

City of Houston, Texas, Ordinance No. 2022- 902

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 1.40 ACRES COMMONLY KNOWN AS 5212 CLINTON DRIVE, HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF LONE STAR HEAT TREATING CORPORATION; 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 May 16, 2021, **LONE STAR HEAT TREATING CORPORATION** ("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 5212 Clinton Drive (1.40 acres), Houston, Harris County, Texas 77020; and

WHEREAS, on December 15, 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.

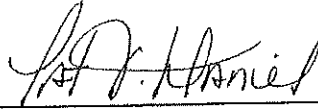
Section 13. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on that date and shall take effect immediately upon its passage and approval by the 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 16th day of November, 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 NOV 22 2022.



City Secretary

(Prepared by Legal Department
(WC/jb 04/28/2022
(Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)
(L.D. File No. 063-2200219-001)



Senior Assistant City Attorney

Meeting 11/16/2022

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

Captions Published in DAILY COURT REVIEW

Date: 11/22/2022

EXHIBIT "A"

Survey of Designated Property

County: Harris
Project: 5212 Clinton Dr. (MSD)
Job No.: 175567
MBS No.: 17-146

FIELD NOTES FOR 1.40 ACRES

Being a tract containing 1.40 acres of land located in the Harris and Wilson Two League Grant, Abstract No. 32, City of Houston, Harris County, Texas. Said 1.40 acres being those two (2) tracts of land described in Deed of Trust recorded under Harris County Clerk's File (H.C.C.F.) No. B633613. Said 1.40 acres being more particularly described by metes and bounds as follows:

NOTE: BEARINGS ARE REFERENCED TO THE SOUTHWEST RIGHT-OF-WAY (R.O.W.) LINE OF CLINTON DRIVE (WIDTH VARIES) AS DESCRIBED IN THAT CERTAIN DEED RECORDED IN THE NAME OF DH2OING ENTERPRISES, LTD. UNDER H.C.C.F. NO. Y327898.

BEGINNING at the common north corner between said 1.40 acres and said DH2OING Enterprises, Ltd. tract and being on said southwest R.O.W. line of Clinton Drive;

THENCE, with the common line between said 1.40 acres and said DH2OING Enterprises, Ltd. tract, South 00 degrees 02 minutes 30 second East, a distance of 688.68 feet to the southeast corner of said 1.40 acres and northeast corner of a call 24.55 acre tract of land recorded in the name of City of Houston in Volume 348, Page 363 of the Harris County Deed Records (H.C.D.R.);

THENCE, with the common line between said 1.40 acres and said 24.55 acres, West, a distance of 105.65 feet to the southwest corner of said 1.40 acres and southeast corner of a tract of land styled "Tract Two" (in Exhibit "A") recorded in the name of Emanon Facilities, Ltd. under H.C.C.F. No. X137682;

THENCE, with the west line of said 1.40 acres and east line of said "Tract Two" and a tract of land styled "Tract One" (in Exhibit "A") recorded under said H.C.C.F. No. X137682, North 00 degrees 48 minutes 59 seconds East, a distance of 427.34 feet to the lower northwest corner of said 1.40 acres, the lower northeast corner of said "Tract One" and being on the south line of a call 58,980 square feet tract of land (in Exhibit "B") recorded under said H.C.C.F. No. X137682;

THENCE, with the common lines between said 1.40 acres and said 58,980 square feet, the following two (2) courses:

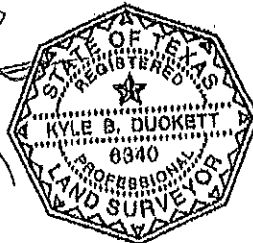
1.) East, a distance of 35.85 feet;

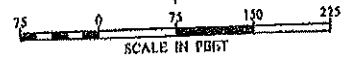
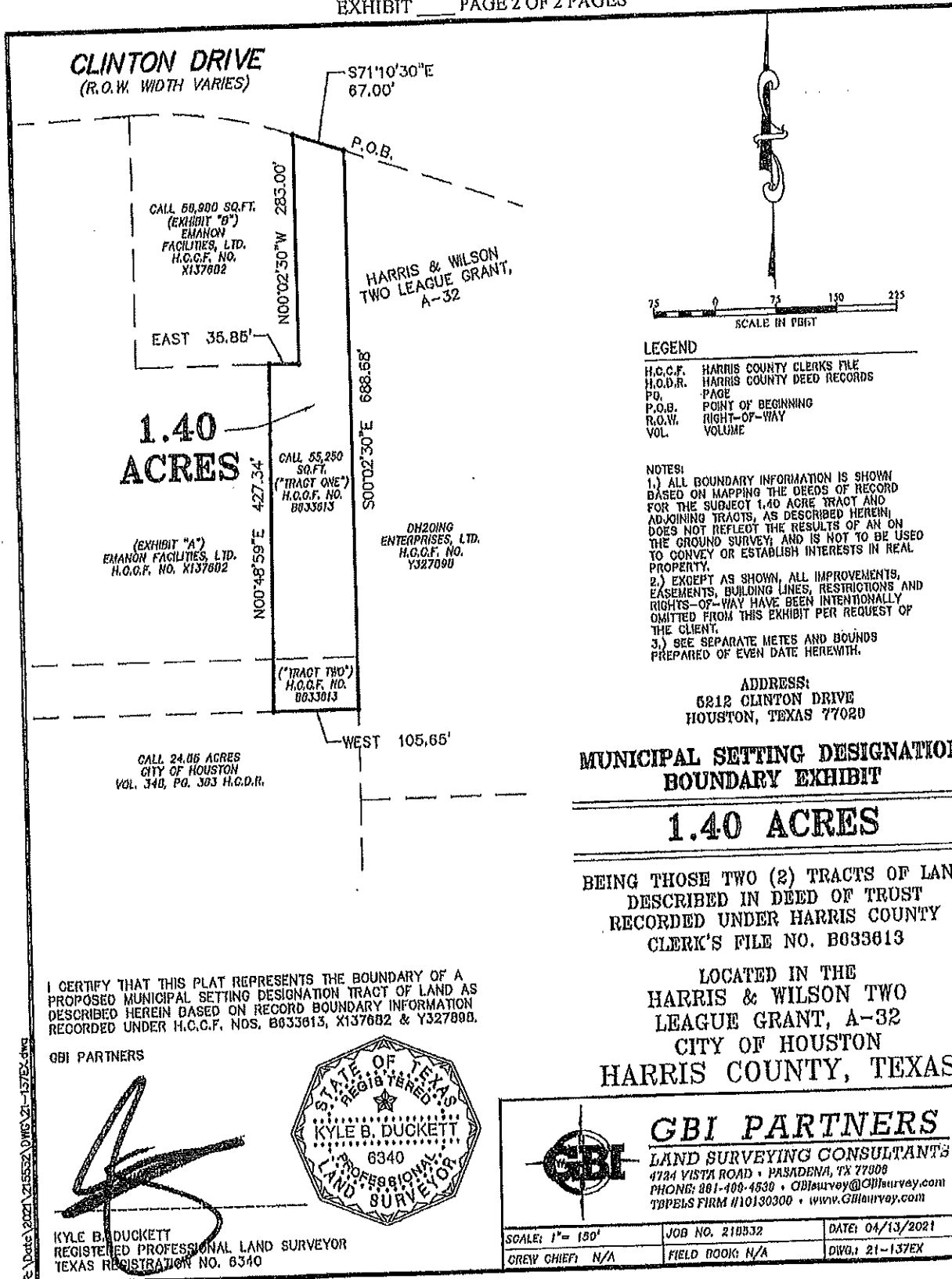
2.) North 00 degrees 02 minutes 30 seconds West, a distance of 283.00 feet to the upper northwest corner of said 1.40 acres, the northeast corner of said 58,980 square feet and being on the aforesaid southwest R.O.W line of Clinton Drive;

THENCE, with said R.O.W., South 71 degrees 10 minutes 30 seconds East, a distance of 67.00 feet to the **POINT OF BEGINNING** and containing 1.40 acres of land, more or less.

THIS DESCRIPTION WAS PREPARED BASED ON MAPPING THE DEEDS AS DESCRIBED HEREIN; DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY; AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY. SEE MUNICIPAL SETTING DESIGNATION BOUNDARY EXHIBIT PREPARED OF EVEN DATE HERewith.

GBI Partners
TBPELS Firm # 10130300
Pl: 281.499.4539
April 13, 2021





LEGEND

H.C.C.F.	HARRIS COUNTY CLERKS FILE
H.O.D.R.	HARRIS COUNTY DEED RECORDS
PG.	PAGE
P.O.B.	POINT OF BEGINNING
R.O.W.	RIGHT-OF-WAY
VOL.	VOLUME

NOTES:

- 1.) ALL BOUNDARY INFORMATION IS SHOWN BASED ON MAPPING THE DEEDS OF RECORD FOR THE SUBJECT 1.40 ACRE TRACT AND ADJOINING TRACTS, AS DESCRIBED HEREIN. DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY.
- 2.) EXCEPT AS SHOWN, ALL IMPROVEMENTS, EASEMENTS, BUILDING LINES, RESTRICTIONS AND RIGHTS-OF-WAY HAVE BEEN INTENTIONALLY OMITTED FROM THIS EXHIBIT PER REQUEST OF THE CLIENT.
- 3.) SEE SEPARATE METES AND BOUNDS PREPARED OF EVEN DATE HEREWITH.

ADDRESS:
6212 CLINTON DRIVE
HOUSTON, TEXAS 77020

**MUNICIPAL SETTING DESIGNATION
BOUNDARY EXHIBIT**

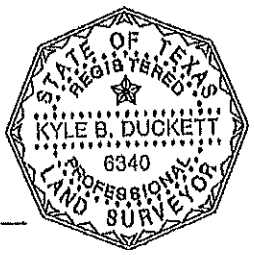
1.40 ACRES

BEING THOSE TWO (2) TRACTS OF LAND
DESCRIBED IN DEED OF TRUST
RECORDED UNDER HARRIS COUNTY
CLERK'S FILE NO. B833613

LOCATED IN THE
HARRIS & WILSON TWO
LEAGUE GRANT, A-32
CITY OF HOUSTON
HARRIS COUNTY, TEXAS

I CERTIFY THAT THIS PLAT REPRESENTS THE BOUNDARY OF A PROPOSED MUNICIPAL SETTING DESIGNATION TRACT OF LAND AS DESCRIBED HEREIN BASED ON RECORD BOUNDARY INFORMATION RECORDED UNDER H.C.C.F. NOS. B833613, X137602 & Y327890.

GBI PARTNERS

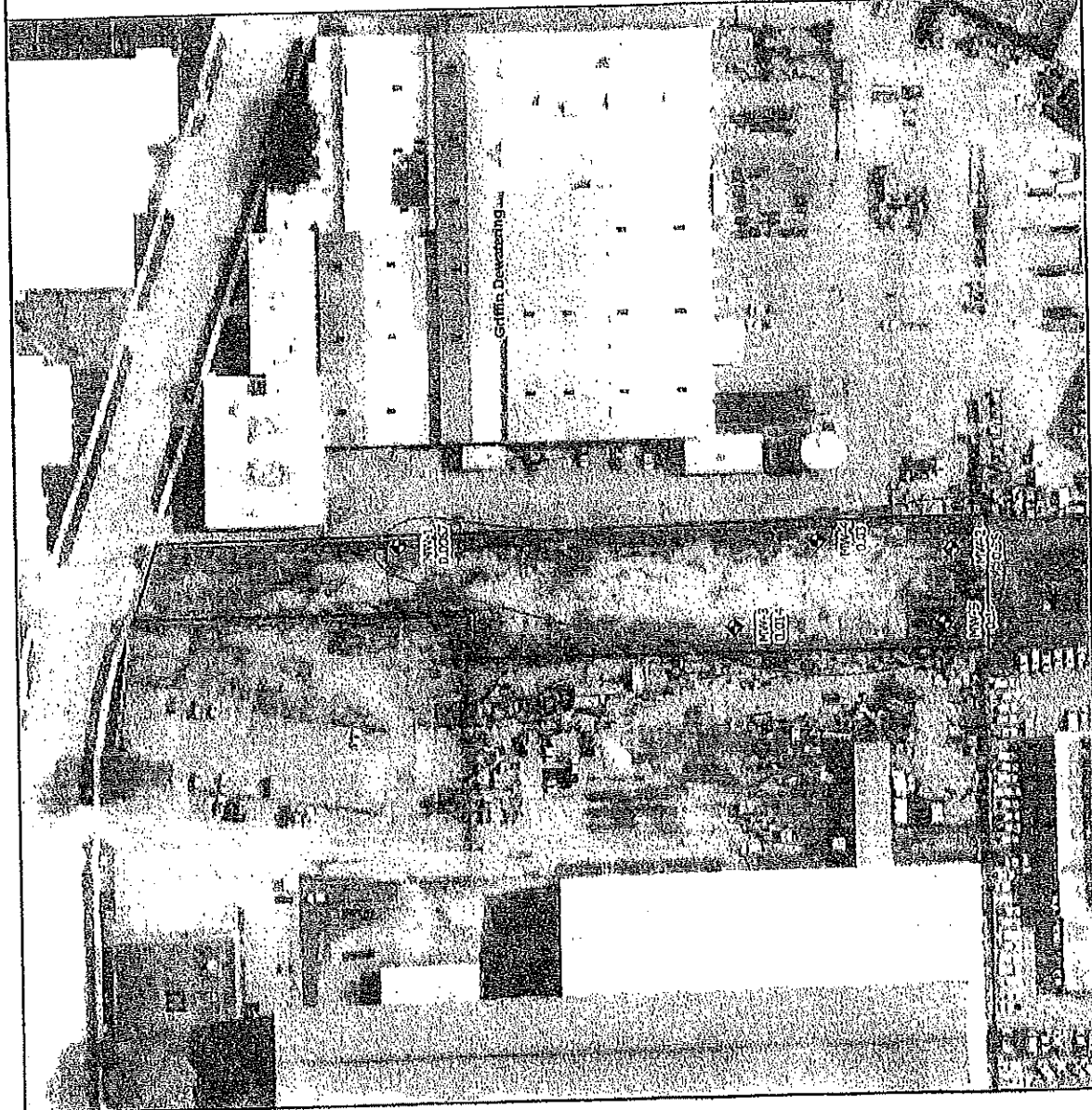


KYLE B. DUCKETT
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 6340


GBI PARTNERS
LAND SURVEYING CONSULTANTS
4724 VISTA ROAD • PASADENA, TX 77008
PHONE: 881-408-4530 • GBI@survey.com
TYPICALS FIRM #10130300 • www.GBIsurvey.com

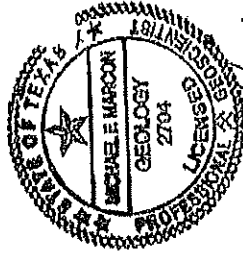
SCALE: 1"= 150'	JOB NO. 210032	DATE: 04/13/2021
CREW CHIEF: N/A	FIELD BOOK: N/A	DWG: 21-137EX

P:\Data\2021\210032\DWG\21-137EX.dwg

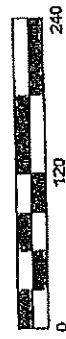


LEGEND

- Property Boundary
-  Monitoring Well
- PCL E Zone



Michelle E. Maroon
5/17/2021

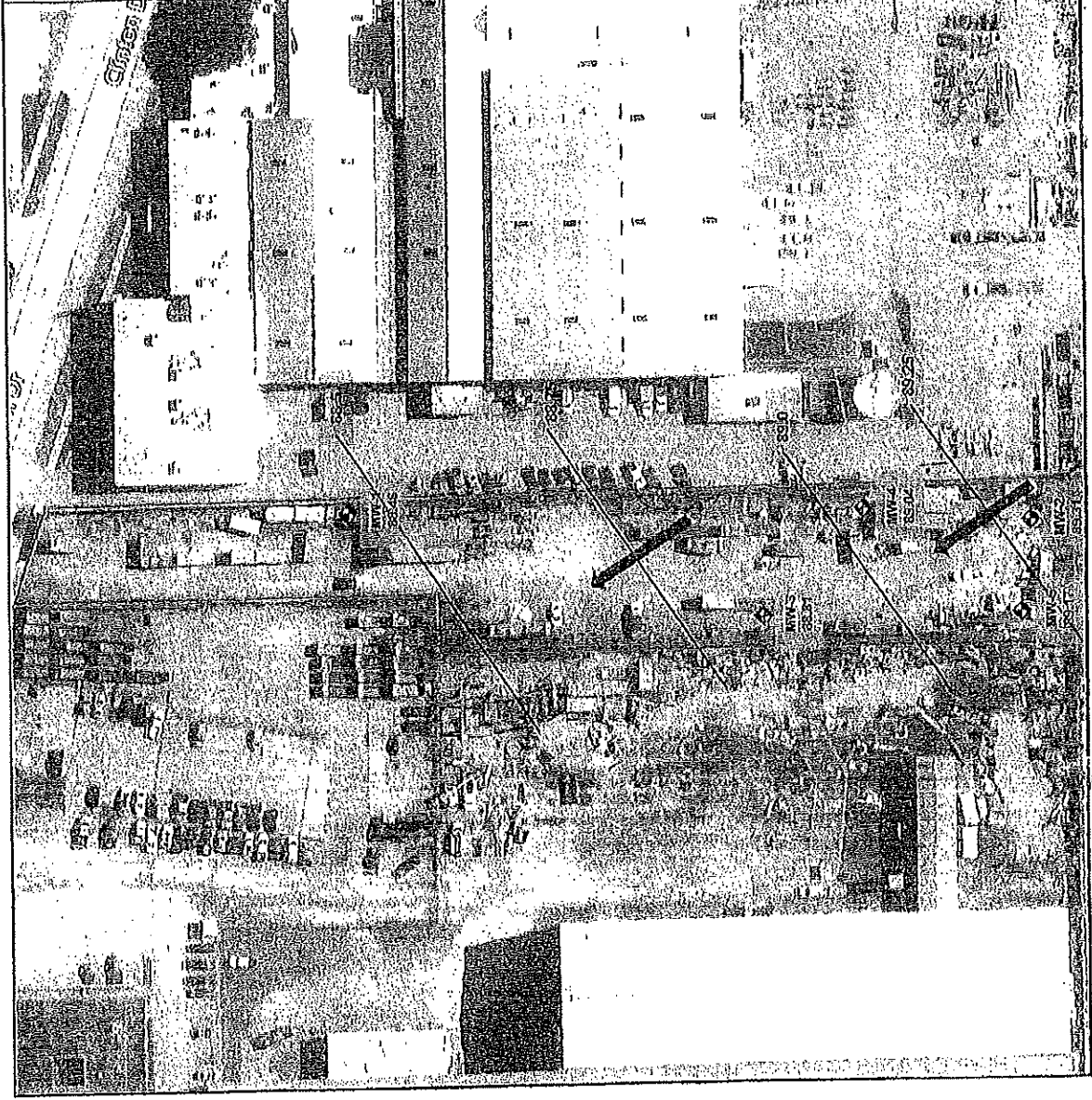


Approximate Scale (feet)

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

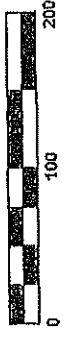
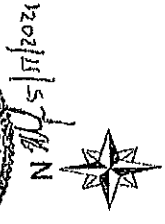
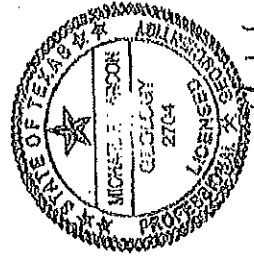
TCE Concentrations in Groundwater - May 2021

DATE	Lone Star Heat Treating	PA	JMS
LOCATION	5212 Clinton Drive HOUSTON, TX 77020	ORGANID	LMG
ISSUED	05/14/2021	PROJECT	E18035-101
		SCALE	C3a



LEGEND

- Property Boundary
- ⊕ Monitoring Well
- Groundwater Flow Direction
- Groundwater Contour Line



Approximate Scale (feet)

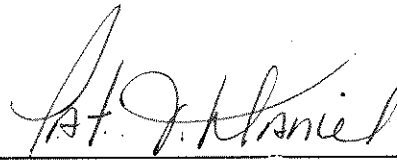
InControl Technologies
 14731 Pebble Bend Drive
 Houston, Texas 77068
 (281) 590-8892 FAX (281) 580-8853

Groundwater Gradient Map –
May 2021

CLIENT	Lone Star Heat Treating	DATE	JMS
LOCATION	5212 Clinton Drive Houston, TX 77020	DRAWN BY	LMG
SERIES	GROUNDWATER GRADIENT	PROJECT	
DATE	05/14/2021	SCALE	E:18035-101
			CS

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 2022-902 passed and adopted by the City Council of said City on the 16th day of November, 2022, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 18th day of November, 2022.

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

Pat J. Daniel
City Secretary