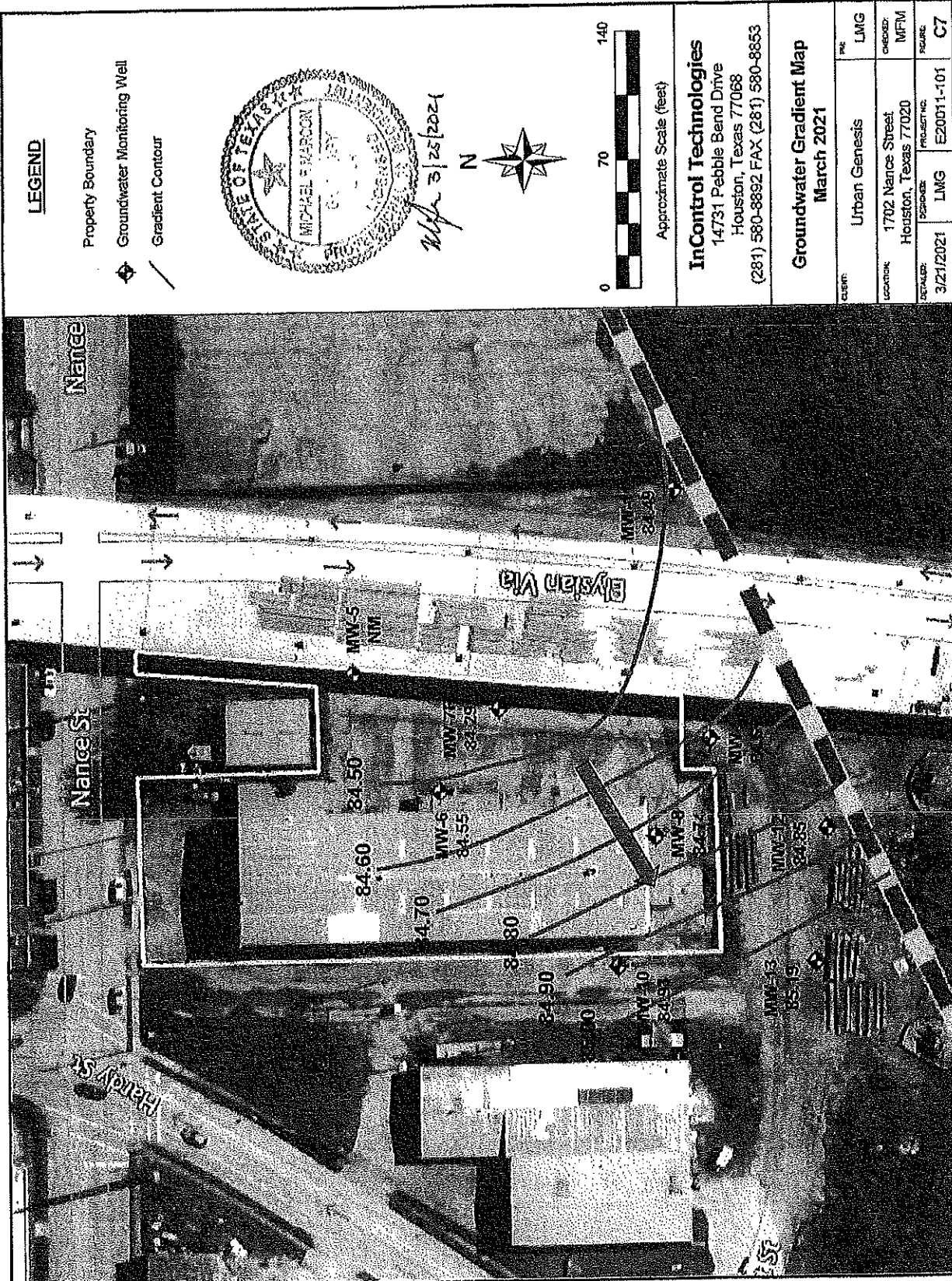


Approximate Scale (feet)

InControl Technologies
 14731 Pebble Bend Drive
 Houston, Texas 77068
 (281) 580-8892 FAX (281) 580-8853

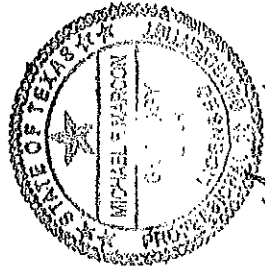
PCE in Groundwater
 March 2021

CLIENT:	Urban Genesis	FILE:	LMG
LOCATION:	1702 Nance Street Houston, Texas 77020	ORDER:	MFM
DATE:	3/21/2021	PROJECT NO.:	E20011-101
	LMG		C4a



LEGEND

- Property Boundary
- Groundwater Monitoring Well
- Gradient Contour



MKB 3/25/2021

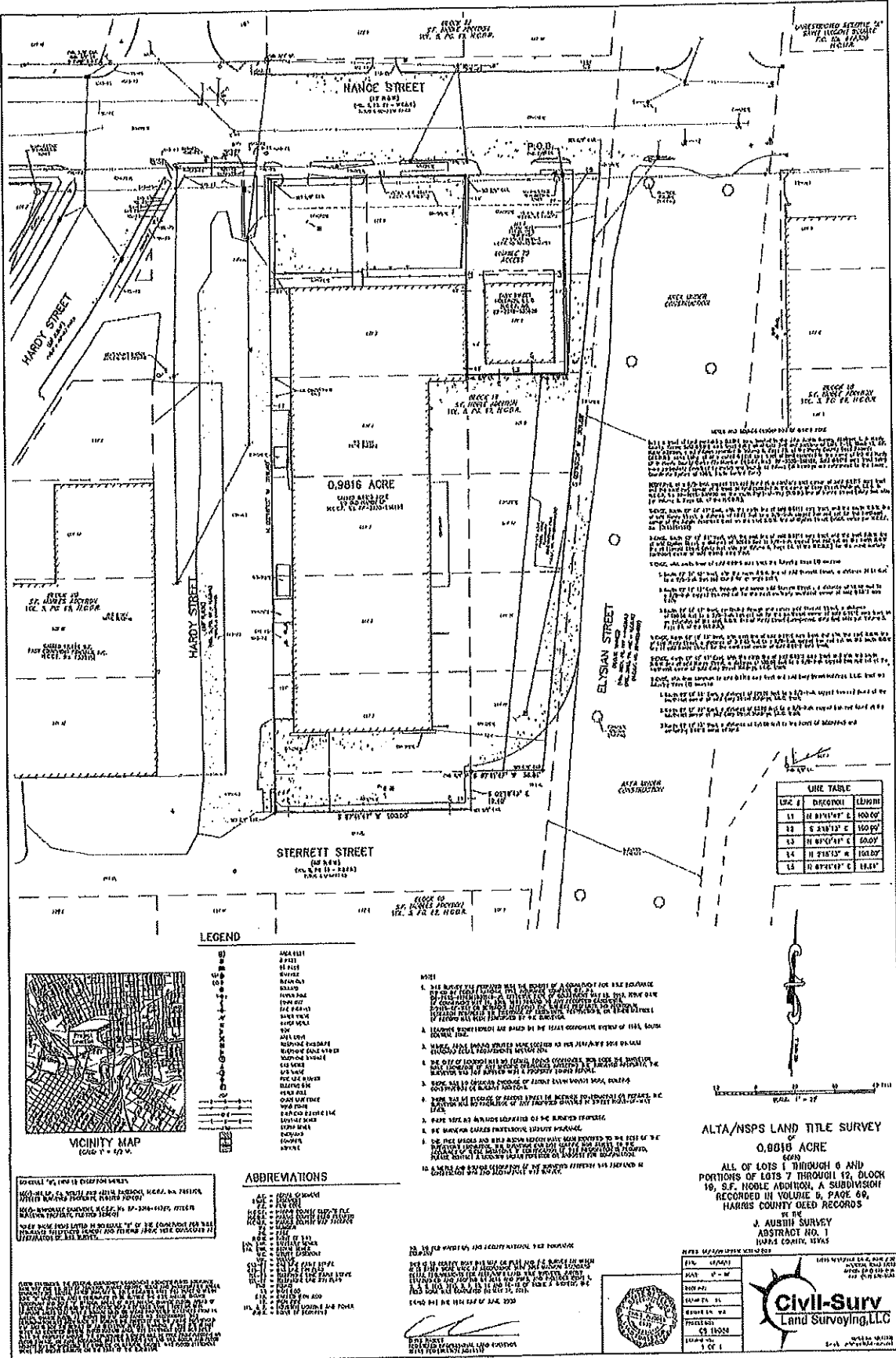


Approximate Scale (feet)

InControl Technologies
14731 Pebble Bend Drive
Houston, Texas 77068
(281) 580-8892 FAX (281) 580-8853

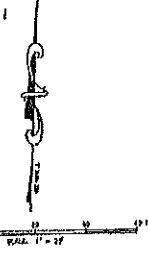
Groundwater Gradient Map
March 2021

CLIENT:	Urban Genesis	PROJECT NO.:	LMG
LOCATION:	1702 Nance Street Houston, Texas 77020	CHECKED BY:	MFM
DATE:	3/21/2021	PROJECTING:	LMG
		FIGURE NO.:	E20011-101
		FIGURE:	C7



LINE TABLE

LINE #	DIRECTION	LENGTH
1	N 87°14'10" E	100.00'
2	S 23°11'30" E	100.00'
3	N 87°14'10" E	100.00'
4	N 21°12'30" W	100.00'
5	N 87°14'10" E	100.00'



ALTA/NSPS LAND TITLE SURVEY
OF
0.9816 ACRE
ALL OF LOTS 7 THROUGH 8 AND
PORTIONS OF LOTS 7 THROUGH 12, BLOCK
19, S.F. NOBLE ADDITION, A SUBDIVISION
RECORDED IN VOLUME 6, PAGE 69,
HARRIS COUNTY DEED RECORDS
AS PER
J. AUSTIN SURVEY
ABSTRACT NO. 1
HARRIS COUNTY, TEXAS



MICINITY MAP
SCALE 1" = 1/2 MI.

NOTES

1. THIS SURVEY IS PERFORMED WITH THE PURPOSE OF A SUBDIVISION FOR THE PURPOSES OF...

2. THE BOUNDARY LINES SHOWN ON THIS MAP ARE BASED ON THE BEST AVAILABLE DATA...

3. THE AREA OF THIS SURVEY IS 0.9816 ACRES...

4. THE LOTS SHOWN ON THIS MAP ARE 12 LOTS...

5. THE DISTANCE BETWEEN THE LOTS IS 100 FEET...

6. THE DISTANCE BETWEEN THE LOTS IS 100 FEET...

7. THE DISTANCE BETWEEN THE LOTS IS 100 FEET...

8. THE DISTANCE BETWEEN THE LOTS IS 100 FEET...

9. THE DISTANCE BETWEEN THE LOTS IS 100 FEET...

10. THE DISTANCE BETWEEN THE LOTS IS 100 FEET...

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 2022-60 passed and adopted by the City Council of said City on the 26th day of January, 2022, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 15th day of February, 2022.

A handwritten signature in cursive script, appearing to read "Pat J. Daniel", written over a horizontal line.

Pat J. Daniel
City Secretary