

Executive Summary

SKA Consulting, L.P. (SKA), on behalf of Mortgage Recovery Fund 3939, Ltd., has prepared this Municipal Setting Designation (MSD) Application for approximately 1.706 acres consisting of privately-owned commercial lands and publicly owned rights-of-way identified as the designated property, which is located at 3939 Montrose Boulevard, adjacently east of Montrose Boulevard and south of Sul Ross Street in Houston, Harris County, Texas. The designated property is situated approximately 1.4 miles southwest of downtown Houston and is bordered by Montrose Boulevard to the west, Sul Ross Street to the north, commercial and residential properties to the south, and residential properties to the east.

The designated property is currently developed with two different land uses:

- Commercial property developed with one strip shopping center (3939 Montrose Property, approximately 1.205 acres). The building has been occupied by various commercial tenants since its construction in 1984 (restaurants, beauty salons, stores, banks, fitness studio, and cleaners). A dry cleaning facility was located in Suite K from 1986 to April 2013 and was registered with the TCEQ as an active dry cleaners facility. A dry cleaners facility corresponding to a drop-off location is currently located in Suite R of the building since April 2013.
- Commercial property utilized as a parking lot for the strip shopping center located to the south of Branard Street (0 Branard Street Parcel, approximately 0.126 acres).
- Public streets and rights-of-way (Branard Street and a city-owned alley, approximately 0.375 acres).

Properties in the vicinity of the designated property are predominantly mixed commercial and single-family residential. The future use of the designated property is anticipated to remain commercial.

No municipalities, other than the City of Houston, have corporate limits within one-half mile of the boundary of the designated property. In addition, public drinking water is currently available to the designated property and properties located within a one-half mile radius surrounding the designated property by the City of Houston public water supply system.

According to records obtained from GeoSearch Inc., approximately 943 registered/permitted water wells are reportedly located within a 5-mile radius of the designated property. Of these, six are reportedly located within a 0.5-mile radius of the designated property. However, according to information documented within the well reports, five of these wells are misplotted and are actually located at 506 Milam Street, approximately 2.33 miles northeast of the subject property. According to the GeoSearch Inc. report, the remaining well located within 0.5-mile radius of the designated property is located at 401 Richmond Avenue, approximately 2,000 feet southeast of the designated property and reportedly used for domestic purposes. This water well was drilled to a terminal depth of 185 feet below ground surface (ft-bgs) in 1963 and has 10 feet of screen between 175 and 185 ft-bgs. Harris County Appraisal District (HCAD) records list Sun Development, Inc. #165 as the current property and water well owner. During a receptor survey conducted by SKA on May 19, 2014, a restaurant was observed at this location, and HCAD records indicate commercial use of the property since 1984. This potable water well is reportedly screened in a groundwater bearing unit (GWBU) greater than 160 ft-bgs. As such,

this potable water well will not likely be affected by contaminants present in soil or groundwater at the designated property, as there are no soil plumes and the groundwater plume is delineated on the designated property.

Of the approximately 943 registered/permitted water wells reportedly located within 5 miles of the designated property, approximately 14 are reportedly owned or operated by a public retail water utility. In addition, 5 of the 14 water wells reportedly located within 5 miles of the designated property are reportedly owned by municipalities other than the City of Houston. These municipalities include the City of Bellaire, City of West University Place, and City of Southside Place.

Presently, approximately 1.205 acres of the designated property corresponding to the 3939 Montrose Property is owned by Mortgage Recovery Fund 3939, Ltd. and is enrolled in the TCEQ Voluntary Cleanup Program (VCP) as VCP No. 2604. The ±0.126-acre parcel to the south (0 Branard Street Parcel) is owned by Branard Street Partners LP and is utilized as a parking lot for the 3939 Montrose Property.

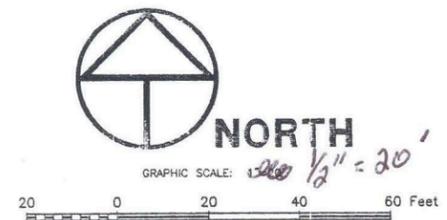
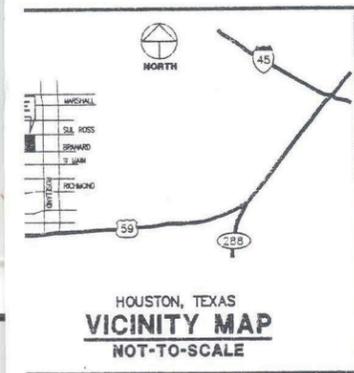
The depth to groundwater for the shallow GWBU ranges from 20.59 to 23.76 feet below ground surface. Contaminants of concern (COCs) historically detected in the shallow GWBU are benzene, tetrachloroethene (PCE), trichloroethene (TCE), cis-1,2-dichloroethene (cis-1,2-DCE), and vinyl chloride (VC). Of the five COCs, three COCs (PCE, TCE, and cis-1,2-DCE) are currently above TCEQ Texas Risk Reduction Program (TRRP) Tier 1 Residential Groundwater Ingestion (^{GW}GW_{ing}) Protective Concentration Levels (PCLs) (Groundwater Ingestion PCLs). While benzene and VC were detected above applicable PCLs in groundwater sampled from temporary monitoring wells, they are not considered PCL exceedances as they were not confirmed above applicable PCLs in groundwater more recently sampled from permanent monitoring wells. In addition, as no sources of benzene are known to exist on the designated property, the benzene is likely from an historical service station and former Leaking Petroleum Storage Tank (LPST) site located at 3807 Montrose Boulevard, 180 feet north and upgradient of the designated property. Therefore, there are three COCs currently above TRRP Tier I Groundwater Ingestion PCLs at the designated property; PCE, TCE, and cis-1,2--DCE.

The results of assessment and monitoring activities performed to date indicate one Groundwater Ingestion PCL exceedance (PCLE) zone is present on the designated property. The Groundwater Ingestion PCLE zone contains the three confirmed COCs listed above, is stable and/or decreasing in magnitude and contained within the boundaries of the designated property. No COCs have been detected in groundwater outside the designated property in excess of any TRRP ingestion or non-ingestion PCLs. In addition, no COCs are expected to migrate off the designated property in the future at concentrations that would exceed any applicable TRRP non-ingestion PCLs (the TRRP PCLs applicable for the designated property should an MSD be granted). No other COCs have been detected in soil outside the designated property in excess of any TRRP ingestion or non-ingestion PCL.

The following Appendices "A" through "Y" provide the requested documentation corresponding to the Items in the attached City of Houston MSD Application checklist. Supporting documentation for certain Items are attached and included with the Item's corresponding Appendix.

Appendix A – Legal Property Description_____

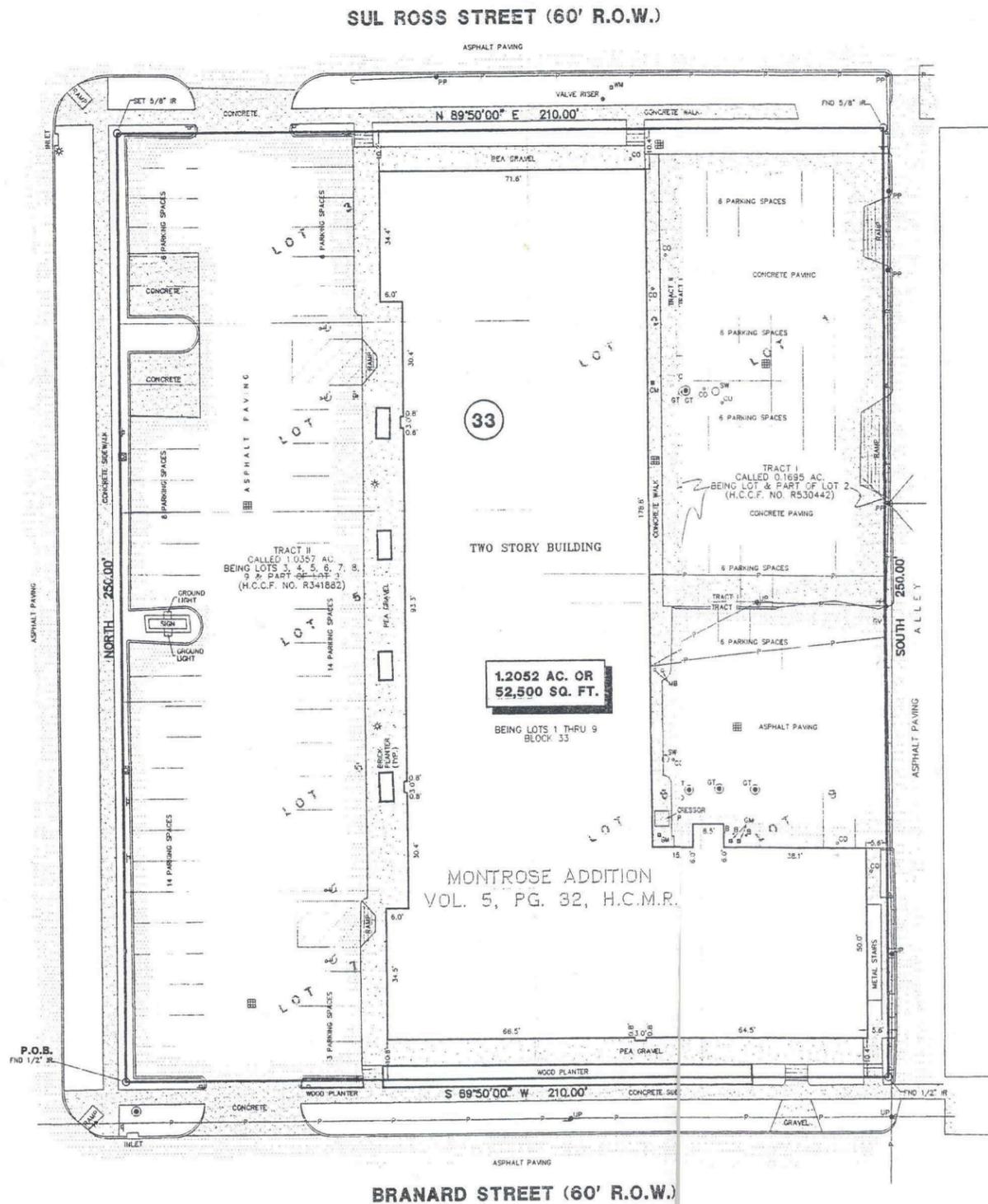
A legal description, metes and bounds, and deeds for the privately-owned parcels of the designated property are included in ***Appendix A***.



LEGEND

- ∅ - CLEANOUT
- ∅ - GAS METER
- ∅ - MAIL BOX
- ∅ - GUY ANCHOR
- ∅ - HANDICAP
- ∅ - INLET
- ∅ - LIGHT POLE
- ∅ - MANHOLE
- ∅ - POWER POLE
- ∅ - UTILITY POLE
- ∅ - SIGN
- ∅ - WATER METER
- ∅ - WATER VALVE
- ∅ - GREASE TRAP MANHOLE
- ∅ - SAMPLE WELL
- - OVERHEAD POWER LINE

MONTROSE BOULEVARD (90' R.O.W.)



LEGAL DESCRIPTION

A TRACT OR PARCEL OF LAND CONTAINING 1.2052 ACRES OR 52,500 SQUARE FEET, BEING LOTS 1 THRU 9, BLOCK 33 OF MONTROSE ADDITION, A SUBDIVISION RECORDED IN VOLUME 5, PAGE 32 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, SAID 1.2052-ACRE TRACT BEING COMPOSED OF A CALLED 0.1695-ACRE TRACT DESCRIBED IN HARRIS COUNTY CLERK'S FILE (H.C.C.F.) NO. R530442 AND A CALLED 1.0357-ACRE TRACT DESCRIBED IN H.C.C.F. NO. R341882, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH IRON ROD FOUND ON THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF BRANARD STREET (60 FEET WIDE) AND THE EAST RIGHT-OF-WAY LINE OF MONTROSE BOULEVARD (90 FEET WIDE), MARKING THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID MONTROSE BOULEVARD, A DISTANCE OF 250.00 FEET TO A 5/8-INCH IRON ROD SET ON THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF SUL ROSS STREET (60 FEET WIDE) AND THE EAST RIGHT-OF-WAY LINE OF SAID MONTROSE BOULEVARD, MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 89 DEGREES 50 MINUTES 00 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE SAID SUL ROSS STREET, A DISTANCE OF 210.00 FEET TO A 5/8-INCH IRON ROD FOUND ON THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF SAID SUL ROSS STREET AND THE WEST LINE OF AN ALLEY, MARKING THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH, ALONG THE WEST LINE OF SAID ALLEY, A DISTANCE OF 250.00 FEET TO A 1/2-INCH IRON ROD FOUND ON THE INTERSECTION OF THE WEST LINE OF SAID ALLEY AND THE NORTH RIGHT-OF-WAY LINE OF SAID BRANARD STREET, MARKING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 89 DEGREES 50 MINUTES 00 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID BRANARD STREET, A DISTANCE OF 210.00 FEET TO THE PLACE OF BEGINNING AND CONTAINING 1.2052 ACRES OR 52,500 SQUARE FEET OF LAND.

GENERAL NOTES

- SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY. THIS SURVEY WAS PREPARED WITH INFORMATION CONTAINED IN TITLE COMMITMENT GF NO. 2002 HO 476779-B (00123) OF AMERICAN TITLE COMPANY OF HOUSTON, EFFECTIVE DATE OF APRIL 16, 2002.
- BEARINGS WERE BASED ON DEEDS RECORDED IN H.C.C.F. NOS. R341882 & R530442.
- THE SUBJECT TRACT IS LOCATED IN ZONE "X" (UNSHADED) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 480296 0880K, REVISED APRIL 20, 2000. ZONE DETERMINATION WAS DONE BY GRAPHIC PLOTTING ONLY. WE DO NOT ASSUME RESPONSIBILITY FOR EXACT DETERMINATION. ZONE "X" (UNSHADED) ARE AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD PLAIN.
- DEVELOPMENT OF THIS TRACT IS SUBJECT TO REQUIREMENTS PER CITY OF HOUSTON ORDINANCE NO. 1999-262 WHICH STIPULATES PLATTING AND SETBACK CONSTRAINTS. PROPOSED USAGE OF THIS TRACT WILL DETERMINE ACTUAL BUILDING SETBACK LINE(S) ALONG ANY ADJOINING STREETS. REFER TO CITY OF HOUSTON BUILDING CODES TO ESTABLISH MINIMUM PUBLISHED SETBACK REQUIREMENTS. ULTIMATELY THE CITY OF HOUSTON PLANNING COMMISSION WILL DETERMINE REQUIRED SETBACKS UPON REVIEW OF PLANS OR PLATS SUBMITTED TO SAID COMMISSION. THIS TRACT MAY REQUIRE PLATTING AS A CONDITION FOR RECEIVING BUILDING PERMITS.
- ENVIRONMENTAL AND DRAINAGE ISSUES ARE BEYOND THE SCOPE OF THIS SURVEY.

SURVEYOR'S CERTIFICATION

PURCHASER: MORTGAGE RECOVERY FUND-3939, LTD.
TITLE COMPANY: FIRST AMERICAN TITLE INSURANCE COMPANY

I DO HEREBY CERTIFY TO THE ABOVE LISTED THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND AND WAS PERFORMED UNDER MY SUPERVISION THAT THIS PLAT CORRECTLY REPRESENTS THE PROPERTY LEGALLY DESCRIBED HEREON, THAT THE FACTS FOUND AT THE TIME OF THIS SURVEY SHOW THE IMPROVEMENTS AND THAT THERE ARE NO VISIBLE ENCROACHMENTS APPARENT ON THE GROUND, EXCEPT AS SHOWN. THIS SURVEY SUBSTANTIALLY CONFORMS TO THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION II SURVEY, TO THE BEST OF MY KNOWLEDGE.

MIKE KURKOWSKI
Registered Professional Land Surveyor
Texas Registration No. 5101

MIKE KURKOWSKI
5101
PROFESSIONAL LAND SURVEYOR

05103108

Windrose Land Services, Inc.
10675 Richmond Avenue, Bldg. #7
Houston, Texas 77042
Phone (713) 458-2282 Fax (713) 461-1151
Professional Surveying Services

REVISIONS		
DATE	REASON	BY
6-6-02	CHANGE NAME OF TITLE COMPANY	JY

SURVEY OF
1.2052 AC. OR 52,500 SQ. FT.
BEING LOTS 1 THRU 9, BLOCK 33
MONTROSE ADDITION
VOL. 5, PG. 32, H.C.M.R.
HARRIS COUNTY, TEXAS

HOLD FOR AMERICAN TITLE COMPANY OF 5017283 ✓

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DT 50 8

DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT

Y175268 01/05/05 200740584 \$50.00

THE STATE OF TEXAS § KNOW ALL MEN BY THESE PRESENTS: COUNTY OF HARRIS §

THAT I, WE, or EITHER OF US, MORTGAGE RECOVERY FUND - 3939, LTD. 2701 Westheimer Road, Suite 13N, Houston of the County of Harris, State of Texas,

sometimes hereinafter called Grantors (whether one or more) for the purposes of securing the indebtedness hereinafter described, and in consideration of the sum of TEN DOLLARS (\$10.00) to us in hand paid by the Trustee hereinafter named, the receipt and sufficiency of which is hereby acknowledged, and for the further consideration of the uses, purposes and the trusts hereinafter set forth, have GRANTED, SOLD, AND CONVEYED, and by these presents do GRANT, SELL and CONVEY unto JAY ROGERS Trustee, of International Bank of Commerce, 5615 Kirby Dr., Houston, Harris County, Texas 77005 and his substitutes or successors, all of the following described property situated in HARRIS County, Texas (hereinafter the "Property"), to-wit:

See Exhibit "A" for property description.

588-34-1754

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TO HAVE AND TO HOLD the above described Property, together with the rights, privileges and appurtenances thereto belonging unto the said Trustee, and to his substitutes or successors forever and Grantors do hereby bind themselves, their heirs, executors, administrators and assigns to warrant and forever defend the said premises unto the said Trustee, his substitutes or successors and assigns forever, against the claim or claims, of all persons claiming or to claim the same any part thereof.

This conveyance, however, is made in TRUST to secure payment of one Real Estate Lien Note/Promissory Note dated of even date herewith in the principal sum of FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$ 450,000.00) (the "Note"), executed by the makers of said Note, MORTGAGE RECOVERY FUND - 3939, LTD.

who together with the above named Grantors, shall hereinafter collectively and interchangeably be referred to as Grantors, payable to the order of INTERNATIONAL BANK OF COMMERCE 5615 Kirby Drive

hereinafter referred to as Beneficiary, in the City of Houston, Harris County, Texas and payable as therein provided, including late charges; bearing interest as therein stipulated, providing for acceleration of maturity and for reasonable and necessary attorney's fees;

Should Grantors do and perform all of the covenants and agreements herein contained, and make payment of said indebtedness as the same shall become due and payable, then this conveyance shall become null and void and of no further force and effect, and shall be released at the expense of Grantors, by the holder thereof, hereinafter called Beneficiary (whether one or more).

Grantors COVENANT and AGREE as follows:

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That they are lawfully seized of said Property, in fee simple absolute, and have the right to convey the same; that said Property is free from all liens and encumbrances, except as herein provided for the matters disclosed in the title policy issued to Beneficiary and insuring the lien granted by this Deed of Trust (which matters are referred to herein as "Permitted Exceptions").

To protect the title and possession of said Property and to pay when due all taxes and assessments now existing or hereafter levied or assessed upon said Property, or the interest therein created by this Deed Of Trust, and to preserve and maintain the lien hereby created as a first and prior lien on said Property including any improvements hereafter made a part of the realty.

To keep the improvements on said Property in good repair and condition, and not to permit or commit any waste thereof; to keep said buildings occupied so as not to impair the insurance carried thereon.

To insure and keep insured all improvements now or hereafter created upon said Property against loss or damage by fire and wind-storm, and any other hazard or hazards as may be reasonably required from time to time by Beneficiary during the term of the indebtedness hereby secured, to the extent of the total amount of the indebtedness hereby secured, or to the extent of the full insurable value of said improvements, whichever is the lesser, in such form and with such insurance company or companies as may be approved by Beneficiary, and to deliver to Beneficiary the policies of such insurance having attached to said policies such mortgage indemnity clause as Beneficiary shall direct; to deliver renewals of any such policies to Beneficiary at least ten (10) days before any such insurance policies shall expire; any proceeds which Beneficiary may receive under such policy or policies, ^{shall} be applied by Beneficiary, ~~at its option, to reduce the indebtedness hereby secured, whether then matured or to mature in the future, and in such manner as Beneficiary may elect, or Beneficiary may permit Grantors to use said proceeds to repair or replace all improvements damaged or destroyed and covered by said policy. Insert 1.~~

That Beneficiary may employ counsel for advice or other legal service at Beneficiary's discretion in connection with any dispute as to the debt hereby secured or lien securing same or this instrument, or any litigation or arbitration proceeding to which the Beneficiary may be made a party on account of this lien or which may affect the title to the Property on account of this lien or which may affect the title to the Property securing the indebtedness hereby secured or which may affect said debt or lien. Any reasonable and necessary attorney's fees so incurred shall be added and be part of the debt hereby secured.

In addition to the land and improvements above described, the lien of this Deed Of Trust covers and includes all abstracts and title papers furnished or to be furnished in connection with the making of the loan evidenced by said Note, the payment of which is secured hereby.

Grantors agree to pay on demand for all abstracts, title policies, appraisals, recording fees and attorney's fees incurred in connection with either the closing of the loan secured hereby or the renewal, extension, modification and/or rearrangement of any part of the indebtedness secured hereby, or, in the alternative, such amounts expended by Beneficiary shall be added to and be a part of the debt hereby secured.

MS and such failure continues beyond any applicable notice and cure period

That in the event Grantors shall fail to keep the improvements on the Property hereby conveyed in good repair and condition, or to pay promptly when due all taxes and assessments, as aforesaid, or to preserve the prior lien of this Deed Of Trust on said Property for to keep the buildings and improvements insured, as aforesaid, or to deliver the policy, or policies, of insurance or the renewal thereof to Beneficiary, as aforesaid, then Beneficiary may, at his option, but without being required to do so, make such repairs, pay such taxes and assessments, purchase any tax title thereon, remove any prior liens, and prosecute or defend any suits in relation to the preservation of the prior lien of this Deed Of Trust on said Property, or insure and keep insured the improvements thereon in any amount not to exceed that above stipulated; that any sums which may be so paid out by Beneficiary, including the costs, expenses and attorney's fees paid in any suit affecting said Property when necessary to protect the lien hereof and all other expenses and costs agreed to be paid by Grantors under the Deed Of Trust which are not paid when due shall bear interest from the dates of such payments at the prematurity interest rate stated in the Note hereby secured, and shall be deemed a part of the debt hereby secured and recoverable as such in all respects. In addition, in the event Grantors shall fail to keep the buildings and improvements insured, as aforesaid, or to deliver the policy or policies, of insurance or the renewal thereof to the Beneficiary, as aforesaid, the Beneficiary may, at his option, but without being required to do so, insure and keep insured the improvements thereon in any amount not to exceed that above stipulated (including without limitation, to the extent allowed by law, the purchase of Single Interest Insurance which may provide coverage only for Beneficiary); that all sums paid for insurance premiums by Beneficiary, as aforesaid, shall bear interest from the dates of such payments at the prematurity interest rate contracted for in the Note hereby secured, and shall be paid by Grantors to Beneficiary upon demand, at the same place at which the above-described Note is payable, and shall be deemed a part of the debt hereby secured and recoverable as such in all respects.

Grantors expressly agree annually to furnish Beneficiary validated receipts evidencing payment of all taxes assessed against, and insurance covering, the said Property. Such tax receipts shall be furnished on or before fifteen (15) days prior to the date such taxes become delinquent. The insurance receipt shall be furnished on or before ten (10) days prior to the date the current insurance coverage expires. If Grantors should fail to furnish such receipts, Beneficiary may require Grantors to deposit monthly with Beneficiary on the payment dates specified in the Note hereby secured in addition to the monthly payment of principal and interest provided in the Note hereby secured a sum equal to 1/12 of the estimated annual taxes and insurance premiums covering such Property, such estimates to be made by Beneficiary. Beneficiary shall hold such deposits, without bond and without accrual of interest thereon, to pay taxes and insurance premiums as they become due, until the indebtedness secured hereby is fully paid and the balance delivered to Grantors.

following a default hereunder and the expiration of any applicable notice and cure period *MS*
Subject to applicable law and notwithstanding the preceding paragraph, at Beneficiary's option, and in its sole discretion, Beneficiary may require Grantors to pay Beneficiary on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for (a) yearly taxes and assessments which may attain priority over the lien of this Deed Of Trust as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Grantors to Beneficiary, in accordance with the preceding paragraph, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items". Beneficiary may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Grantor's escrow account under the Federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. Section 2601, et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Beneficiary may, at any time, collect and hold Funds in any amount not to exceed the lesser amount. Beneficiary may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Beneficiary, if Beneficiary is such an institution) or in any Federal Home Loan Bank. Beneficiary shall apply the Funds to pay the Escrow Items. Beneficiary may not charge Grantors for holding and applying the Funds, annually analyzing the escrow account, or

verifying the Escrow Items, unless Beneficiary pays Borrower interest on the Funds and applicable law permits Beneficiary to make such a charge. However, Beneficiary may require Grantors to pay a one-time charge for an independent real estate tax reporting service used by Beneficiary in connection with this loan, unless applicable law provides otherwise. Unless agreement is made or applicable law requires interest to be paid, Beneficiary shall not be required to pay Grantors any interest or earnings on the Funds. Grantors and Beneficiary may agree in writing, however, that interest shall be paid on the Funds. If required by law, Beneficiary shall give to Grantors, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Deed Of Trust.

If the Funds held by Beneficiary exceed the amounts permitted to be held by applicable law, Beneficiary shall account to Grantors for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Beneficiary at any time is not sufficient to pay the Escrow Items when due, Beneficiary may so notify Grantors in writing, and, in such case Grantors shall pay to Beneficiary the amount necessary to make up the deficiency. Grantors shall make up the deficiency in no more than twelve (12) monthly payments, at Beneficiary's sole discretion.

Upon payment in full of all sums secured by this Deed Of Trust, Beneficiary shall promptly refund to Grantors any Funds held by Beneficiary. If, under foreclosure proceedings, Beneficiary shall acquire or sell the Property, Beneficiary upon the acquisition or sale of the Property, shall apply any Funds held by Beneficiary at the time of the acquisition or sale as a credit against the sums secured by this Deed Of Trust.

Grantors shall not impose, or permit to be imposed, any restrictive covenants upon the Property herein described or execute or file, or permit to be filed, any subdivision plat or condominium declaration or other instrument affecting said Property without the prior written consent of Beneficiary.

All agreements between any of the parties hereto are hereby limited by these provisions which shall override all such agreements, whether now existing or thereafter arising. If from a construction of any document related to any transaction between Bank, Grantors and/or any other person or entity executing this Deed Of Trust, any term(s) or provision(s) of any document is in conflict with applicable law, such document shall be automatically reformed and modified as to comply with applicable law, without the necessity of execution of any amendment or new document.

That in the event of default in the payment of any installment, principal or interest, or of a late charge, of the Note hereby secured, or in the payment, when due, of any other indebtedness secured hereby, in accordance with the terms thereof, or of a breach of any of the covenants herein contained to be performed by Grantors then and in any of such events Beneficiary shall, at Beneficiary's option, GRANTORS HEREBY EXPRESSLY WAIVE NOTICES OF NON-PAYMENT, PRESENTMENT FOR PAYMENT, PRESENTATIONS/DEMANDS FOR PAYMENT, NOTICES OF INTENTION TO ACCELERATE MATURITY, NOTICES OF ACTUAL ACCELERATION OF MATURITY, PROTESTS, AND NOTICES OF PROTEST, accelerate the maturity of the Note(s) hereby secured and the entire outstanding and unpaid principal indebtedness hereby secured together with all accrued and unpaid interest thereon, all accrued and unpaid late charges, fees and other sums shall thereby become immediately due and payable, and in the event of default in the payment of said indebtedness when due or declared due, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or his successor or substitute as hereinafter provided, at the request of Beneficiary (which request is hereby conclusively presumed), to enforce this trust; and after advertising the time, place and terms of the sale of the above described and conveyed Property, then subject to the lien hereof, for at least twenty-one (21) days preceding the date of sale by posting written or printed notice thereof at the County Courthouse and by filing a copy of such notice in the office of the County Clerk of the county where said Property is situated, which notice may be posted by the Trustee acting, or by any person acting for him, and the Beneficiary (the holder of the indebtedness secured hereby) has, at least twenty-one (21) days preceding the date of sale, served written or printed notice of the proposed sale by certified mail on each person and/or entity(s) obligated to pay the indebtedness secured by this Deed Of Trust according to the records of Beneficiary by the deposit of such notice, enclosed in a postpaid wrapper, properly addressed to such person(s) and/or entity(s) at such person's and/or entity(s) most recent address as shown by the records of Beneficiary, in a post office or official depository under the care and custody of the United States Postal Service, the Trustee shall sell the above described property, then subject to the lien hereof, at public auction in accordance with such notice at the Courthouse of said county where such Property is situated (provided where said Property is situated in more than one county, the notice to be posted as herein provided shall be posted at the Courthouse of each of such counties, and filed with the County Clerk of each of such counties where said Property is situated, and said above described and conveyed Property may be sold at the Courthouse of any one of such counties, and the notices so posted and filed shall designate the county where the Property will be sold), on the first Tuesday in any month between the hours of ten o'clock A.M. and four o'clock P.M., to the highest bidder for cash, selling all of the Property as an entirety or in such parcels as the Trustee acting may elect and make due conveyance to the Purchaser or Purchasers, with general warranty binding Grantors, their heirs and assigns; and of the money arising from such sale, the Trustee acting shall pay first, all the expenses of advertising the sale and making the conveyance, including a reasonable commission to himself, which commission shall be due and owing in addition to the attorney's fees provided for in said Note, and then to Beneficiary the full amount of principal, interest, attorney's fees and late charges due and unpaid on said Note and all other indebtedness secured hereby, rendering the balance of the sales price, if any, to Grantors, their heirs or assigns; and the recitals in the conveyance to the Purchaser or Purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against Grantors, their heirs and assigns. (subject to Permitted Exceptions) *218*

Beneficiary may remedy any default, without waiving same, or may waive any default without waiving any prior or subsequent default.

It is agreed that in the event a foreclosure hereunder should be commenced by the Trustee, or his substitute or successor, Beneficiary may at any time before the sale of said Property direct the said Trustee to abandon the sale, and may then institute suit for the collection of said Note, and for the foreclosure of this Deed Of Trust lien; it is further agreed that if the Beneficiary should institute a suit for the collection thereof, and for a foreclosure of this Deed Of Trust lien, that he may at any time before the entry of a final judgment in said suit dismiss same and require the Trustee, his substitute or successor, to sell the Property in accordance with the provisions of this Deed Of Trust.

Beneficiary shall have the right to purchase at any sale of the Property, being the highest bidder, and to have the amount for which such Property is sold credited on the debt secured hereby.

Beneficiary, in any event, is hereby authorized to appoint a substitute trustee, or a successor trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee; and the authority hereby conferred

shall extend to the appointment of other successor and substitute trustees successively until the indebtedness hereby secured has been paid in full, or until said Property is sold hereunder, and each substitute and successor trustee shall succeed to all the rights and powers of the original trustee named herein.

In the event any sale is made of the above described Property, or any portion thereof, under the terms of this Deed Of Trust, Grantors, their heirs and assigns, shall forthwith upon making of such sale surrender and deliver possession of the Property so sold to the Purchaser at such sale, and in the event of their failure to do so they shall thereupon from and after the making of such sale be and continue as tenants at will of such Purchaser, and in the event of their failure to surrender possession of said Property upon demand, the Purchaser, his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said Property in the Justice of the Peace Court in the Justice Precinct in which such Property, or any part thereof, is situated.

Grantors agree that any resale by Beneficiary of the Property described in this Deed Of Trust after foreclosure may be made for a price below the fair market value (i.e. at wholesale) and that Beneficiary is not required to re-sell the Property for a price equal to or above fair market value (i.e. retail). Grantors agree that the sales price obtained by Beneficiary at any such resale will not be used in determining the fair market value of the Property for the purposes of determining value under Section 51.003 of the Texas Property Code.

To the greatest extent permitted by law, Grantors hereby waive all rights and remedies created under Section 51.003 of the Texas Property Code including, without limitation, the right introduce evidence of the amount of the sales price of the Property sold by Beneficiary following any foreclosure of the liens pursuant to the terms of this Deed Of Trust.

It is agreed that the lien hereby created shall take precedence over and be a prior lien to any other lien of any character whether vendor's, materialmen's, or mechanic's lien hereafter created on the above described Property, and in the event the proceeds of the indebtedness secured hereby as set forth herein are used to pay off and satisfy any liens heretofore existing on said Property, then Beneficiary is, and shall be, subrogated to all of the rights, liens and remedies of the holders of the indebtedness so paid.

It is further agreed that if Grantors, their heirs or assigns, while the owner of the hereinabove described property, should commit an act of bankruptcy, or authorize the filing of a voluntary petition in bankruptcy, or should an act of bankruptcy be committed and involuntary proceedings instituted or threatened, or should the Property hereinabove described be taken over by a Receiver for Grantors, their heirs or assigns, the Note hereinabove described may, at the option of Beneficiary, immediately become due and payable, and the acting Trustee may then proceed to sell same under the provisions of this Deed Of Trust.

and not be stayed or dismissed within ninety (90) days

Grantors hereby transfer and assign unto Beneficiary, to be applied on the debt secured hereby: (a) all eminent domain or condemnation award moneys which may hereafter be awarded or paid for the condemnation of the hereinabove described Property, or any part thereof or for any portion of the premises which may be appropriate for any public or quasi-public use, or by virtue of private sale in lieu thereof and any sums which may be awarded or become payable to Grantors for damages caused by public works or construction on or near the Property; (b) all the bonuses, rents, royalties, damages and delay moneys that may be due or that may hereafter become due and payable to the Grantors or their assigns under any oil, gas, mining or mineral lease or leases of any kind now existing, or which may hereafter come into existence (including agricultural and/or hunting contracts of every kind) covering the above-described Property or any part thereof; (c) all proceeds from the sale of crops grown on the Property, as well as all pasturage and/or grazing or hunting fees. Grantors authorize and direct payment of such money to said Beneficiary until the debt secured hereby is paid. Such money may, at the option of the Beneficiary, be applied on the debt whether due or not. The Beneficiary shall not be obligated, in any manner to collect said moneys or any part thereof, and shall be responsible only for amounts received by the Beneficiary. Nothing herein contained shall be construed as a waiver or prejudice to the priority of this lien or the options hereunder in favor of said Beneficiary.

Insert 2.

It is agreed that an extension, or extensions, may be made as to the time of payment of all, or part, of the indebtedness secured hereby, and that any part of the above described Property may be released from this lien without altering or affecting the priority of the lien created by this Deed Of Trust in favor of any junior encumbrance, mortgagee or purchaser, or any person acquiring an interest in the Property hereby conveyed, or any part thereof; it being the intention of the parties hereto to preserve this lien on the Property herein described and all improvements thereon, and that may be hereafter constructed thereon, first and superior to any liens that may be placed thereon, or that may be fixed, given or imposed by law thereon after the execution of this instrument notwithstanding any such extension of the time of payment, or the release of a portion of said Property from this lien.

In the event any portion of the indebtedness hereinabove described cannot be lawfully secured by this Deed Of Trust lien on said Property, it is agreed that the first payments made on said indebtedness shall be applied to the discharge of that portion of said indebtedness.

Nothing contained herein or in the Note shall ever entitle Beneficiary, upon the arising of any contingency whatsoever, to receive or collect interest in excess of the highest rate allowed by the laws of the State of Texas or to the extent Federal Law permits a greater rate, then such greater rate, on the principal indebtedness hereby secured or on any money obligation hereunder and in no event shall Grantors be obligated to pay interest thereon in excess of such rate.

If this Deed Of Trust is executed by only one person or by a corporation, the plural reference to Grantors shall be held to include the singular and all of the covenants and agreements herein undertaken to be performed by and the rights conferred upon the respective Grantors name herein, shall be binding upon and inure to the benefit of not only said parties respectively but also their respective heirs, executors, administrators, grantees, successors and assigns.

In the event that the hereinabove described Property is sold, conveyed, or otherwise disposed of without the prior written consent of the Beneficiary, the maturity of the outstanding and unpaid principal, all accrued and unpaid interest, all accrued and unpaid late charges, and other fees and/or charges arising out of said Note or hereunder may, at the option of the Beneficiary, be accelerated and the Beneficiary may immediately demand payment of the then outstanding and unpaid principal sum, together with all accrued and unpaid interest due thereon, and all accrued and unpaid late charges, and other fees and/or charges then due and owing.

In the event Grantors should seek a temporary restraining order or an injunction or other legal action, be it temporary or permanent, to prevent, hinder or delay the exercise by Beneficiary of its rights and remedies under this Deed Of Trust, including, without limitation, its foreclosure rights, upon the occurrence of as default, as herein provided, then Grantors agree to pay and/or reimburse Beneficiary for all costs and expenses, including its reasonable and necessary attorney's fees, incurred by Beneficiary in connection with its

defense, appearance and/or other action taken by Beneficiary with respect thereto, such payment and/or reimbursement to be made whether or not Beneficiary is the prevailing party in any such injunction or temporary restraining order or legal or arbitration proceeding. Grantors agree to contact, in writing, Dennis E. Nixon, prior to the institution of any such legal or arbitration proceedings so as to permit Beneficiary the opportunity to appear and defend itself.

It shall be an event of default under this Deed Of Trust should Grantors, or any of them or any guarantor, fail to timely deliver any and all financial statements, income tax returns, inventory reports, cash flow information, accounts receivable reports, or any other business, tax or financial information requested by Beneficiary.

Grantors hereby grant Beneficiary the right to protest any and all ad valorem taxes and special assessments made against the Property covered by this Deed Of Trust. In that regard, Grantors shall deliver to Beneficiary a true and correct copy, when received, of all tax assessments, valuations, re-appraisals and other notices received by Grantors from all tax authorities. Beneficiary shall have the right to appear in all tax proceedings and file appeals concerning taxes affecting the Property or any portion thereof.

Grantors expressly represent that this Deed Of Trust and the Note hereby secured are given for the following purpose, to-wit:

renovation of shopping center

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To the extent allowed by law, this conveyance is also made in trust to secure and enforce the payment of any and all other indebtedness of Grantors to Beneficiary presently existing or which may in any manner or means hereafter be incurred or created by Grantors, which other or future indebtedness Grantors acknowledge to be currently contemplated by Grantors and evidenced in any manner whatsoever, including without limitation:

- A. any commercial loan or indebtedness;
- B. any credit card or other consumer type of loan;
- C. any indebtedness relating to checking or savings accounts (overdrafts, fees, etc.);
- D. any expenses incurred in the protection or maintenance of the collateral securing any of such liabilities, loans, and obligations;
- E. any expenses incurred in the collection of any indebtedness and/or obligation of the Grantors to Lender whether arising out of this agreement or otherwise;
- F. any letters of credit and/or indebtedness arising out of, or advanced to pay, letters of credit transactions;
- G. any indebtedness, however evidenced, whether by promissory note, bookkeeping entry, electronic transfer or by any other manner or form;
- H. any other indebtedness of Grantors to any financial institution affiliated with International Bancshares Corporation, jointly and/or severally, and in any capacity, whether as maker, guarantor, or otherwise, now or hereafter owing and regardless of how evidenced or arising; and
- I. any and all extensions, modifications, substitutions and/or renewals of any of such indebtedness.

To the extent allowed by law, for purposes hereof it is intended that the indebtedness include all classes of indebtedness, whether evidenced by notes, open accounts, overdraft, or otherwise, and whether direct, indirect or contingent, regardless of class, form or purpose and including but not limited to, loans for consumer, agricultural, business or personal purposes. The indebtedness does not include amounts owing pursuant to a homestead loan, homestead equity loan and/or home equity line of credit.

It being expressly agreed and understood that any and all sums now owed to or hereafter advanced by Beneficiary to Grantors shall be payable at the main offices of Beneficiary at 5615 Kirby Dr., Houston, Harris County, Texas 77005, and shall bear interest as may be provided in such notes or other evidences of indebtedness given by Grantors to Beneficiary; and this instrument is also executed for the purpose of securing and enforcing the payment of any renewal, extension and/or modification of any note or of any part of the said indebtedness of Grantors and including any further loans and advancements made by Beneficiary to Grantors. Repayment of all indebtedness of Grantors to Beneficiary shall not terminate this Deed Of Trust unless the same be so released by Beneficiary at the request of Grantors, but otherwise it shall remain in full force and effect to secure all future advances and indebtedness, regardless of any additional security that may be taken as to any past or future indebtedness, and shall be unaffected by any renewals, extensions or partial releases hereunder.

GRANTORS WILL NEITHER CREATE NOR PERMIT ANY JUNIOR OR SUBSEQUENT LIEN OR ENCUMBRANCE AGAINST THE PROPERTY WITHOUT PRIOR WRITTEN CONSENT OF BENEFICIARY. Insert 3.

Applicable to Prior Liens. If this Deed Of Trust is or becomes subordinate to any other liens, security interests, assignments of leases or rents or any other encumbrances (collectively, the "Prior Liens") affecting any of the Property, all documents creating the Prior Liens and evidencing and governing the indebtedness secured shall be collectively called the "Prior Lien Documents" and this section shall

apply. Grantors shall not enter into any renewal, extension, modification, increase or refinancing of any of the Prior Lien Documents or the indebtedness secured thereby without prior written consent of Beneficiary. Grantors shall pay when due all indebtedness evidenced and secured by the Prior Lien Documents and shall timely perform all other obligations of the Grantors under the Prior Lien Documents. Beneficiary may, but shall not be obligated to, pay any such indebtedness or perform any such obligations for the account of Grantors and any sum so expended shall be secured hereby. Grantors shall pay to Beneficiary all amounts so expended by Beneficiary with interest on such amounts from the date and at the rate set forth in the Note, but not in excess of the highest rate permitted by applicable law. Beneficiary's cure of any default under any of the Prior Lien Documents shall not constitute a cure of the default under this Deed Of Trust. Grantors shall send to Beneficiary a copy of each notice of default or notice of acceleration or other notice received by Grantors from the holder of any of the Prior Lien Documents within one (1) business day after receipt thereof by Grantors. Notwithstanding the foregoing, Beneficiary does not consent to any Prior Lien unless otherwise expressly permitted in this Deed Of Trust.

Security Agreement/Financing Statement. This Deed Of Trust lien shall cover all property now or hereafter affixed or attached or incorporated into the Property, described herein and now or hereafter owned by Grantors in which Grantors now or hereafter have an interest which, to the fullest extent permitted by law, shall be deemed fixtures and part of the Property. In addition, this Deed Of Trust lien shall cover, and Grantors to the extent of any present or hereafter created rights of Grantors in such Property hereby grant to Beneficiary, a security interest in (i) all building materials, fixtures, equipment and other personal property, to be incorporated into any improvements constructed on the premises; (ii) all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings and other personal property which are now or may hereafter be appropriated for use on (whether such items are stored on the premises or elsewhere), located on or used in connection with the premises; (iii) all rents, issues and profits, proceeds, profits, renewals, income or other benefit derived from the payments received for lodging from interests and/or materials, and all inventory, accounts, accounts receivable, contract rights, general intangibles, intellectual property, chattel paper, instruments, documents, permits, plans, specifications, drawings, governmental approvals, notes, drafts, letters of credit, indebtedness arising from and/or to pay an advance on letters of credit, accounts due from credit, debit and/or charge card companies, insurance policies, insurance condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the premises and any business conducted on the premises by Grantors; and (iv) all replacements and substitutions for or additions to, all products and proceeds of, and all books, records and files relating to any of the foregoing. To the extent any property covered by this Deed Of Trust lien consists of rights in action or personal property covered by the Texas Business And Commerce Code, this Deed Of Trust lien constitutes a security agreement and is intended to create a security interest in such property in favor of Beneficiary. This Deed Of Trust shall be self-operative with respect to such property, and in the event of default and/or acceleration of the indebtedness hereby secured, Grantors expressly grant to Beneficiary the right to enter upon the Property where the collateral is located for the purpose of enforcing its right to such collateral, and Grantors agree to execute and deliver, on demand, such security agreements, financing statements and other instruments as Beneficiary may request in order to impose the lien hereof made more specifically upon any of such property. If the lien of this Deed Of Trust on any property shall be subject to prior security agreement covering such property, then in the event of any default hereunder, all the rights, title and interest of Grantors in and to any and all deposits made in connection with the transaction whereby such prior security agreement was made are hereby presently assigned to Beneficiary, together with the benefit of any payments now or hereafter made in connection with such transaction.

Financing Statements. In addition to Beneficiary's other rights set forth in this Deed Of Trust, Beneficiary shall have all rights of a secured party under the Texas Business And Commerce Code (the "Code"). At Beneficiary's request, Grantors shall execute and deliver to Beneficiary all financing statements that may be required by Beneficiary to establish and maintain the validity and priority of Beneficiary's security interest, and Grantors shall bear all costs thereof, including all searches reasonably required by Beneficiary. If Beneficiary should dispose of any of the property covered by the security interest created under this Deed Of Trust pursuant to the Code, ten (10) days written notice by Beneficiary to Grantors shall be deemed to be reasonable notice; provided however, Beneficiary may dispose of such property in accordance with the foreclosure procedures of this Deed Of Trust in lieu of proceeding under the Code.

- (i) Grantors hereby authorize Beneficiary to file a Financing Statement, an Amended Financing Statement and a Continuation Financing Statement (collectively referred to as the "Financing Statement") describing the Collateral.
- (ii) Grantors hereby authorize Beneficiary to file a Financing Statement describing any agricultural liens or other statutory liens held by Beneficiary.
- (iii) Grantors shall receive prior to the Closing an official report from the Secretary of State of each Collateral State, the Chief Executive Office State, and the Debtor State (each as defined below) (the "SOS Reports") indicating that Beneficiary's security interest is prior to all other security interests or other interests reflected in the report.
- (iv) Beneficiary shall receive at any time following the Closing an SOS Report indicating that Beneficiary's security interest is prior to all other security interests or other interests reflected in the report.

Beneficiary may sell, lease, or otherwise dispose of any of the personal property in accord with the rights, remedies, and duties of a Beneficiary under Chapters 2 and 9 of the Texas Business And Commerce Code after giving notice as required by those chapters; unless the Collateral threatens to decline rapidly in value, is perishable, or would typically be sold on a recognized market, Beneficiary will give Grantors reasonable notice of any public sale of the Collateral or of a time after which it may be otherwise disposed of without further notice to Grantors; in this event, notice will be deemed reasonable if it is mailed, postage prepaid, to Grantors at the address specified in this agreement at least ten days before any public sale or ten days before the time when the Collateral may be otherwise disposed of without further notice to Grantors. Grantors authorize Beneficiary to disclaim or modify any and all warranties set forth in Section 9.610(d) of the Texas Business And Commerce Code and stipulate and agree that such a disclaimer and/or modification will not render the sale commercially unreasonable. Beneficiary may retain all or part of the Collateral in full and/or partial satisfaction of the Indebtedness pursuant to Section 9.620 of Texas Business And Commerce Code.

Without providing Beneficiary with at least thirty (30) days prior written notice of Grantors' intention to do so, Grantors, until the indebtedness is paid in full, agree that they will not:

- a. in one transaction or a series of related transactions, merge into or consolidate with any other entity, sell all or substantially all of its assets, or in any way jeopardize its corporate existence,
- b. change the state of its incorporation,
- c. change its corporate name,

- d. change the address and/or location of its Chief Executive Office
- e. file a UCC-1 Amendment form, and/or
- f. file a UCC-1 Termination form.

Grantors shall give advance notice in writing to Beneficiary of any proposed change in Grantors' name, identity, or structure and shall execute and deliver to Beneficiary, prior to or concurrently with the occurrence of any such change, all additional financing statements that Beneficiary may require to establish and maintain the validity and priority of Beneficiary's security interest with respect to any of the property described or referred to herein.

Grantors expressly represent that the Property hereinabove mentioned and conveyed to the Trustee forms no part of any property owned, used or claimed by Grantors as exempted from forced sale under the law of the State of Texas as either personal or business homestead, and Grantors renounce all and every claim thereto under any such law or laws and hereby expressly designate as their homestead, personal and business, and as constituting all the property owned, used or claimed by them as exempt either as personal and/or business under such laws the following described property:

2701 Westheimer Road, Suite 13N, Houston, Harris County, Texas.
(Personal And Business Homestead)

Assignments of Rents, Profits, etc. All of the rents, royalties, bonuses, issues, contracts for deed, proceeds, profits, revenue, income and any other benefit derived from the Property and improvements thereto, or arising from the use or enjoyment of any portion thereof or from any lease or agreement pertaining thereto and liquidated damages following default under such leases, and all proceeds payable under any policy of insurance covering loss of rents or caused by damage to any part of the Property, together with any and all rights that Grantors may have against any tenant with any and all rights that Grantors may have against any tenant under such leases or any subtenants or occupants of any part of the Property (hereinafter called the "Rents"), are hereby absolutely and unconditionally assigned to Beneficiary. Prior to a default in payment by Grantors of any portion of the indebtedness secured by this Deed Of Trust (the "Indebtedness") or breach of any covenant, representation or warranty made herein by Grantors (collectively, an "Event of Default"), Grantors shall have a license to collect and receive all Rents as Trustee for the benefit of Beneficiary and Grantors, and Grantors shall apply the funds so collected first to the payment of the Indebtedness in such manner as Beneficiary elects and thereafter to the account of Grantors. The foregoing assignment is intended to be absolute, unconditional and presently effective. It shall never be necessary for Beneficiary to institute legal proceedings of any kind to enforce the terms of this assignment.

Assignment of Leases. Grantors hereby assign to Beneficiary all existing and future leases, including subleases thereof, and any and all extensions, renewals, modifications, and replacements thereof, upon any part of the Property (the "Leases"). Grantors hereby further assign to Beneficiary all guaranties of tenants' performance under the Leases. Prior to an Event of Default, Grantors shall have the right, without joinder of Beneficiary, to enforce the Leases, unless Beneficiary directs otherwise.

Warranties Concerning Leases and Rents. Grantors represent and warrant that: (a) Grantors have good title to the Leases and Rents hereby assigned and authority to assign them, and no other person or entity has any right, title or interest therein; (b) all existing Leases are valid, unmodified and in full force and effect, except as indicated herein, and no default exists thereunder; (c) unless otherwise provided herein, no Rents have been or will be assigned, mortgaged or pledged; (d) no Rents have been or will be anticipated, waived, released, discounted, set-off or compromised; and (e) Grantors have not received any funds or deposits from any tenant for which credit has not already been made on account of accrued Rents.

Grantor's Covenants of Performance as to Leases. Grantors covenant to: (a) perform all of their obligations under the Leases and give prompt notice to Beneficiary of any failure to do so; (b) give immediate notice to Beneficiary of any notice Grantors received from any tenant or subtenant under any leases, specifying any claimed default by any party under such Leases, excluding, however, notice of defaults under residential leases; (c) enforce the tenant's obligations under the Leases; (d) defend, at Grantor's expense, any proceeding pertaining to the Leases, including, if Beneficiary so requests, any such proceeding to which Beneficiary is a party; and (e) neither create nor permit any encumbrance upon its interest as lessor of the Leases, except this Deed Of Trust and any other encumbrances permitted by this Deed Of Trust.

Prior Approval for Action Affecting Leases. Grantors shall not, without the prior written consent of Beneficiary, receive or collect Rents more than one month in advance, encumber or assign future Rents, waive or release any obligations of any tenant under the Leases, cancel, terminate or modify any of the Leases, cause or permit any cancellation, termination or surrender of any of the Leases, or commence any proceedings for dispossession of any tenant under any of the Leases, except upon default by the tenant thereunder, or permit any assignment of the Leases whereby a tenant is released from its obligation.

Rejection of Leases in Bankruptcy. Grantors agree that no settlement for damages for termination of any of the Leases under the Federal Bankruptcy Code, or under any other federal, state, or local statute, shall be made without the prior written consent of Beneficiary, and any check in payment of such damages shall be made payable to both Grantors and Beneficiary. Grantors hereby assign any such payment to Beneficiary, to be applied to the Indebtedness as Beneficiary may elect, and agree to endorse any check for such payment to the order of Beneficiary.

Beneficiary's Rights. Beneficiary's acceptance of this assignment shall not, prior to, upon, or after entry upon and taking possession of the Property by Beneficiary or any foreclosure of the lien hereunder or conveyance of the Property herein described in lieu thereof, be deemed to constitute Beneficiary as a "mortgagee in possession", nor obligate Beneficiary to appear in or defend any proceeding relating to any of the Leases or to the Property, take any action hereunder, expend any money, incur any expenses or perform any obligation or liability under the Leases, or assume any obligation or liability under the Leases, or assume any obligation including security deposits. Beneficiary shall not be liable for any injury or damage to any person or property in or about the Property. Beneficiary shall not be obligated to perform, satisfy, or otherwise adhere to any terms of any of the Leases or any covenant of Grantors to any tenant unless Beneficiary agrees to do so, in writing, executed by Beneficiary, which Beneficiary may elect not to do so, in its sole and absolute discretion.

Appointment of Attorney-In-Fact. Grantors hereby appoint Beneficiary its attorney-in-fact, coupled with an interest, empowering Beneficiary to subordinate any Leases to this Deed Of Trust.

Indemnification. Grantors hereby indemnify and hold Beneficiary harmless from all liability, damage, or expense incurred by

~~Beneficiary from any claims under the Leases, including, without limitation, claims by tenants for security deposits or for rental payments more than one (1) month in advance and not delivered to Beneficiary. All amounts indemnified hereunder, including reasonable attorney's fees, if paid by Beneficiary shall bear interest at the maximum lawful rate and shall be payable by Grantors immediately without demand and shall be secured hereby.~~

~~Records, Etc. Upon request by Beneficiary, Grantors shall deliver to Beneficiary executed originals of all Leases and copies of all records relating thereto. There shall be no merger of the leasehold estates, created by the Leases, with the fee estate of the Mortgaged Property without the prior written consent of Beneficiary. Upon default, Grantors hereby authorize and direct the tenants under the Leases to pay Rents to Beneficiary upon written demand by Beneficiary, without further consent of Grantors, and the tenants may rely upon any written statement delivered by Beneficiary to the tenants. Any such payment to Beneficiary shall constitute payment to Grantors under the Leases.~~

Fixtures. Some of the items on the Property are goods that are or are to become fixtures related to said Property, and it is intended that, as to those goods, this Deed Of Trust shall be effective as a financing statement filed as a fixture filing from the date of its filing of record in the real estate records of the county in which the Property is situated. Information concerning the security interest created by this instrument may be obtained from Beneficiary, as secured party, at the address of Beneficiary set forth elsewhere in this Deed Of Trust. The mailing address of the Grantors, as Debtor, is as stated herein.

Environmental Compliance. Grantors' use of the Property will at all times comply with all laws, statutes, ordinances, rules and regulations ("Laws") of any governmental, quasi-governmental or regulatory authority which relate to the transportation, storage, placement, handling, treatment, discharge, generation, production, removal or disposal (collectively, "Treatment") of any waste, petroleum product (including, without limitation, gasoline and diesel fuel), waste products, poly-chlorinated biphenyl, asbestos hazardous materials, and/or any other substance, the Treatment of which is regulated by any laws (collectively, "Waste"). Grantors will comply with all Laws regarding underground storage tanks used to hold gasoline, diesel fuel, or any other petroleum products on the Property.

To the best of Grantors' ^{actual} knowledge, no Waste is not located on the Property, and neither Grantors nor, to the best of Grantors' knowledge, any other person has ever caused or permitted any Treatment of any Waste on, under or at the Property or any part thereof, and to the best of Grantors' knowledge, no property adjoining the Property is being used, or has ever been used at any previous time for the Treatment of Waste.

To the best of Grantors' ^{actual} knowledge, no investigation, administrative order, consent order and agreement, litigation or settlement, with respect to Waste or the Treatment of Waste is proposed, threatened, anticipated or in existence with respect to the Property. The Property is not currently on, and to Grantors' knowledge, after diligent investigation and inquiry, has never been on, any federal or state "Superfund" or "Superlien" list.

Grantors agree to (a) give notice to Beneficiary immediately upon Grantors acquiring knowledge of any Waste on the Property with a full description thereof; (b) promptly comply with any laws applicable to Grantors or the Property requiring the removal, treatment or disposal of such Waste and provide Beneficiary with satisfactory evidence with such compliance; and (c) provide Beneficiary within thirty (30) days after demand by Beneficiary with a bond, letter of credit or similar financial assurance evidencing to Beneficiary's satisfaction that the necessary funds are available to pay the cost of removing, treating and disposing of such Waste and discharging of any assessments that may be established on the Property as a result thereof.

Any environmental spill, discharge or other event upon or adjacent to the Property which Beneficiary determines materially and adversely affects the value and/or use of the Property shall be an Event of Default under this Deed Of Trust and the Note and all other indebtedness secured hereby, and cannot be remediated in accordance with the requirements of applicable law in a time and manner reasonably acceptable to Beneficiary.

Grantors agree to perform an asbestos survey and obtain a permit, and to provide a copy of said survey to Beneficiary, prior to commencing any renovation and/or demolition of a public or commercial building. Grantors further agree to comply with all other state and federal statutes and/or regulations regarding asbestos and asbestos removal.

Site Assessments. Beneficiary (by its officers, employees and agents) at any time and from time to time, either prior to or after the occurrence of any default, may contract for the services of any person or firm ("Site Reviewers") to perform environmental site assessments ("Site Assessments") on the Property for the purposes of determining whether there exists on the Property any environmental condition which could reasonably be expected to result in any liability, cost or expense to the owner, occupier or operator of such Property arising under any Laws relating to Waste or the Treatment of Waste. The Site Assessments may be performed at any time or times, upon reasonable notice, and under reasonable conditions established by Grantors which do not impede the performance of the Site Assessments. Grantors agree that any Site Assessment shall be for the sole and exclusive use, benefit and reliance of Beneficiary in assessing the value of its security interest in the Property and will not be relied on by Grantors for any purpose. The Site Reviewers are hereby authorized to enter upon the Property for such purposes. The Site Reviewers are further authorized to perform above and below ground testing for environmental damage or the presence of waste on the Property and such other tests on the Property as may be necessary to conduct the Site Assessments in the reasonable opinion of the Site Reviewers. Grantors will supply to the Site Reviewers such historical and operational information regarding the Property as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and will be available for meetings with Site Reviewers if requested. The cost of performing such Site Assessments shall be paid by Grantors upon demand of Beneficiary and any such expenses borne by Beneficiary not immediately reimbursed by Grantors shall be secured by this Deed Of Trust.

Indemnification. Whether or not any Site Assessments are conducted, and regardless of whether or not a default occurs under this Deed Of Trust or under the Note or under any other indebtedness secured hereby and regardless of whether any remedies in respect of the Property are exercised by Beneficiary, Grantors will defend, indemnify and hold harmless Beneficiary and Trustee from any and all liabilities (including strict liability), actions, demands, penalties, losses, costs or expenses (including, without limitation, attorneys fees and expenses, and remedial costs), suit costs of any settlement or judgment and claims of any and every kind whatsoever which may now or in the future (whether before or after the release or foreclosure of this Deed Of Trust) be paid, incurred or suffered by or asserted against Beneficiary or Trustee by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from, on or affecting the Property of any waste or any spill, or which arise out of or result from the environmental condition of the Property or the applicability of any laws relating to the waste (including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., as arises from time to

time, or any federal, state or local so-called "Superfund" or "Superlien" law, statute, law, ordinance, code, rule, regulation, order or decree), regardless of whether or not caused by or within the control of Grantors, Beneficiary or Trustee. The representations, covenants, warranties an indemnification herein contained shall survive the release and/or judicially or non-judicial foreclosure (or transfer in lieu thereof) of the lien of this Deed Of Trust. For the purpose of this paragraph and notwithstanding any other provision contained herein to the contrary, the term "Grantors" shall refer not only to the Grantors not only to the Grantors named herein, but also to all other person who may hereafter assume to the Note and the obligations of this Deed Of Trust.

ARBITRATION.

GRANTORS, BENEFICIARY AND TRUSTEE FURTHER AGREE AS FOLLOWS:

I. CONSUMER-RELATED CLAIMS OF \$75,000.00 OR LESS IN ACTUAL DAMAGES:

(a) WITH REGARD TO ALL CONSUMER-RELATED CLAIMS OF \$75,000.00 OR LESS IN ACTUAL DAMAGES, ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF THIS CONTRACT, ITS NEGOTIATION AND/OR THE BREACH THEREOF, SHALL BE SETTLED BY ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS SUPPLEMENTAL PROCEDURES FOR RESOLUTION OF CONSUMER-RELATED DISPUTES AND CONSUMER DUE PROCESS PROTOCOL (WHICH ARE INCORPORATED HEREIN FOR ALL PURPOSES), AND JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. IT IS INTENDED BY ALL PARTIES THAT THIS ARBITRATION CLAUSE MEET AND INCLUDE ALL FAIRNESS STANDARDS AND PRINCIPLES OF THE AMERICAN ARBITRATION ASSOCIATION'S CONSUMER DUE PROCESS PROTOCOL AND DUE PROCESS IN PREDISPUTE ARBITRATION.

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(b) INSTEAD OF PROCEEDING IN ARBITRATION, ANY PARTY HERETO MAY PURSUE ITS CLAIM IN THE CONSUMER'S LOCAL SMALL CLAIMS COURT, IF THE CONSUMER-RELATED CLAIM MEETS THE SMALL CLAIMS COURT JURISDICTIONAL LIMITS. IF THE SMALL CLAIMS COURT OPTION IS CHOSEN, THE PARTY MUST CONTACT THE SMALL CLAIMS COURT DIRECTLY.

(c) THE PARTIES FURTHER AGREE THAT (i) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CERTIFIED AS A CLASS ACTION OR PROCEED AS A CLASS ACTION, OR ON A BASIS INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC, OTHER CUSTOMERS OR POTENTIAL CUSTOMERS OR PERSONS SIMILARLY SITUATED AND (ii) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CONSOLIDATED WITH, OR JOINED IN ANY WAY WITH, ANY OTHER ARBITRATION PROCEEDING.

(d) THIS ARBITRATION PROVISION SHALL SURVIVE ANY TERMINATION, AMENDMENT, OR EXPIRATION OF THE AGREEMENT IN WHICH THIS PROVISION IS CONTAINED, UNLESS ALL OF THE PARTIES OTHERWISE EXPRESSLY AGREE IN WRITING.

(e) THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT EVIDENCES A TRANSACTION INVOLVING INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT SHALL GOVERN THE INTERPRETATION, ENFORCEMENT, AND PROCEEDINGS PURSUANT TO THE ARBITRATION CLAUSE OF THIS AGREEMENT.

II. CONSUMER-RELATED CLAIMS ABOVE \$75,000.00 IN ACTUAL DAMAGES AND/OR COMMERCIAL CLAIMS:

(a) ANY ARBITRATION INVOLVING CONSUMER-RELATED CLAIMS ABOVE \$75,000.00 IN ACTUAL DAMAGES AND/OR COMMERCIAL CLAIMS HEREUNDER SHALL BE BEFORE AT LEAST THREE NEUTRAL ARBITRATORS ASSOCIATED WITH THE AMERICAN ARBITRATION ASSOCIATION AND SELECTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION. FAILURE OF ANY ARBITRATOR TO DISCLOSE ALL FACTS WHICH MIGHT TO AN OBJECTIVE OBSERVER CREATE A REASONABLE IMPRESSION OF THE ARBITRATOR'S PARTIALITY, AND/OR MATERIAL ERRORS OF LAW SHALL BE GROUNDS [IN ADDITION TO ALL OTHERS] FOR VACATUR OF AN AWARD RENDERED PURSUANT TO THIS AGREEMENT.

(b) THE PARTIES FURTHER AGREE THAT (i) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CERTIFIED AS A CLASS ACTION OR PROCEED AS A CLASS ACTION, OR ON A BASIS INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC, OTHER CUSTOMERS OR POTENTIAL CUSTOMERS OR PERSONS SIMILARLY SITUATED AND (ii) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CONSOLIDATED WITH, OR JOINED IN ANY WAY WITH, ANY OTHER ARBITRATION PROCEEDING.

(c) THIS ARBITRATION PROVISION SHALL SURVIVE ANY TERMINATION, AMENDMENT, OR EXPIRATION OF THE AGREEMENT IN WHICH THIS PROVISION IS CONTAINED, UNLESS ALL OF THE PARTIES OTHERWISE EXPRESSLY AGREE IN WRITING.

(d) THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT EVIDENCES A TRANSACTION INVOLVING INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT SHALL GOVERN THE INTERPRETATION, ENFORCEMENT, AND PROCEEDINGS PURSUANT TO THE ARBITRATION CLAUSE OF THIS AGREEMENT.

III. ADDITIONAL COMMERCIAL CLAIMS PROVISIONS:

(a) ANY AND ALL COMMERCIAL CONTROVERSIES BETWEEN THE PARTIES, SHALL BE RESOLVED BY ARBITRATION IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN EFFECT AT THE TIME OF FILING, UNLESS THE COMMERCIAL ARBITRATION RULES CONFLICT WITH THIS PROVISION, AND IN SUCH EVENT THE TERMS OF THIS PROVISION SHALL CONTROL TO THE EXTENT OF THE CONFLICT.

(b) THE AWARD OF THE ARBITRATORS, OR A MAJORITY OF THEM, SHALL BE FINAL, AND JUDGMENT UPON THE AWARD RENDERED MAY BE ENTERED IN ANY COURT, STATE OR FEDERAL, HAVING JURISDICTION. THE ARBITRATION AWARD SHALL BE IN WRITING AND SPECIFY THE FACTUAL AND LEGAL BASIS FOR THE AWARD. UPON THE REQUEST OF ANY PARTY, THE AWARD SHALL INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(c) ARBITRABLE DISPUTES INCLUDE ANY AND ALL CONTROVERSIES OR CLAIMS BETWEEN THE PARTIES OF WHATEVER TYPE OR MANNER, INCLUDING WITHOUT LIMITATION, ANY CLAIM ARISING OUT OF OR RELATING TO THIS DEED OF TRUST, ALL PAST, PRESENT AND/OR FUTURE CREDIT FACILITIES AND/OR AGREEMENTS INVOLVING THE PARTIES, ANY TRANSACTIONS BETWEEN OR INVOLVING THE PARTIES, AND/OR ANY ASPECT OF ANY PAST OR PRESENT RELATIONSHIP OF THE PARTIES, WHETHER BANKING OR OTHERWISE, SPECIFICALLY INCLUDING ANY ALLEGED TORT COMMITTED BY ANY PARTY.

(d) THE PARTIES SHALL ALLOW AND PARTICIPATE IN DISCOVERY IN ACCORDANCE WITH THE FEDERAL RULES OF CIVIL PROCEDURE FOR A PERIOD OF ONE HUNDRED TWENTY (120) DAYS AFTER THE FILING OF THE ORIGINAL RESPONSIVE PLEADING. DISCOVERY MAY CONTINUE THEREAFTER AS AGREED BY THE PARTIES OR AS ALLOWED BY THE ARBITRATORS. UNRESOLVED DISCOVERY DISPUTES SHALL BE BROUGHT TO THE ATTENTION OF THE ARBITRATORS BY WRITTEN MOTION FOR PROPER DISPOSITION, INCLUDING RULING ON ANY ASSERTED OBJECTIONS, PRIVILEGES, AND PROTECTIVE ORDER REQUESTS AND AWARDED REASONABLE ATTORNEY'S FEES TO THE PREVAILING PARTY.

(e) IN THE EVENT THE AGGREGATE OF ALL AFFIRMATIVE CLAIMS ASSERTED EXCEED \$500,000.00, EXCLUSIVE OF INTEREST AND ATTORNEY'S FEES, OR UPON THE WRITTEN REQUEST OF ANY PARTY, (1) PRIOR TO THE DISSEMINATION OF A LIST OF POTENTIAL ARBITRATORS, THE AMERICAN ARBITRATION ASSOCIATION SHALL CONDUCT AN IN PERSON ADMINISTRATIVE CONFERENCE WITH THE PARTIES AND THEIR ATTORNEYS FOR THE FOLLOWING PURPOSES AND FOR SUCH ADDITIONAL PURPOSES AS THE PARTIES OR THE AMERICAN ARBITRATION ASSOCIATION MAY DEEM APPROPRIATE, (A) TO OBTAIN ADDITIONAL INFORMATION ABOUT THE NATURE AND MAGNITUDE OF THE DISPUTE AND THE ANTICIPATED LENGTH OF HEARINGS AND SCHEDULING; (B) TO DISCUSS THE VIEW OF THE PARTIES ABOUT ANY TECHNICAL AND/OR OTHER SPECIAL QUALIFICATIONS OF THE ARBITRATORS; AND (C) TO CONSIDER, WHETHER MEDIATION OR OTHER METHODS OF DISPUTE RESOLUTION MIGHT BE APPROPRIATE, AND (2) AS PROMPTLY AS PRACTICABLE AFTER THE SELECTION OF THE ARBITRATORS, A PRELIMINARY HEARING SHALL BE HELD AMONG THE PARTIES, THEIR ATTORNEYS AND THE ARBITRATORS. WITH THE AGREEMENT OF THE ARBITRATORS AND THE PARTIES, THE PRELIMINARY HEARING MAY BE CONDUCTED BY TELEPHONE CONFERENCE CALL RATHER THAN IN PERSON. AT THE PRELIMINARY HEARING THE MATTERS THAT MAY BE CONSIDERED SHALL INCLUDE, WITHOUT LIMITATION, A PREHEARING SCHEDULING ORDER ADDRESSING (A) EACH PARTY'S DUTY TO SUBMIT A DETAILED STATEMENT OF CLAIMS, DAMAGES AND/OR DEFENSES, A STATEMENT OF THE ISSUES ASSERTED BY EACH PARTY AND ANY LEGAL AUTHORITIES THE PARTIES MAY WISH TO BRING TO THE ATTENTION OF THE ARBITRATORS; (B) RESPONSES AND/OR REPLIES TO THE PLEADINGS FILED IN COMPLIANCE WITH SUBPART 2(A); (C) STIPULATIONS REGARDING ANY UNCONTESTED FACTS; (D) EXCHANGE AND PREMARKING OF ALL DOCUMENTS WHICH EACH PARTY BELIEVES MAY BE OFFERED AT THE FINAL ARBITRATION HEARING; (E) THE IDENTIFICATION AND AVAILABILITY OF WITNESSES, INCLUDING EXPERTS, AND SUCH ADDITIONAL MATTERS REGARDING WITNESSES INCLUDING THEIR BIOGRAPHIES AND A SHORT SUMMARY OF THEIR EXPECTED TESTIMONY, (F) WHETHER A STENOGRAPHIC OR OTHER OFFICIAL RECORD OF THE PROCEEDINGS SHALL BE MAINTAINED; AND (G) THE POSSIBILITY OF UTILIZING MEDIATION OR OTHER ALTERNATIVE METHODS OF DISPUTE RESOLUTION.

(f) FOR PURPOSES OF THIS PROVISION, "THE PARTIES" MEANS GRANTORS, BENEFICIARY AND TRUSTEE, AND EACH AND ALL PERSONS AND ENTITIES SIGNING THIS AGREEMENT OR ANY OTHER AGREEMENTS BETWEEN OR AMONG ANY OF THE PARTIES AS PART OF THIS TRANSACTION. "THE PARTIES" SHALL ALSO INCLUDE INDIVIDUAL PARTNERS, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND/OR REPRESENTATIVES OF ANY PARTY TO SUCH DOCUMENTS, AND SHALL INCLUDE ANY OTHER OWNER AND HOLDER OF THIS AGREEMENT.

(g) THE PARTIES SHALL HAVE THE RIGHT TO INVOKE SELF- HELP REMEDIES (SUCH AS SET-OFF, NOTIFICATION OF ACCOUNT DEBTORS, SEIZURE AND/OR FORECLOSURE OF COLLATERAL, AND NON-JUDICIAL SALE OF PERSONAL PROPERTY AND REAL PROPERTY COLLATERAL) BEFORE, DURING OR AFTER ANY ARBITRATION AND/OR REQUEST ANCILLARY OR PROVISIONAL JUDICIAL REMEDIES (SUCH AS GARNISHMENT, ATTACHMENT, SPECIFIC PERFORMANCE, RECEIVER, INJUNCTION OR RESTRAINING ORDER, AND SEQUESTRATION) BEFORE OR AFTER ANY ARBITRATION. THE PARTIES NEED NOT AWAIT THE OUTCOME OF THE ARBITRATION BEFORE USING SELF-HELP REMEDIES. USE OF SELF-HELP OR ANCILLARY AND/OR PROVISIONAL JUDICIAL REMEDIES SHALL NOT OPERATE AS A WAIVER OF EITHER PARTY'S RIGHT TO COMPEL ARBITRATION. ANY ANCILLARY OR PROVISIONAL REMEDY WHICH WOULD BE AVAILABLE FROM A COURT AT LAW SHALL BE AVAILABLE FROM THE ARBITRATORS.

(h) THE PARTIES AGREE THAT ANY ACTION REGARDING ANY CONTROVERSY BETWEEN THE PARTIES SHALL EITHER BE BROUGHT BY ARBITRATION, AS DESCRIBED HEREIN, OR BY JUDICIAL PROCEEDINGS, BUT SHALL NOT BE PURSUED SIMULTANEOUSLY IN DIFFERENT OR ALTERNATIVE FORMS. A TIMELY WRITTEN NOTICE OF INTENT TO ARBITRATE PURSUANT TO THIS AGREEMENT STAYS AND/OR ABATES ANY AND ALL ACTION IN A TRIAL COURT, SAVE AND EXCEPT A HEARING ON A MOTION TO COMPEL ARBITRATION AND/OR THE ENTRY OF AN ORDER COMPELLING ARBITRATION AND STAYING AND/OR ABATING THE LITIGATION PENDING THE FILING OF THE FINAL AWARD OF THE ARBITRATORS. ALL REASONABLE AND NECESSARY ATTORNEY'S FEES AND ALL TRAVEL COSTS SHALL BE AWARDED TO THE PREVAILING PARTY ON ANY MOTION TO COMPEL ARBITRATION AND MUST BE PAID TO SUCH PARTY WITHIN TEN (10) DAYS OF THE SIGNING OF THE ORDER COMPELLING ARBITRATION.

(i) ANY PARTY SEEKING TO ARBITRATE SHALL SERVE A WRITTEN NOTICE OF INTENT TO ARBITRATE TO

ANY AND ALL OPPOSING PARTIES WITHIN 360 DAYS AFTER DISPUTE HAS ARISEN. A DISPUTE IS DEFINED TO HAVE ARISEN ONLY UPON RECEIPT OF SERVICE OF JUDICIAL PROCESS, INCLUDING SERVICE OF A COUNTERCLAIM, FAILURE TO SERVE A WRITTEN NOTICE OF INTENT TO ARBITRATE WITHIN THE TIME SPECIFIED ABOVE SHALL BE DEEMED A WAIVER OF THE AGGRIEVED PARTY'S RIGHT TO COMPEL ARBITRATION OF SUCH CLAIM. THE ISSUE OF WAIVER PURSUANT TO THIS AGREEMENT IS AN ARBITRABLE DISPUTE.

(j) ACTIVE PARTICIPATION IN PENDING LITIGATION DURING THE 360 DAY NOTICE PERIOD, WHETHER AS PLAINTIFF OR DEFENDANT, IS NOT A WAIVER OF THE RIGHT TO COMPEL ARBITRATION. ALL DISCOVERY OBTAINED IN THE PENDING LITIGATION MAY BE USED IN ANY SUBSEQUENT ARBITRATION PROCEEDING.

(k) THE PARTIES FURTHER AGREE THAT (i) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CERTIFIED AS A CLASS ACTION OR PROCEED AS A CLASS ACTION, OR ON A BASIS INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC, OTHER CUSTOMERS OR POTENTIAL CUSTOMERS OR PERSONS SIMILARLY SITUATED AND (ii) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CONSOLIDATED WITH, OR JOINED IN ANY WAY WITH, ANY OTHER ARBITRATION PROCEEDING.

(l) ANY ARBITRATOR SELECTED SHALL BE KNOWLEDGEABLE IN THE SUBJECT MATTER OF THE DISPUTE. EACH OF THE PARTIES SHALL PAY AN EQUAL SHARE OF THE ARBITRATION COSTS, FEES, EXPENSES, AND OF THE ARBITRATORS' FEES, COSTS AND EXPENSES.

(m) ALL STATUTES OF LIMITATIONS WHICH WOULD OTHERWISE BE APPLICABLE SHALL APPLY TO ANY AND ALL CLAIMS ASSERTED IN ANY ARBITRATION PROCEEDING HEREUNDER AND THE COMMENCEMENT OF ANY ARBITRATION PROCEEDING TOLLS SUCH STATUTES OF LIMITATIONS.

(n) IN ANY ARBITRATION PROCEEDING SUBJECT TO THIS PROVISION, THE ARBITRATORS, OR MAJORITY OF THEM, ARE SPECIFICALLY EMPOWERED TO DECIDE (BY DOCUMENTS ONLY, OR WITH A HEARING, AT THE ARBITRATORS' SOLE DISCRETION) PRE-HEARING MOTIONS WHICH ARE SUBSTANTIALLY SIMILAR TO PRE-HEARING MOTIONS TO DISMISS AND MOTIONS FOR SUMMARY ADJUDICATION.

(o) THIS ARBITRATION PROVISION SHALL SURVIVE ANY TERMINATION, AMENDMENT, OR EXPIRATION OF THE AGREEMENT IN WHICH THIS PROVISION IS CONTAINED, UNLESS ALL OF THE PARTIES OTHERWISE EXPRESSLY AGREE IN WRITING.

(p) THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT EVIDENCES A TRANSACTION INVOLVING INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT SHALL GOVERN THE INTERPRETATION, ENFORCEMENT, AND PROCEEDINGS PURSUANT TO THE ARBITRATION CLAUSE OF THIS AGREEMENT.

(q) THE ARBITRATORS, OR A MAJORITY OF THEM, SHALL AWARD ATTORNEY'S FEES AND COSTS TO THE PREVAILING PARTY PURSUANT TO THE TERMS OF THIS AGREEMENT.

(r) NEITHER THE PARTIES NOR THE ARBITRATORS MAY DISCLOSE THE EXISTENCE, CONTENT, OR RESULTS OF ANY ARBITRATION HEREUNDER WITHOUT PRIOR WRITTEN CONSENT OF ALL PARTIES AND/OR COURT ORDER.

(s) VENUE OF ANY ARBITRATION PROCEEDING HEREUNDER SHALL BE IN THE COUNTY WHERE BENEFICIARY IS LOCATED.

Notwithstanding the provision above relating to conducting a foreclosure sale(s) pursuant to the provisions of this Deed Of Trust, the Trustee shall, and is hereby directed to, comply with the provisions of Chapter 51 of the Texas Property Code (the "Property Code") as it may be amended and in effect as of the date or dates of any foreclosure proceedings conducted pursuant to this Deed Of Trust. In particular, the location and time of sale shall be held in accordance with Section 51.002 of the Property Code or any amendments there-to or re-enactment or revisions to such law.

Grantors stipulate and agree that for purposes of determining the fair market value of the Property (or any portion thereof), as such term is used in Section 51.003 of the Texas Property Code, which is sold at a non-judicial foreclosure sale pursuant to the terms of this Deed Of Trust (and in accordance with Section 51.002 of the Property Code), the following factors shall be used to determine such Property's fair market value, for such purposes: (a) the Property shall be valued "AS IS" without any value being anticipated for any improvements or refurbishing to be conducted, or conducted, after the date of the foreclosure sale, (b) the intention of the purchaser to re-sell the Property promptly, without any extensive holding period, (c) any re-sale shall be for cash only, without financing by the seller, (d) all reasonable costs of closing a re-sale shall be deducted from the reasonable costs of closing a re-sale shall be deducted from the estimate of fair market value, such as attorneys' fees, title policy premiums, surveyor fees and expenses, the then prevailing broker's or salesman commission, unpaid ad valorem tax amounts, and (e) the application of a discount to the value to be applied to any future sales price to arrive at its then current fair market value. Grantors further stipulate that any value given to such Property in connection with Grantors' obtaining of the loan from Beneficiary to which this Deed Of Trust relates, or not any other time or times, shall not be used and shall not be considered for guidance in determining the fair market value of such Property on the date of any such foreclosure sale.

Leasehold Covenants. If the interest of Grantors in the Property is a leasehold interest and not a fee ownership, then the lien of this Deed Of Trust shall be upon the leasehold rights and benefits of Grantors, but, in no event shall any of the burdens or obligations under said leasehold be assumed by, or be the obligations of, Beneficiary absent an express written instrument, executed by Beneficiary assuming such obligations, which shall be within the sole discretion of Beneficiary.

To the extent Grantors own a leasehold interest in all or any portion of the Property, Grantors hereby covenant and agree as follows:

(a) Grantors will at all times fully perform and comply with all agreements, covenants, terms and conditions imposed upon or assumed by it, as tenant or lessee, under any and all leases affecting the Property (collectively, the "Lease"), true and correct copies of

(Acknowledgment)

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____
by _____

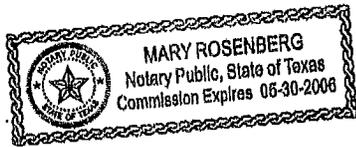
Notary Public, State of Texas

My commission expires: _____

(Partnership Acknowledgment)

STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on January 3rd, 2005, by Robert
H. Schulz, partner of RHS Interests, Inc., a Texas corporation, ~~XXXXXXXXXXXXXXXXXXXX~~
in its capacity as the General Partner of Mortgage Recovery Fund - ~~XXXXXXXXXX~~
3939, Ltd., a Texas limited partnership, for and on behalf of said partnership.



Mary Rosenberg
Notary Public, State of Texas

My commission expires: _____

(Corporation Acknowledgment)

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____
by _____ as _____
a _____ corporation, on behalf of said corporation.

Notary Public, State of Texas

My commission expires: _____

After recording, return to Beneficiary, at its mailing address, as follow:

AFTER RECORDING, PLEASE RETURN TO:
INTERNATIONAL BANK OF COMMERCE
Credit Department
5615 Kirby Dr.
Houston, Texas 77005

EXHIBIT "A"

A tract or parcel of land containing 1.2052 acres or 52,500 square feet, being Lots 1 thru 9, Block 33 of MONTROSE ADDITION, a subdivision recorded in Volume 5, Page 32 of the Map Records of Harris County, Texas, said 1.2052-acre tract being composed of a called 0.1695-acre tract described in Harris County Clerk's File No. (H.C.C.F.) No. R530442 and a called 1.0357-acre tract described in H.C.C.F. No. R341882, and being more particularly described by metes and bounds as follows:

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A TRACT OR PARCEL OF LAND CONTAINING 1.2052 ACRES OR 52,500 SQUARE FEET, BEING LOTS 1 THRU 9, BLOCK 33 OF MONTROSE ADDITION, A SUBDIVISION RECORDED IN VOLUME 5, PAGE 32 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, SAID 1.2052-ACRE TRACT BEING COMPOSED OF A CALLED 0.1695-ACRE TRACT DESCRIBED IN HARRIS COUNTY CLERK'S FILE (H.C.C.F.) NO. R530442 AND A CALLED 1.0357-ACRE TRACT DESCRIBED IN H.C.C.F. NO. R341882 AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH IRON ROD FOUND ON THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF BRANARD STREET (60 FEET WIDE) AND THE EAST RIGHT-OF-WAY LINE OF MONTROSE BOULEVARD (90 FEET WIDE), MARKING THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID MONTROSE BOULEVARD A DISTANCE OF 250.00 FEET TO A 5/8-INCH IRON ROD SET ON THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF SAID ROSS STREET (60 FEET WIDE) AND THE EAST RIGHT-OF-WAY LINE OF SAID MONTROSE BOULEVARD, MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 89 DEGREES 50 MINUTES 00 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE SAID SUL ROSS STREET. A DISTANCE OF 210.00 FEET TO A 5/8-INCH IRON ROD FOUND ON THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF SAID SUL ROSS STREET AND THE WEST LINE OF AN ALLEY, MARKING THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH, ALONG THE WEST LINE OF SAID ALLEY, A DISTANCE OF 250.00 FEET TO A 1/2-INCH IRON ROD FOUND ON THE INTERSECTION OF THE WEST LINE OF SAID ALLEY AND THE NORTH RIGHT-OF-WAY LINE OF SAID BRANARD STREET, MARKING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 89 DEGREES 50 MINUTES 00 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID BRANARD STREET, A DISTANCE OF 210.00 FEET TO THE PLACE OF BEGINNING AND CONTAINING 1.2052 ACRES OR 52,500 SQUARE FEET OF LAND.

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**ADDENDUM TO
DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FINANCING STATEMENT**

The following are hereby inserted where indicated on this Deed of Trust:

- Insert 1: unless a default hereunder has occurred beyond any applicable notice and cure period and is continuing, in which case Beneficiary may, at its option, apply the proceeds to indebtedness secured hereby or, in Beneficiary's sole discretion, release such funds to repair or replace the improvements. Any funds released hereunder shall be disbursed in accordance with Beneficiary's customary construction loan disbursement procedures.
- Insert 2: except such amounts reasonably necessary to restore the Property, unless a default hereunder has occurred beyond any applicable notice and cure period and is continuing, in which case Beneficiary may, at its option, apply the proceeds to indebtedness secured hereby or, in Beneficiary's sole discretion, release such funds to replace the improvements. Any funds released hereunder shall be disbursed in accordance with Beneficiary's customary construction loan disbursement procedures.
- Insert 3: PROVIDED BENEFICIARY WILL NOT UNREASONABLY WITHHOLD, CONDITION OR DELAY ITS CONSENT TO ANY EASEMENT, RESTRICTION OR DEDICATION NECESSARY OR BENEFICIAL FOR THE DEVELOPMENT.
- Insert 4: but provided such escape, seepage, leakage, spillage, discharge, emission or release from, on or affecting the Property, or other condition giving rise to such indemnification obligation, occurred on the Property prior to the first to occur of (i) the payment in full of the loan secured hereby and the release of this Deed of Trust, (ii) the foreclosure of the Deed of Trust or the acceptance by Beneficiary or its nominee of a deed to the Property, or (iii) the obtaining by Beneficiary of control of the Property such as by the appointment of a receiver.

1. The attached Deed of Trust, Assignment of Rents, Security Agreement and Financing Statement ("Deed of Trust") between MORTGAGE RECOVERY FUND - 3939, LTD., a Texas limited partnership, as Grantors, JAY ROGERS, as Trustee, and INTERNATIONAL BANK OF COMMERCE, as Beneficiary, shall govern the relationship between the parties thereto except as amended by the supplemental terms contained in this Addendum. In the event of conflict between the terms of the Deed of Trust and this Addendum, this Addendum shall control, and prevail. Accordingly, the Deed of Trust is hereby amended and supplemented as hereinafter set forth and, except as hereby amended and supplemented, shall remain in full force and effect. All capitalized terms used herein not otherwise defined herein shall have the meaning ascribed to such terms in the Deed of Trust.

2. Mortgaged Property.

That certain tract or parcel of land being more particularly described by metes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes,

together with (a) all rights, titles, interests, estates, reversions and remainders owned and to be owned by Grantors in and to the above described premises and in and to the properties covered hereby and all lands owned or to be owned by Grantors next or adjacent to any land herein described or herein mentioned; (b) all buildings and improvements now or hereafter located on the lands described or mentioned; (c) all rights, titles and interests now owned or hereafter acquired by Grantors in and to all easements, streets and rights-of-way of every kind and nature adjoining the said lands, and all public or private utility connections thereto, and all appurtenances, servitudes, rights, ways, privileges and prescriptions thereunto; (d) the escrowed sums described herein, if any, all goods, equipment, fixtures, inventory, machinery, furniture, furnishings and other personal property that is now owned or hereafter acquired by Grantors and now or hereafter affixed to, or located on, the above described real estate and used or usable for any present or future operation of any building or buildings now or hereafter located on said lands, including without limitation, all rights, titles and interests of Grantors in and to any such personal property that may be subject to any title retention or security agreement superior in lien or security interest to the lien or security interest of this Deed of Trust; (e) all permits, licenses, franchises, certificates, utility commitments and/or reservations, wastewater capacity reservations and other rights and privileges obtained in connection with the property described herein; (f) all rights, titles and interests of Grantors in and to all timber to be cut, or crops to be harvested, from the real estate covered hereby and all minerals in, under, and upon, produced and to be produced from said real estate; and without limitation of the foregoing, any and all rights, rents, revenues, benefits, leases, contracts, accounts, general intangibles, money, instruments, documents, tenements, hereditaments and appurtenances now or hereafter owned by Grantors and appertaining to, generated from, arising out of or belonging to the above-described properties or any part thereof (all of the aforesaid being hereinafter sometimes called the "Mortgaged Property").

3. Foreclosure. In the alternative or in addition to the provisions for foreclosure in the Deed of Trust, such notice and sale may be accomplished in such manner as permitted or required by Title 5, §51.002 of the Texas Property Code relating to the sale of real property under contract lien and/or by Chapter 9 of the Texas Business and Commerce Code relating to the sale of collateral after default by a debtor (as said title and chapter now exist or may be hereafter amended or succeeded), or by any other present or subsequent articles or enactments relating to same. In instances where the Mortgaged Property is located in states other than Texas, such sales shall be made in accordance with the legal requirements therefor for such state, including, to the extent there relevant, the Uniform Commercial Code there in effect. Nothing contained in this Paragraph shall be construed to limit in any way Trustee's rights to sell the Mortgaged Property by private sale if; and to the extent that, such private sale is permitted

under the laws of the state where the Mortgaged Property (or that portion thereof to be sold) is located, or by public or private sale after entry of a judgment by any court of competent jurisdiction ordering same. At any such sale (i) whether made under the power herein contained, the aforesaid Title 5, §51.002 of the Texas Property Code, the Texas Business and Commerce Code, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Trustee to have physically present, or to have constructive possession of; the Mortgaged Property (Grantors hereby covenanting and agreeing to deliver to Trustee any portion of the Mortgaged Property not actually or constructively possessed by Trustee immediately upon demand by Trustee), and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale, (ii) each instrument of conveyance executed by Trustee shall contain a general warranty of title, binding upon Grantors, (iii) each and every recital contained in any instrument of conveyance made by Trustee shall conclusively establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment of the Note (and/or other portion of the Indebtedness with respect to which the sale has been conducted), advertisement and conduct of such sale in the manner provided herein and otherwise by law, and appointment of any successor Trustee hereunder, (iv) any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed, (v) the receipt of Trustee or of such other party or officer making the sale shall be a sufficient discharge to the purchaser or purchasers for his or their purchase money and no such purchaser or purchasers, or his or their assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof; and (vi) to the fullest extent permitted by law, Grantors shall be completely and irrevocably divested of all of their right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold, and such sale shall be a perpetual bar both at law and in equity against Grantors, and against any and all other persons claiming or to claim the property sold or any part thereof; by, through or under Grantors.

4. Fair Market Value for Calculating Deficiencies. Notwithstanding the provisions of §§ 51.003, 51.004 and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Grantors agree that Beneficiary shall be entitled to seek a deficiency judgment from Grantors and any other party obligated on the Note or guaranty of the Note equal to the difference between the amount owing on the Note and the fair market value of the Mortgaged Property as hereinafter determined. The following shall be the basis for the finder of fact's determination of the fair market value of the Mortgaged Property as of the date of the foreclosure sale in proceedings governed by §§ 51.003, 51.004 and 51.005 of the Texas Property Code (as amended from time to time):

(a) The Mortgaged Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Property will be repaired or improved in any manner before a resale of the Mortgaged Property after foreclosure;

(b) The valuation shall be based upon an assumption that the foreclosure purchaser desires a prompt resale of the Mortgaged Property for cash promptly (but no later than twelve months) following the foreclosure sale;

(c) All reasonable closing costs customarily borne by the seller in a commercial real estate transaction should be deducted from the gross fair market value of the Mortgaged Property, including, without limitation, brokerage commissions, title insurance, a survey of the Mortgaged Property, tax prorations, attorney's fees, and marketing costs;

(d) The gross fair market value of the Mortgaged Property shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Property pending sale, including, without limitation utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in subparagraph (c) above), and other maintenance expenses; and

(e) Any expert opinion testimony given or considered in connection with a determination of the fair market value of the Mortgaged Property must be given by persons having at least five (5) years experience in appraising property similar to the Mortgaged Property and who have conducted and prepared a complete written appraisal of the Mortgaged Property taking into consideration the factors set forth above.

5. Survival of Covenants and Liens. All of the covenants and agreements of Grantors set forth in this Deed of Trust shall survive the execution and delivery of this Deed of Trust and shall continue in force until the indebtedness secured hereby (the "Indebtedness") is paid in full. Accordingly, if Grantors shall perform faithfully each and all of the covenants and agreements of contained in this Deed of Trust, then, and then only, this conveyance shall become null and void and shall be released in due form, upon Grantors' written request and at Grantors' expense; otherwise, it shall remain in full force and effect. No release of this conveyance or the lien thereof shall be valid unless executed by Beneficiary.

6. Recovery of Unmatured Indebtedness. It is agreed that if default be made in the payment of any installment of the Note or other Indebtedness secured by this Deed of Trust, or in the observance or performance of any covenant or agreement of Grantors contained or referred to herein, and such default continues beyond any applicable notice and cure period, the holder of the Indebtedness or any part thereof under which such default occurs shall have the option to proceed with foreclosure in satisfaction of such default either through the courts or by directing Trustee or his successors in trust to proceed as if under a full foreclosure, conducting the sale as herein provided, and without declaring the whole Indebtedness due, and provided that if a sale is made because of default of an installment, or a part of an installment, such sale may be made subject to the unmatured part of the Note or other Indebtedness secured by this Deed of Trust; and it is agreed that such sale, if so made, shall not in any manner affect the unmatured portion of the Indebtedness, but as to such unmatured portion of the Indebtedness, this Deed of Trust shall remain in full force and effect just as though no sale had been made under the provisions of this paragraph. It is further agreed that several sales may be made hereunder without exhausting the right of sale for any unmatured portion of the Indebtedness, it being the intention of the parties hereto to provide for a foreclosure and

sale of the security for any matured portion of the Indebtedness without exhausting the power to foreclose and to sell the security for any other portion of the Indebtedness whether matured at the time or subsequently maturing. It is agreed that an assignee holding any installment or part of any installment of the Note or other indebtedness secured hereby shall have the same powers as are hereby conferred on the holder of the Indebtedness to proceed with foreclosure on a matured installment or installments, and also to request Trustee or his successors in trust to sell the Mortgaged Property or any part thereof; but if an assignee forecloses or causes a sale to be made to satisfy any installment, part of an installment, or installments, then the purchaser at such foreclosure or sale shall be made subject to all of the terms and provisions hereof with respect to the unmatured part of the Note and other indebtedness secured hereby owned by the then holder of such indebtedness.

7. Rights of Beneficiary Upon Default. In the event of default by Grantors in the performance of one or more of their covenants and agreements as set forth herein and such default continues beyond any applicable notice and cure period, then Beneficiary may, at its option, enter upon and take exclusive possession of the Mortgaged Property and thereafter manage, use, lease and otherwise operate same in such manner and by and through such persons, objects or employees as it may deem proper and necessary. Beneficiary shall be likewise entitled to possession of all books and records of Grantors that relate to the Mortgaged Property. The rights of Beneficiary under this paragraph may be enforced through an action for forcible entry and detainer or any other means authorized by law. Any and all rents or other issues or profits received by Beneficiary shall be accounted for in the manner provided for in the opening provisions of this Deed of Trust. **GRANTORS HEREBY INDEMNIFY AND HOLD BENEFICIARY HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, COST, DAMAGE OR EXPENSE (INCLUDING ATTORNEYS' FEES AND OTHER COSTS OF DEFENSE) WHICH BENEFICIARY MAY INCUR UNDER OR BY REASON OF THIS PARAGRAPH OR FOR ANY ACTION TAKEN BY BENEFICIARY HEREUNDER, INCLUDING WITHOUT LIMITATION LIABILITY RESULTING FROM THE NEGLIGENCE OF BENEFICIARY.**

8. Waiver of Marshaling and Certain Rights. To the extent that Grantors may lawfully do so, Grantors hereby expressly waive any right pertaining to the marshaling of assets, the administration of estates of decedents, or other matters to defeat, reduce or affect (a) the right of Beneficiary to sell all or any part of the Mortgaged Property for the collection of the Indebtedness (without any prior or different resort for collection), or (b) the right of Beneficiary to the payment of the Indebtedness out of the proceeds of the sale of all or any part of the Mortgaged Property in preference to every other person and claimant.

9. Terminable Tenancy Upon Foreclosure. In the event of a Trustee's sale hereunder, and, at the time of such sale, Grantors, or any other party occupies the Mortgaged Property so sold, each and all shall immediately become the tenant of the purchaser at such sale, which tenancy shall (unless otherwise agreed in writing by Beneficiary) be terminable at the will of landlord. An action of forcible detainer and/or any other legal proceedings shall lie if the tenant holds over after a demand in writing for possession of said property.

10. Appointment of Receiver. It is agreed that Beneficiary, in any action to foreclose, shall be entitled to the appointment of a receiver of the rents and profits of the Mortgaged Property as a matter of right and without notice, with power to collect the rents, issues and profits of the Mortgaged Property due and coming due during the pendency of such foreclosure suit, without regard to the value of the Mortgaged Property or the solvency of any person or persons liable for the payment of the Indebtedness involved in said suit. Grantors, for themselves and any subsequent owner or owners, hereby waive any and all defenses to the application for a receiver as above provided, and hereby specifically consent to such appointment without notice; but nothing herein contained is to be construed to deprive Beneficiary of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provision for the appointment of a receiver of the rents and profits is made an express condition upon which the loan evidenced by the Note is made.

11. Subrogation. To the extent that proceeds of the Note are used to pay any prior indebtedness secured by an outstanding lien, security interest, charge or prior encumbrance against the Mortgaged Property, such proceeds have been advanced by Beneficiary at Grantors' request; and Beneficiary shall be subrogated to any and all rights, powers, equities, liens and security interests owned or granted by any owner or holder of such prior indebtedness, irrespective of whether said security interests, liens, charges or encumbrances are released of record.

12. Notice of Changes. Grantors shall give advance notice in writing to Beneficiary of any proposed change in Grantors' name, identity, or structure, and shall execute and deliver to Beneficiary, prior to or concurrently with the occurrence of any such change, all additional financing statements that Beneficiary may require to establish and maintain the validity and priority of Beneficiary's security interest with respect to any of the Mortgaged Property described or referred to herein.

13. Income and Expense Statements. Grantors shall, upon request of Beneficiary, deliver to Beneficiary, within sixty (60) days after the end of each fiscal year of Grantors, (i) then current annual statements, in form and content satisfactory to Beneficiary, itemizing the income and expenses of the Mortgaged Property, and (ii) then current financial statements of Grantors.

14. Beneficiary's Consent. In any instance hereunder where Beneficiary's prior approval or consent is required to be obtained by Grantors, or Beneficiary's judgment is required to be exercised as to any matter, the granting or denial of such approval or consent and the exercise of such judgment shall be within the sole reasonable discretion of Beneficiary.

15. Notices. All notices or other communications required or permitted to be given pursuant to this Deed of Trust shall be in writing and shall be considered as properly given if (i) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, or (ii) delivered in person to the address of the intended addressee, or (iii) by prepaid messenger service. Notice by mail shall be effective upon the expiration of three (3) business days after its deposit in the United States mail. Notice given in any other manner

shall be effective only if and when received at the address of the addressee. For purposes of notice, the addresses of the parties shall be as set forth in the opening in the Deed of Trust or the Construction Loan Agreement between Grantors and Beneficiary of even date herewith; provided, however, that either party shall have the right to change its address for notice hereunder to any other location within the United States by the giving of thirty (30) days' notice to the other party in the manner set forth hereinabove.

16. Further Documentation. Grantors agree that Grantors shall execute and deliver such other and further documents and do and perform such other acts as may be reasonably necessary and proper to carry out the intention of the parties as herein expressed and to effect the purposes of this Deed of Trust and the loan transaction referred to herein. Without limitation of the foregoing, Grantors agree to execute and deliver such documents as may be necessary to cause the liens and security interests granted hereby to cover and apply to any property placed in, on or about the Mortgaged Property in addition to, or as replacement or substitute for any of the Mortgaged Property.

17. Prior Liens. Anything herein to the contrary notwithstanding, the lien created hereby shall be secondary and junior to that certain Deed of Trust and Assignment of Leases (collectively the "Prior Lien Deed of Trust") dated June 16, 2002, recorded under County Clerk's File Numbers ~~V558904~~ ^{V885904} and ~~V558905~~ ^{V885905}, respectively, Official Public Records of Real Property of Harris County, Texas, executed by Grantors in favor of Beneficiary. Should an event of default occur pursuant to the terms of the Prior Lien Deed of Trust, such act shall constitute an event of default hereunder. Should the Mortgaged Property be sold by virtue of a foreclosure sale (or other sale) authorized pursuant to the terms of the Prior Lien Deed of Trust and should such sale be for an amount in excess of the indebtedness secured by the Prior Lien Deed of Trust (including any authorized fees and expenses), such residue shall be paid directly by the trustee or his substitute named in the Prior Lien Deed of Trust to the Beneficiary hereof.

18. Indemnities. Each indemnity, waiver and/or release granted by Grantors to Beneficiary and/or Trustee in this Deed of Trust, including but not limited to that Indemnification on Page 6 of the Deed of Trust, shall be supplemented by the following phrase, which is hereby incorporated therein:

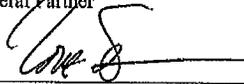
THE FOREGOING INDEMNITY SHALL REMAIN ENFORCEABLE EVEN IF THE INDEMNIFIABLE LOSS OR LIABILITY RESULTS IN WHOLE OR IN PART AS A RESULT OF THE NEGLIGENCE OF BENEFICIARY OR TRUSTEE AND THE COSTS INDEMNIFIED AGAINST SHALL INCLUDE COSTS OF DEFENSE OF INDEMNITEE (INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES), BUT SHALL NOT BE ENFORCEABLE TO THE EXTENT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNIFIED PARTY.

19. Notice to Cure. Anything herein or in the instruments securing the payment of the Note to the contrary notwithstanding, (i) Beneficiary shall give Grantors written notice of a non-monetary event of default hereunder or under the Note or under any instruments securing the payment of the Note prior to acceleration of the payment of the Note or the exercise of any other remedies available to Beneficiary and if such non-monetary default is not cured within thirty (30) days from the date of such notice, Beneficiary may accelerate payment of the Note and exercise any other remedy available to it without further notice, demand or presentment, and (ii) Beneficiary shall give Grantors written notice of a monetary event of default hereunder or under the Note or under any instruments securing the payment of the Note prior to acceleration of the payment of the Note or the exercise of any other remedies available to Beneficiary and if such monetary default is not cured within ten (10) days from the date of such notice, Beneficiary may accelerate payment of the Note and exercise any other remedy available to it without further notice, demand or presentment. Any notice and cure periods provided for hereunder and under any other instruments evidencing or securing this note shall run contemporaneously so as not to permit a "piggy-backing" of notice and cure periods.

"GRANTORS"

MORTGAGE RECOVERY FUND - 3939, LTD.,
a Texas limited partnership

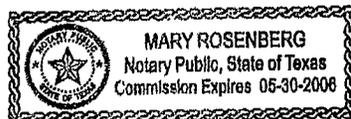
By: RHS INTERESTS, INC., a Texas corporation,
its General Partner

By: 
Robert H. Schultz, President

STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on this 3rd day of January, 2005, by Robert H. Schultz, President of RHS Interests, Inc., a Texas corporation, in its capacity as the General Partner of Mortgage Recovery Fund - 3939, Ltd., a Texas limited partnership, for and on behalf of said partnership.

[S E A L]




Notary Public, STATE OF TEXAS

EXHIBIT "A"

A tract or parcel of land containing 1.2052 acres or 52,500 square feet, being Lots 1 thru 9, Block 33 of MONTROSE ADDITION, a subdivision recorded in Volume 5, Page 32 of the Map Records of Harris County, Texas, said 1.2052-acre tract being composed of a called 0.1695-acre tract described in Harris County Clerk's File No. (H.C.C.F.) No. R530442 and a called 1.0357-acre tract described in H.C.C.F. No. R341882, and being more particularly described by metes and bounds as follows:

A TRACT OR PARCEL OF LAND CONTAINING 1.2052 ACRES OR 52,500 SQUARE FEET, BEING LOTS 1 THRU 9, BLOCK 33 OF MONTROSE ADDITION, A SUBDIVISION RECORDED IN VOLUME 5, PAGE 32 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, SAID 1.2052-ACRE TRACT BEING COMPOSED OF A CALLED 0.1695-ACRE TRACT DESCRIBED IN HARRIS COUNTY CLERK'S FILE (H.C.C.F.) NO. R530442 AND A CALLED 1.0357-ACRE TRACT DESCRIBED IN H.C.C.F. NO. R341882 AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH IRON ROD FOUND ON THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF BRANARD STREET (60 FEET WIDE) AND THE EAST RIGHT-OF-WAY LINE OF MONTROSE BOULEVARD (90 FEET WIDE), MARKING THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID MONTROSE BOULEVARD A DISTANCE OF 250.00 FEET TO A 5/8-INCH IRON ROD SET ON THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF SAID ROSS STREET (60 FEET WIDE) AND THE EAST RIGHT-OF-WAY LINE OF SAID MONTROSE BOULEVARD, MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 89 DEGREES 50 MINUTES 00 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE SAID SUL ROSS STREET. A DISTANCE OF 210.00 FEET TO A 5/8-INCH IRON ROD FOUND ON THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF SAID SUL ROSS STREET AND THE WEST LINE OF AN ALLEY, MARKING THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH, ALONG THE WEST LINE OF SAID ALLEY, A DISTANCE OF 250.00 FEET TO A 1/2-INCH IRON ROD FOUND ON THE INTERSECTION OF THE WEST LINE OF SAID ALLEY AND THE NORTH RIGHT-OF-WAY LINE OF SAID BRANARD STREET, MARKING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 89 DEGREES 50 MINUTES 00 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID BRANARD STREET, A DISTANCE OF 210.00 FEET TO THE PLACE OF BEGINNING AND CONTAINING 1.2052 ACRES OR 52,500 SQUARE FEET OF LAND.

RECORDER'S MEMORANDUM:

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stated herein by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

JAN - 5 2005

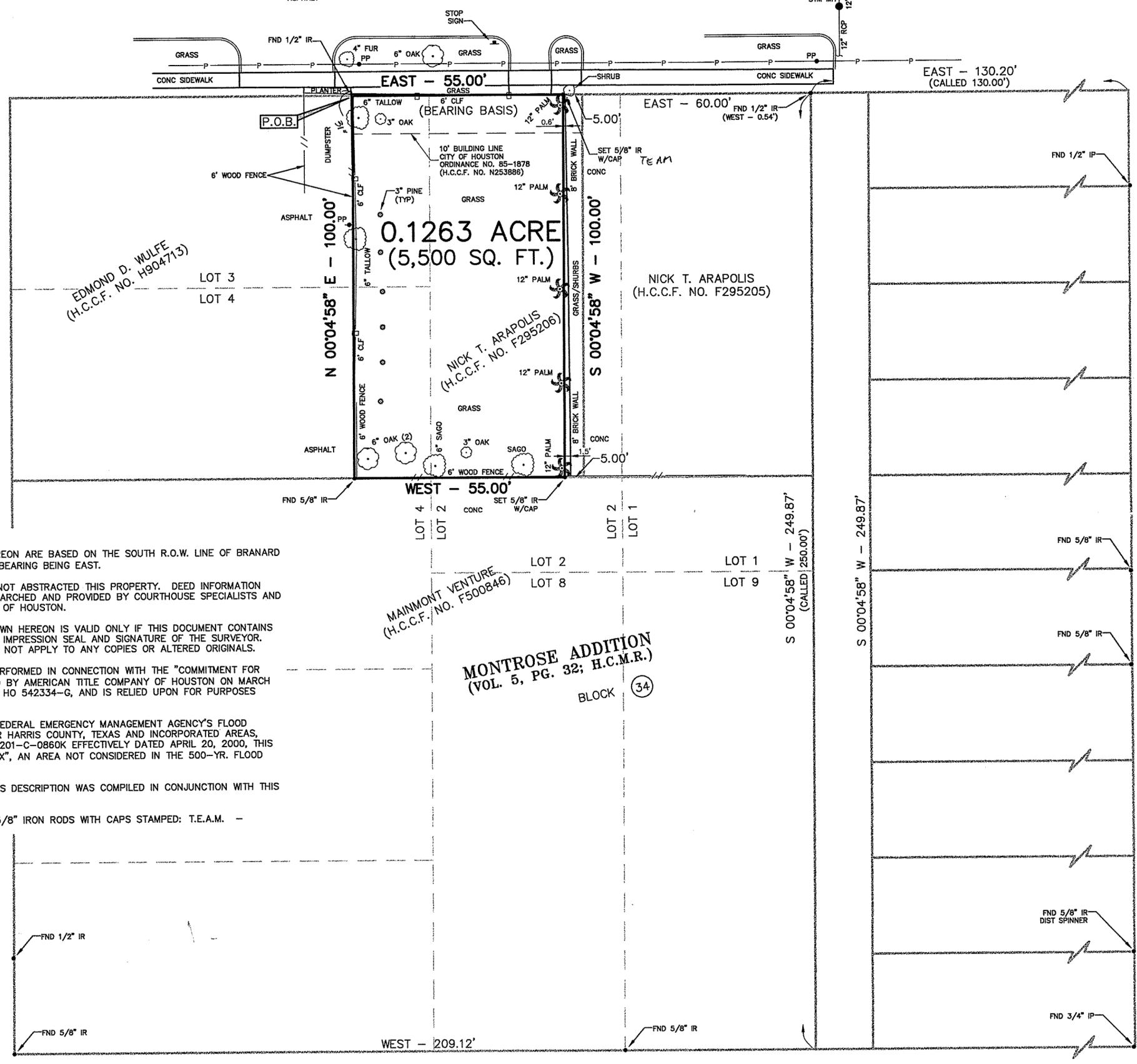


Dorely B. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

2-1-05

MONTROSE BOULEVARD

**BRANARD STREET
(50' R.O.W.)**



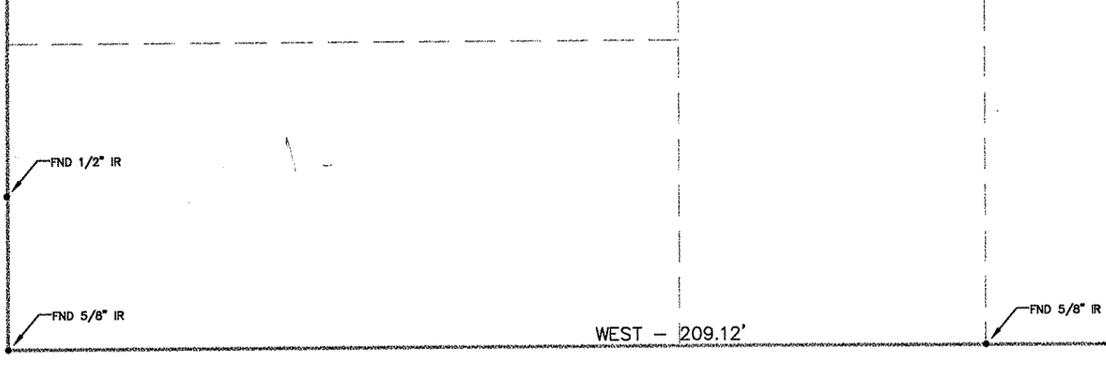
EDMOND D. WULFE
(H.C.C.F. NO. H904713)

NICK T. ARAPOLIS
(H.C.C.F. NO. F295205)

MAINMONT VENTURE
(H.C.C.F. NO. F500846)

MONTROSE ADDITION
(VOL. 5, PG. 32; H.C.M.R.)
BLOCK 34

- NOTES:**
- BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH R.O.W. LINE OF BRANARD STREET (50' R.O.W.), THE BEARING BEING EAST.
 - THE SURVEYOR HAS NOT ABSTRACTED THIS PROPERTY. DEED INFORMATION SHOWN HEREON WAS RESEARCHED AND PROVIDED BY COURTHOUSE SPECIALISTS AND AMERICAN TITLE COMPANY OF HOUSTON.
 - THE CERTIFICATE SHOWN HEREON IS VALID ONLY IF THIS DOCUMENT CONTAINS AN ORIGINAL STAMPED OR IMPRESSION SEAL AND SIGNATURE OF THE SURVEYOR. SAID CERTIFICATION SHALL NOT APPLY TO ANY COPIES OR ALTERED ORIGINALS.
 - THIS SURVEY WAS PERFORMED IN CONNECTION WITH THE "COMMITMENT FOR TITLE INSURANCE" ISSUED BY AMERICAN TITLE COMPANY OF HOUSTON ON MARCH 15, 2004, CASE NO. 2004 HO 542334-G, AND IS RELIED UPON FOR PURPOSES THEREOF.
 - ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP FOR HARRIS COUNTY, TEXAS AND INCORPORATED AREAS, COMMUNITY PANEL NO. 48201-C-0860K EFFECTIVELY DATED APRIL 20, 2000, THIS PROPERTY LIES IN ZONE "X", AN AREA NOT CONSIDERED IN THE 500-YR. FLOOD PLAIN.
 - A METES AND BOUNDS DESCRIPTION WAS COMPILED IN CONJUNCTION WITH THIS SURVEY.
 - ALL RODS SET ARE 5/8" IRON RODS WITH CAPS STAMPED: T.E.A.M. - 281-491-2525.



**WEST MAIN
(50' R.O.W.)**

LEGEND

- P- OVERHEAD POWER LINE
- FND FOUND
- IR IRON ROD
- IP IRON PIPE
- PP POWER POLE
- FH FIRE HYDRANT
- WV WATER VALVE
- SAN SANITARY
- STM STORM
- MH MANHOLE
- RCP REINFORCED CONCRETE PIPE
- CLF CHAIN LINK FENCE
- CONC CONCRETE
- W/ WITH
- DIST DISTURBED
- PLM PIPELINE MARKER
- R. O. W. RIGHT OF WAY
- P. D. B. POINT OF BEGINNING
- H. C. C. F. HARRIS COUNTY CLERK'S FILE
- H. C. D. R. HARRIS COUNTY DEED RECORDS
- H. C. O. R. HARRIS COUNTY OFFICIAL RECORDS
- H. C. M. R. HARRIS COUNTY MAP RECORDS

I, Brian Nesvadba, a Registered Professional Land Surveyor of the State of Texas, hereby certify that the above plat correctly represents the facts found at the time of the survey made on the ground under my supervision. This survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A, Condition II Survey.



Brian Nesvadba
Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776

TEXAS ENGINEERING AND MAPPING
12810 CENTURY DRIVE
STAFFORD, TEXAS 77477
PHONE: 281.491.2525 FAX: 281.491.2535

LAND TITLE SURVEY
OF
0.1263 ACRE (5,500 SQ. FT.) OF LAND
OUT OF LOTS 2, 3 & 4, BLOCK 34,
MONTROSE ADDITION (VOL. 5, PG. 32; H.C.M.R.),
SOUTH SIDE OF BUFFALO BAYOU,
IN THE OBEDIENCE SMITH SURVEY,
CITY OF HOUSTON, HARRIS COUNTY, TEXAS

CREW: PK	DRAWN BY: DRW	CALC. BY: BSN	CK. BY: BSN
DATE: 3/31/04	SCALE: 1" = 20'	KEY MAP: 493 S	JOB NO.: 670-1

CLIENT NAME: ISIS

March 31, 2004

**0.1263 acre of land in the Obedience Smith Survey, South Side of Buffalo Bayou,
City of Houston, Harris County, Texas**

A FIELD NOTE DESCRIPTION of 0.1263 acre (5,500 square feet) of land in the Obedience Smith Survey, South Side of Buffalo Bayou, City of Houston, Harris County, Texas; said 0.1263 acre tract of land being the east 20 feet of Lots 3 and 4 and the West 35 feet of the North 100 feet of Lot 2, Block 34 of Montrose Addition, according to the map or plat recorded in Volume 5, Page 32 of the Harris County Map Records and being that same tract conveyed to Nick T. Aropolis, as recorded under Harris County Clerk's File No. F295206; said tract being more particularly described by metes and bounds as follows with the bearings being based on the south right-of-way line of Branard Street (50 feet wide), the bearing being East:

BEGINNING at a 1/2-inch iron rod found in the south right-of-way line of said Branard Street for the northeasterly corner of a tract of land conveyed to Edmond D Wulfe, as recorded under Harris County Clerk's File No. H904713 and for the northwesterly corner of this tract;

THENCE; East - 55.00 feet with the south right-of-way line of said Branard Street to a 5/8-inch iron rod with cap set for the northeasterly corner of this tract;

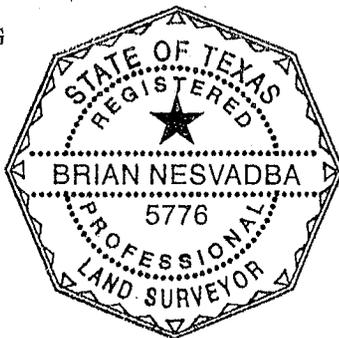
THENCE; South 00° 04' 58" West - 100.00 feet to a 5/8-inch iron rod with cap set for the southeasterly corner of this tract;

THENCE; West - 55.00 feet with the north line of a tract of land conveyed to Mainmont Venture, as recorded under Harris County Clerk's File No. F500846 to a 5/8-inch iron rod found for the southwesterly corner of this tract;

THENCE; North 00° 04' 58" East - 100.00 feet with the easterly line of said Edmond D. Wulfe tract to the POINT OF BEGINNING and containing 0.1263 acre (5,500 square feet) of land.

COMPILED BY:

TEXAS ENGINEERING AND MAPPING
Civil Engineers - Land Surveyors
Stafford, Texas
Job No. 670-1
W:\670-1.wpd



A handwritten signature in black ink, appearing to read "Brian Nesvadba", written over a horizontal line.

Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776

AFTER RECORDING
HOLD FOR
AMERICAN TITLE COMPANY
OF 542324-G
CLOSER KSLMN

04/20/04 X547414
HC File X547414 2004B4070 \$11.00

W/D
11
M

GENERAL WARRANTY DEED

THE STATE OF TEXAS :
COUNTY OF HARRIS : KNOW ALL MEN BY THESE PRESENTS:

That NICK ARAPOLIS (hereinafter referred to as "Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to it in hand paid by BRANARD STREET PARTNERS LP (hereinafter referred to as "Grantee"), the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, BARGAINED, SOLD and CONVEYED and by these presents does GRANT, BARGAIN, SELL and CONVEY unto Grantee, whose address is 2701 Westheimer, Suite 13N, Houston, Texas 77098, the real property legally described as follows:

The East 20 feet of Lots Three (3) and Four (4) and the adjoining West 40 feet of the North 100 feet of Lot Two (2) in Block Thirty-Four (34) of MONTROSE ADDITION, recorded in Volume 5, Page 32 of the Map Records of Harris County, Texas (the "Property");

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns, forever; and Grantor does hereby bind itself, its successors and assigns, to warrant and forever defend all and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Taxes for the year 2004 have been prorated and payment of such taxes are hereby expressly assumed by Grantee.

IN TESTIMONY WHEREOF, this instrument is executed on this the 19 day of April, 2004.

GRANTOR:

Nick Arapolis
NICK ARAPOLIS

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on April 19, 2004, by NICK ARAPOLIS.

Mary Rosenberg
Notary Public



1261-29-183

ANY PROVISION IN ANY INSTRUMENT THAT ATTEMPTS TO RESTRICT THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number 04-000000 on the date and at the time stated herein by me as duly RECORDED, in the Central Public Records of Real Property of Harris County, Texas on

APR 20 2004



Dorothy L. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

Dorothy L. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

2004 APR 20 PM 2:41

FILED

Appendix B – Property Use

The following is a description of the current land use, and to the extent known, the anticipated uses of the designated property and surrounding properties located within 500 feet of the designated property boundary.

Current and Anticipated Land Use of the Designated Property

The designated property consists of four parcels with three different owners totaling approximately 1.706 acres:

- The parcel address of 3939 Montrose Boulevard contains ± 1.205 acres of commercially developed land (strip shopping center) privately owned by Mortgage Recovery Fund 3939, Ltd (3939 Montrose Property);
- The parcel addressed at 0 Branard Street contains ± 0.126 acres of commercially developed land (parking lot) privately owned by Branard Street Partners, LP (Branard Street Parcel); and
- Two parcels including a public street and a public alley: Branard Street (± 0.289 acres) and a city-owned alley along the eastern boundary of the 3939 Montrose Property (± 0.086 acres).

The designated property for the MSD application is located adjacently east of Montrose Boulevard and south of Sul Ross Street, approximately 1.4 miles southwest of downtown Houston, Texas. The designated property is bordered to the north by Sul Ross Street followed by an office building (3515 Montrose Boulevard) and a former automobile service station (3807 Montrose Boulevard), to the south by privately-owned commercial land and residential properties; to the east by residential properties; and to the west by Montrose Boulevard followed by an office building and a parking lot owned by the University of Saint Thomas. Two plat maps and metes and bounds descriptions of the privately-owned parcels of the designated property are included in **Appendix A**.

The designated property is located in the Buffalo Bayou Watershed. According to the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Map (FIRM), *Map No. 48201C0860L*, the designated property is classified as Zone X (unshaded) and is determined by FEMA to be outside the 0.2% annual chance floodplains. A watershed map and a FEMA floodplain map of the area containing the designated property are included as **Figures C.2** and **C.3**, respectively.

Approximately 95 percent of the designated property is covered by an on-site building and gravel, concrete, or asphalt pavement. The public parcels (Branard Street and the alley) are both covered by asphalt. The 3939 Montrose Property is developed with one strip shopping center building of approximately 18,000 square feet (SF) in size. Other improvements on the property include two parking lots west and east of the strip shopping center, driveways, sidewalks, a bank drive-thru with a canopy, a canopy along the southern wall of the building, and three grease traps; two outside the building and one inside the building. Property use is anticipated to remain unchanged (commercial). The 3939 Montrose Property is enrolled in the Texas Commission on Environmental Quality (TCEQ) Voluntary Cleanup Program (VCP) as VCP ID No. 2604 under the TCEQ Texas Risk Reduction Program (TRRP) for adverse

environmental impacts identified in connection with the former on-site dry cleaning operations. Therefore, it is also referred to as the VCP Property. The former use of the 3939 Montrose Property is further discussed in **Appendix J**.

The 0 Branard Street Parcel consists of a gravel-covered parking lot for the customers of the strip shopping center. The proposed future use of the 0 Branard Street Parcel is anticipated to remain unchanged.

Current and Anticipated Land Use of the Surrounding Properties

Properties in the vicinity of the designated property are mixed commercial and residential. Schools and churches are also in the vicinity of the designated property. Commercial properties and schools are located north and west of the designated property; single-family residences are located east of the designated property; and one commercial property and single-family residences are located to the south of the designated property. A map detailing the land use of the surrounding properties within 500 feet of the designated property is presented as **Figure C.4**. The future land use in the area of the designated property is anticipated to remain mixed commercial and single-family residential.

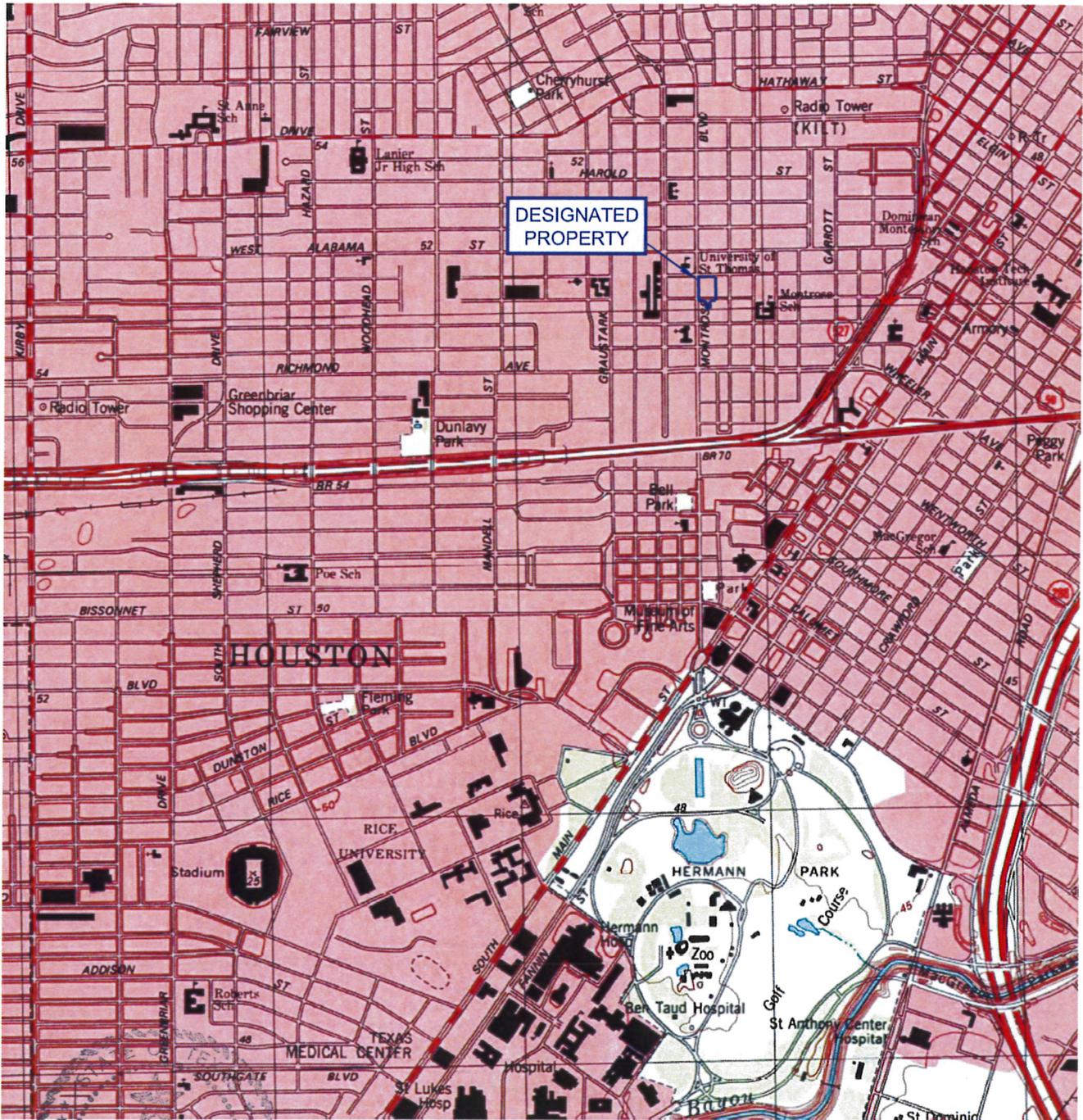
Water Wells

According to records obtained from GeoSearch Inc., approximately 943 registered/permitted water wells are reportedly located within a 5-mile radius of the designated property. Of these, six are reportedly located within a 0.5-mile radius of the designated property. However, according to information documented within the well reports, five of these wells are misplotted and are actually located at 506 Milam Street, approximately 2.33 miles northeast of the subject property. According to the GeoSearch Inc. report, the remaining well located within 0.5-mile radius of the designated property is located at 401 Richmond Avenue, approximately 2,000 feet southeast of the designated property and reportedly used for domestic purposes. This water well was drilled to a terminal depth of 185 feet below ground surface (ft-bgs) in 1963 and has 10 feet of screen between 175 and 185 ft-bgs. Harris County Appraisal District (HCAD) records list Sun Development, Inc. #165 as the current property and water well owner. During a receptor survey conducted by SKA on May 19, 2014, a restaurant was observed at this location, and HCAD records indicate commercial use of the property since 1984. This potable water well is reportedly screened in a GWBU greater than 160 ft-bgs. As such, this potable water well will not likely be affected by contaminants present in soil or groundwater at the designated property, as there are no soil plumes and the groundwater plume is delineated on the designated property.

Appendix C – Site Maps

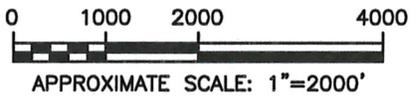
The following figures are included in **Appendix C**. The figures are:

- Figure C.1 Site Location and Topographic Map
- Figure C.2 Watershed Map
- Figure C.3 Floodplain Map
- Figure C.4 Surrounding Land Use Map
- Figure C.5 Soil and Groundwater Sampling Location Map
- Figure C.6A Groundwater Gradient Map October 3, 2013
- Figure C.6B Groundwater Gradient Map November 4, 2013
- Figure C.6C Groundwater Gradient Map January 20, 2014
- Figure C.6D Groundwater Gradient Map April 18, 2014
- Figure C.7 Groundwater Protective Concentration Level Exceedance Zone Map



PAUL MICHAEL SCHULTZ
 68765
 REGISTERED PROFESSIONAL ENGINEER
 6/20/14

REFERENCE USGS 7.5-MINUTE TOPOGRAPHIC QUADRANGLE
 BELLAIRE, TEXAS
 1995



SKA CONSULTING, L.P.
 1515 WITTE ROAD, SUITE 150
 HOUSTON, TEXAS 77080

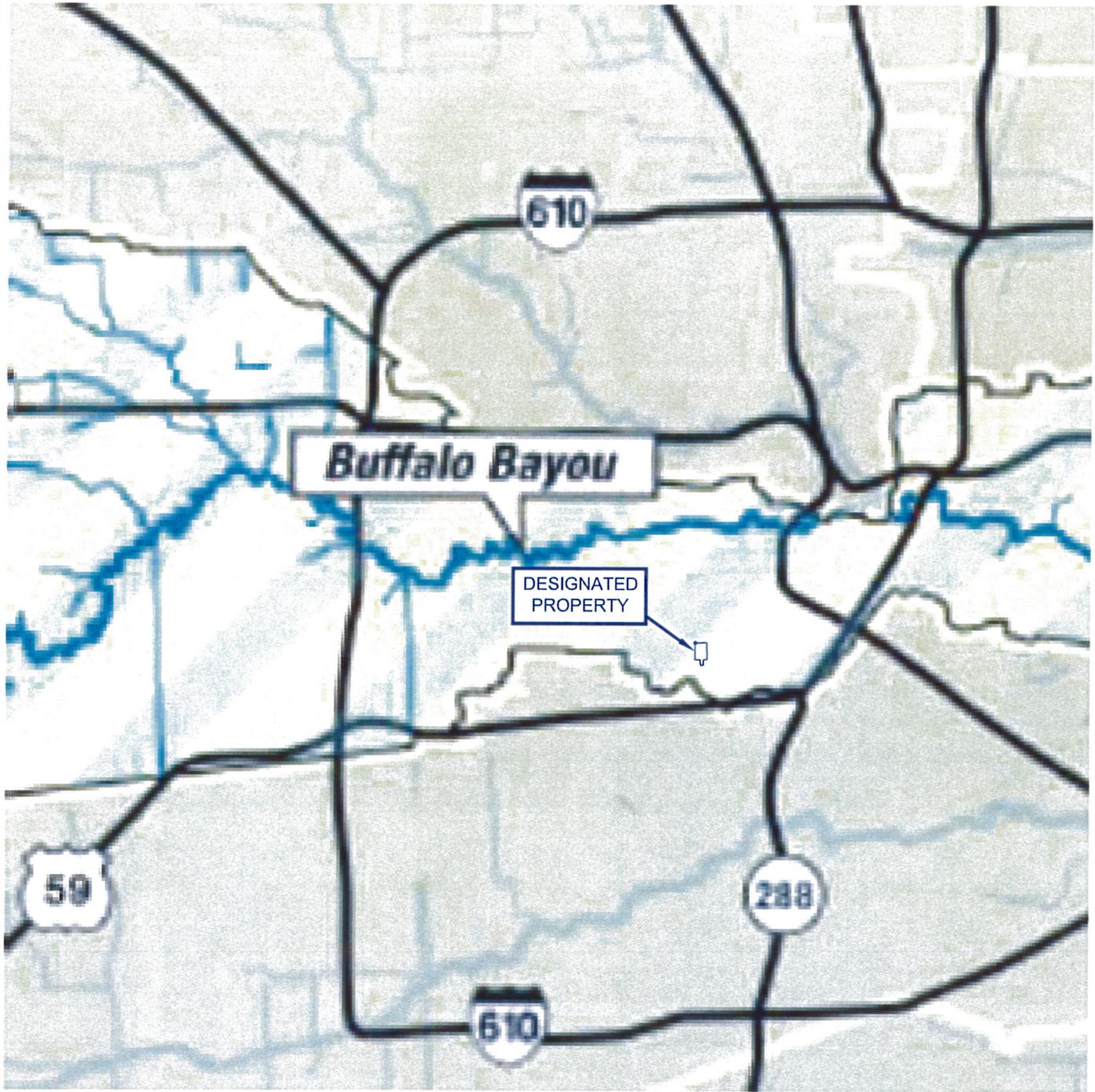
SITE LOCATION AND TOPOGRAPHIC MAP

FIGURE
C.1

CITY OF HOUSTON
 MUNICIPAL SETTING DESIGNATION APPLICATION
 MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
 3939 MONTROSE BOULEVARD
 HOUSTON, HARRIS COUNTY, TEXAS
 VCP ID NO. 2604

DATE:	JUNE 2014	JOB NO:	21011-0001	SCALE:	AS SHOWN
1	FIRST REVISION	-	DRAWN BY:	WPS	
2	SECOND REVISION	-	CHECKED BY:	VMM	
3	THIRD REVISION	-	APPROVED BY:	JRM	





 BUFFALO BAYOU
WATERSHED

0 5000 10,000

 APPROXIMATE SCALE:
 1"=10,000'



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 HOUSTON, TEXAS 77080

Texas Registered Engineering Firm F-005009
 Texas Registered Geoscience Firm 50011

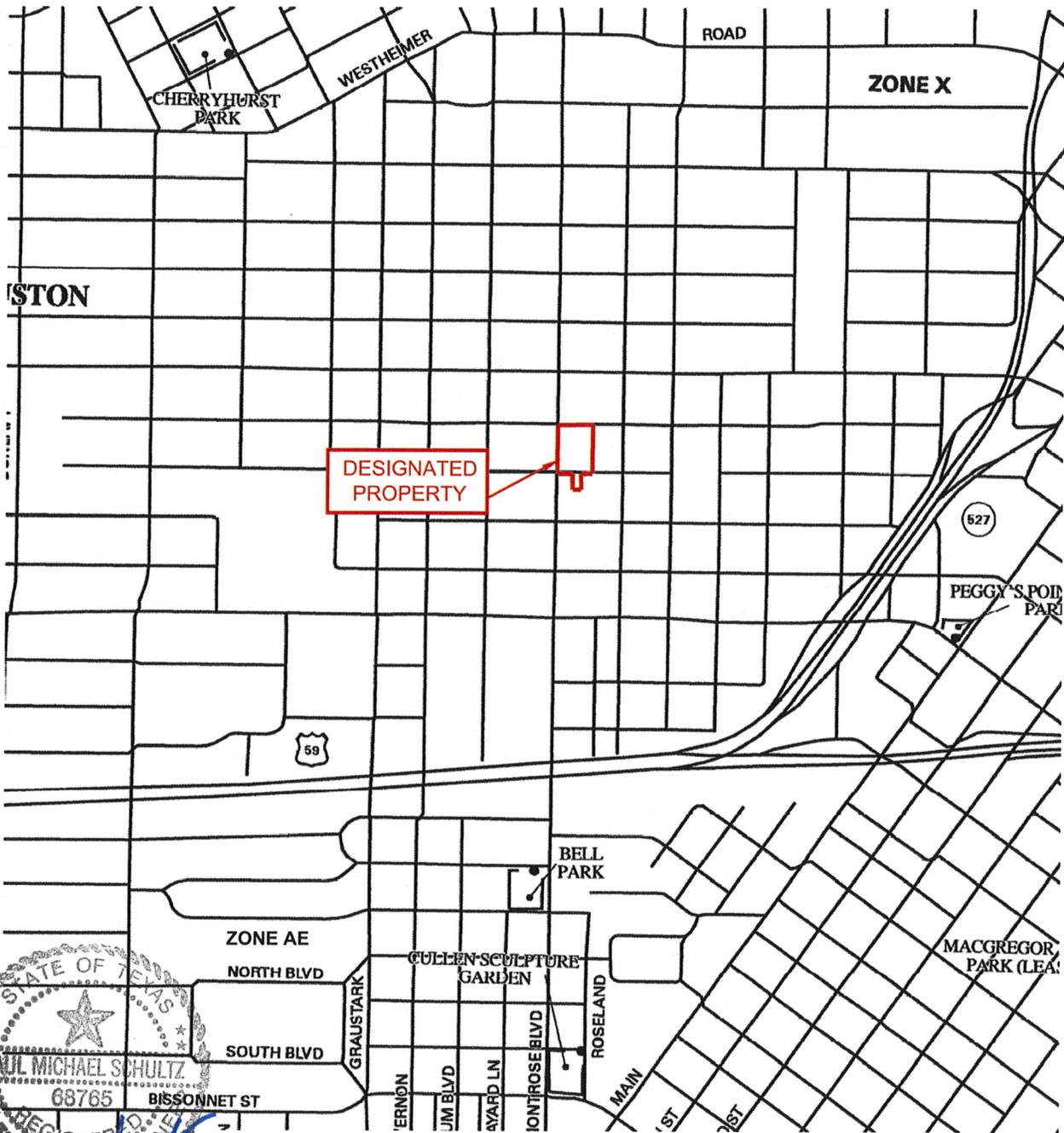
WATERSHED MAP

FIGURE
C.2

CITY OF HOUSTON
 MUNICIPAL SETTING DESIGNATION APPLICATION
 MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
 3939 MONTROSE BOULEVARD
 HOUSTON, HARRIS COUNTY, TEXAS
 VCP ID NO. 2604



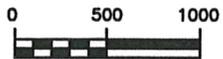
DATE:	JUNE 2014	JOB NO:	21011-0001	SCALE:	AS SHOWN
1	FIRST REVISION	-	DRAWN BY:	WPS	
2	SECOND REVISION	-	CHECKED BY:	CLS	
3	THIRD REVISION	-	APPROVED BY:	JRM	



EXPLANATION:
 Zone X (unshaded) - Areas determined to be outside the 0.2% annual chance floodplains.

FEDERAL EMERGENCY MANAGEMENT AGENCY
 HARRIS COUNTY, TEXAS

MAP NO.: 48201C0860L (06/18/2007)



APPROXIMATE SCALE: 1"=1000'



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 Texas Registered Geoscience Firm 50011

FLOODPLAIN MAP

FIGURE
C.3

CITY OF HOUSTON
 MUNICIPAL SETTING DESIGNATION APPLICATION
 MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
 3939 MONTROSE BOULEVARD
 HOUSTON, HARRIS COUNTY, TEXAS

DATE:	JUNE 2014	JOB NO:	21011-0001	SCALE:	AS SHOWN
1	FIRST REVISION	-	DRAWN BY:	WPS	
2	SECOND REVISION	-	CHECKED BY:	VMM	
3	THIRD REVISION	-	APPROVED BY:	JRM	



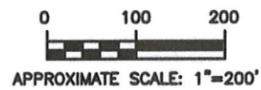


LEGEND

-  DESIGNATED PROPERTY BOUNDARY
-  ROADS
-  500' RADIUS

PARCEL LAND USE

-  INDUSTRIAL/COMMERCIAL
-  RESIDENTIAL
-  OTHER LAND USES
(E.G. SCHOOLS, CHURCHES)
-  VACANT



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Texas Registered Geoscience Firm 50011

SURROUNDING LAND USE MAP

FIGURE
C.4

CITY OF HOUSTON
MUNICIPAL SETTING DESIGNATION APPLICATION
MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
3939 MONTROSE BOULEVARD
HOUSTON, HARRIS COUNTY, TEXAS
VCP ID NO. 2604

DATE:	JUNE 2014	JOB NO:	21011-0001	SCALE:	AS SHOWN
1	FIRST REVISION	-	DRAWN BY:	WPS	
2	SECOND REVISION	-	CHECKED BY:	CLS	
3	THIRD REVISION	-	APPROVED BY:	JRM	



LEGEND

- VCP PROPERTY BOUNDARY
- - - DESIGNATED PROPERTY BOUNDARY
- ON-SITE BUILDING
- SECOND FLOOR
- WOODEN FENCE
- x—x— CHAIN-LINK FENCE
- G GAS METER
- ⊕ TMW-1 FORMER TEMPORARY MONITORING WELL LOCATION
- ⊕ MW-1 PERMANENT MONITORING WELL LOCATION

APPROXIMATE SCALE: 1"=50'

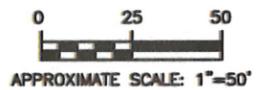
Paul Michael Schultz
6/20/14

SKA CONSULTING, L.P.
1515 WITTE ROAD, SUITE 150
HOUSTON, TEXAS 77080
Texas Registered Engineering Firm F-005009
Texas Registered Geoscience Firm 50011

SOIL & GROUNDWATER SAMPLING LOCATION MAP		FIGURE C.5
CITY OF HOUSTON MUNICIPAL SETTING DESIGNATION APPLICATION MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY 3939 MONTROSE BOULEVARD HOUSTON, HARRIS COUNTY, TEXAS VCP ID NO. 2604		
DATE: JUNE 2014	JOB NO: 21011-0001	SCALE: AS SHOWN
1 FIRST REVISION	-	DRAWN BY: WPS
2 SECOND REVISION	-	CHECKED BY: VMM
3 THIRD REVISION	-	APPROVED BY: JRM



- LEGEND**
- VCP PROPERTY BOUNDARY
 - DESIGNATED PROPERTY BOUNDARY
 - ON-SITE BUILDING
 - SECOND FLOOR
 - WOODEN FENCE
 - CHAIN-LINK FENCE
 - GAS METER
 - FORMER TEMPORARY MONITORING WELL LOCATION
 - PERMANENT MONITORING WELL LOCATION
 - 25.55 GROUNDWATER ELEVATION
 - GROUNDWATER CONTOUR
 - GROUNDWATER FLOW DIRECTION



ska SKA CONSULTING, L.P.
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 HOUSTON, TEXAS 77080
 Texas Registered Engineering Firm F-005009
 Texas Registered Geoscience Firm 50011

GROUNDWATER GRADIENT MAP
OCTOBER 3, 2013
 CITY OF HOUSTON
 MUNICIPAL SETTING DESIGNATION APPLICATION
 MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
 3939 MONTROSE BOULEVARD
 HOUSTON, HARRIS COUNTY, TEXAS
 VCP ID NO. 2604

FIGURE
C.6A

DATE:	JUNE 2014	JOB NO.:	21011-0001	SCALE:	AS SHOWN
1	FIRST REVISION	-		DRAWN BY:	WPS
2	SECOND REVISION	-		CHECKED BY:	VMM
3	THIRD REVISION	-		APPROVED BY:	JRM



LEGEND

- VCP PROPERTY BOUNDARY
- - - DESIGNATED PROPERTY BOUNDARY
- ON-SITE BUILDING
- SECOND FLOOR
- WOODEN FENCE
- x—x—x— CHAIN-LINK FENCE
- G GAS METER
- ⊕ TMW-1 FORMER TEMPORARY MONITORING WELL LOCATION
- ⊕ MW-1 PERMANENT MONITORING WELL LOCATION
- 25.87 GROUNDWATER ELEVATION
- - - GROUNDWATER CONTOUR
- GROUNDWATER FLOW DIRECTION

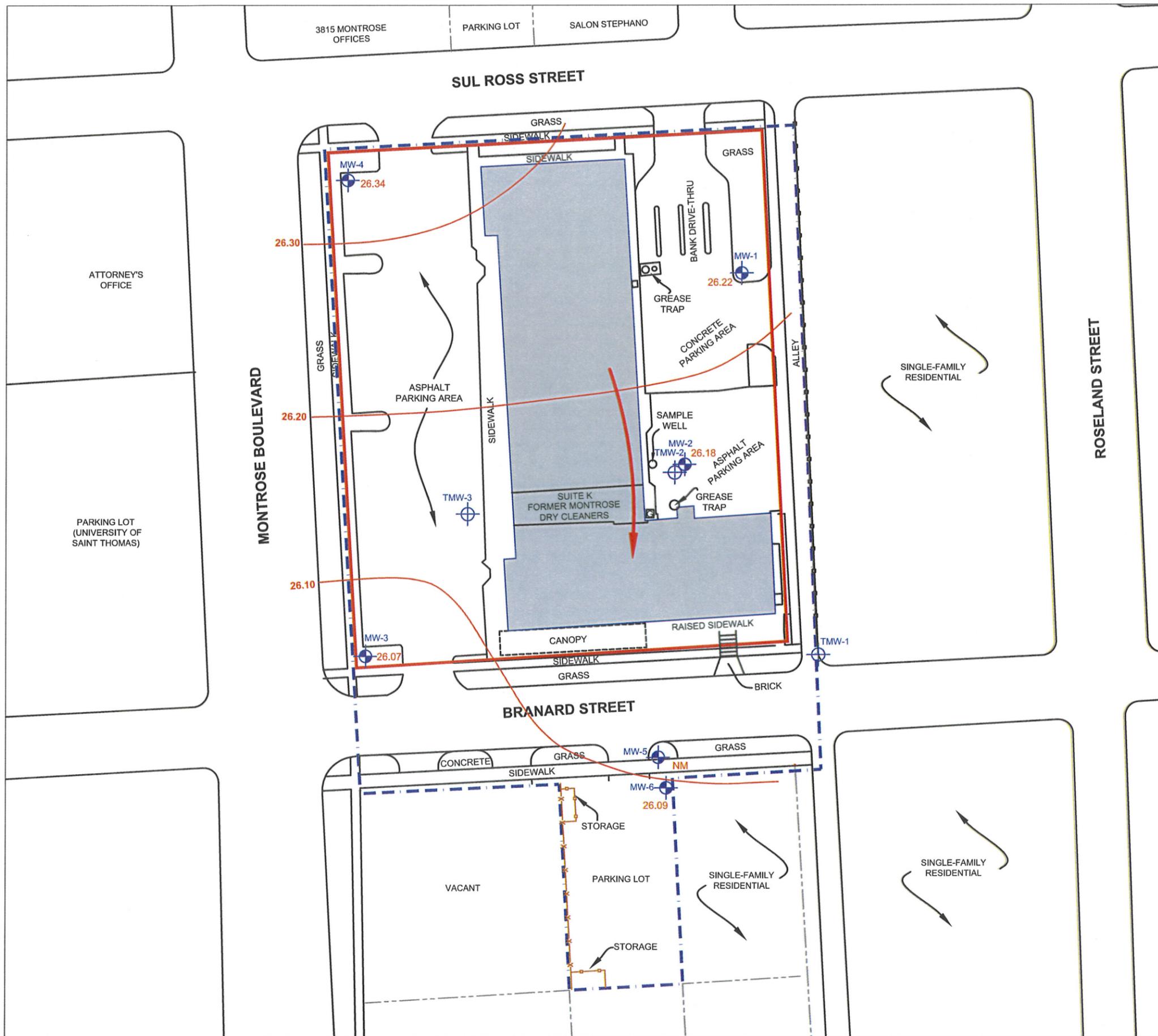
APPROXIMATE SCALE: 1"=50'

PAUL MICHAEL SCHULTZ
68765
REGISTERED PROFESSIONAL ENGINEER

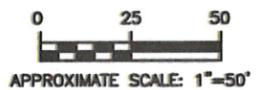
Paul Michael Schultz
6/20/14

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HOUSTON, TEXAS 77080
Texas Registered Engineering Firm F-005009
Texas Registered Geoscience Firm 50011

GROUNDWATER GRADIENT MAP		FIGURE C.6B
NOVEMBER 4, 2013		
CITY OF HOUSTON MUNICIPAL SETTING DESIGNATION APPLICATION MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY 3939 MONTROSE BOULEVARD HOUSTON, HARRIS COUNTY, TEXAS VCP ID NO. 2604		
DATE: JUNE 2014	JOB NO: 21011-0001	SCALE: AS SHOWN
1 FIRST REVISION	-	DRAWN BY: WPS
2 SECOND REVISION	-	CHECKED BY: VMM
3 THIRD REVISION	-	APPROVED BY: JRM



- LEGEND**
- VCP PROPERTY BOUNDARY
 - - - DESIGNATED PROPERTY BOUNDARY
 - ON-SITE BUILDING
 - SECOND FLOOR
 - WOODEN FENCE
 - x—x—x—x— CHAIN-LINK FENCE
 - G GAS METER
 - ⊕ TMW-1 FORMER TEMPORARY MONITORING WELL LOCATION
 - ⊕ MW-1 PERMANENT MONITORING WELL LOCATION
 - 26.55 GROUNDWATER ELEVATION
 - - - GROUNDWATER CONTOUR
 - GROUNDWATER FLOW DIRECTION

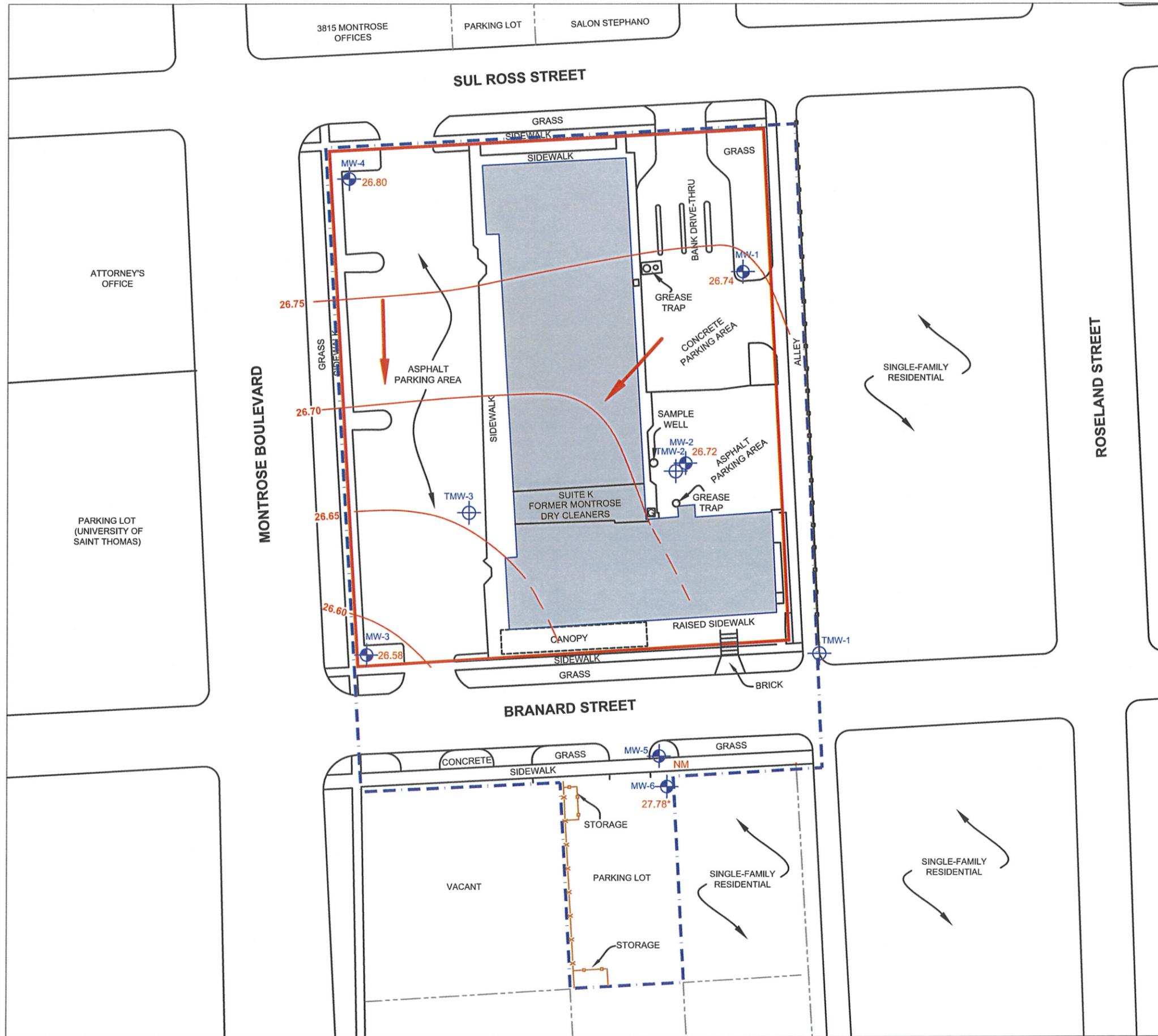


ska SKA CONSULTING, L.P.
 1515 WITTE ROAD, SUITE 150
 HOUSTON, TEXAS 77080
 Texas Registered Engineering Firm F-005009
 Texas Registered Geoscience Firm 50011

GROUNDWATER GRADIENT MAP
JANUARY 20, 2014
 CITY OF HOUSTON
 MUNICIPAL SETTING DESIGNATION APPLICATION
 MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
 3939 MONTROSE BOULEVARD
 HOUSTON, HARRIS COUNTY, TEXAS
 VCP ID NO. 2604

FIGURE
C.6C

DATE:	JUNE 2014	JOB NO:	21011-0001	SCALE:	AS SHOWN
1	FIRST REVISION	-	DRAWN BY:	WPS	
2	SECOND REVISION	-	CHECKED BY:	VMM	
3	THIRD REVISION	-	APPROVED BY:	JRM	



- LEGEND**
- VCP PROPERTY BOUNDARY
 - - - DESIGNATED PROPERTY BOUNDARY
 - ON-SITE BUILDING
 - SECOND FLOOR
 - WOODEN FENCE
 - x—x— CHAIN-LINK FENCE
 - G GAS METER
 - ⊕ TMW-1 FORMER TEMPORARY MONITORING WELL LOCATION
 - ⊕ MW-1 PERMANENT MONITORING WELL LOCATION
 - 25.55 GROUNDWATER ELEVATION
 - - - GROUNDWATER CONTOUR
 - ← DIRECTION OF GROUNDWATER FLOW
 - NM NOT MEASURED
 - * ANOMALOUS DATA

APPROXIMATE SCALE: 1"=50'

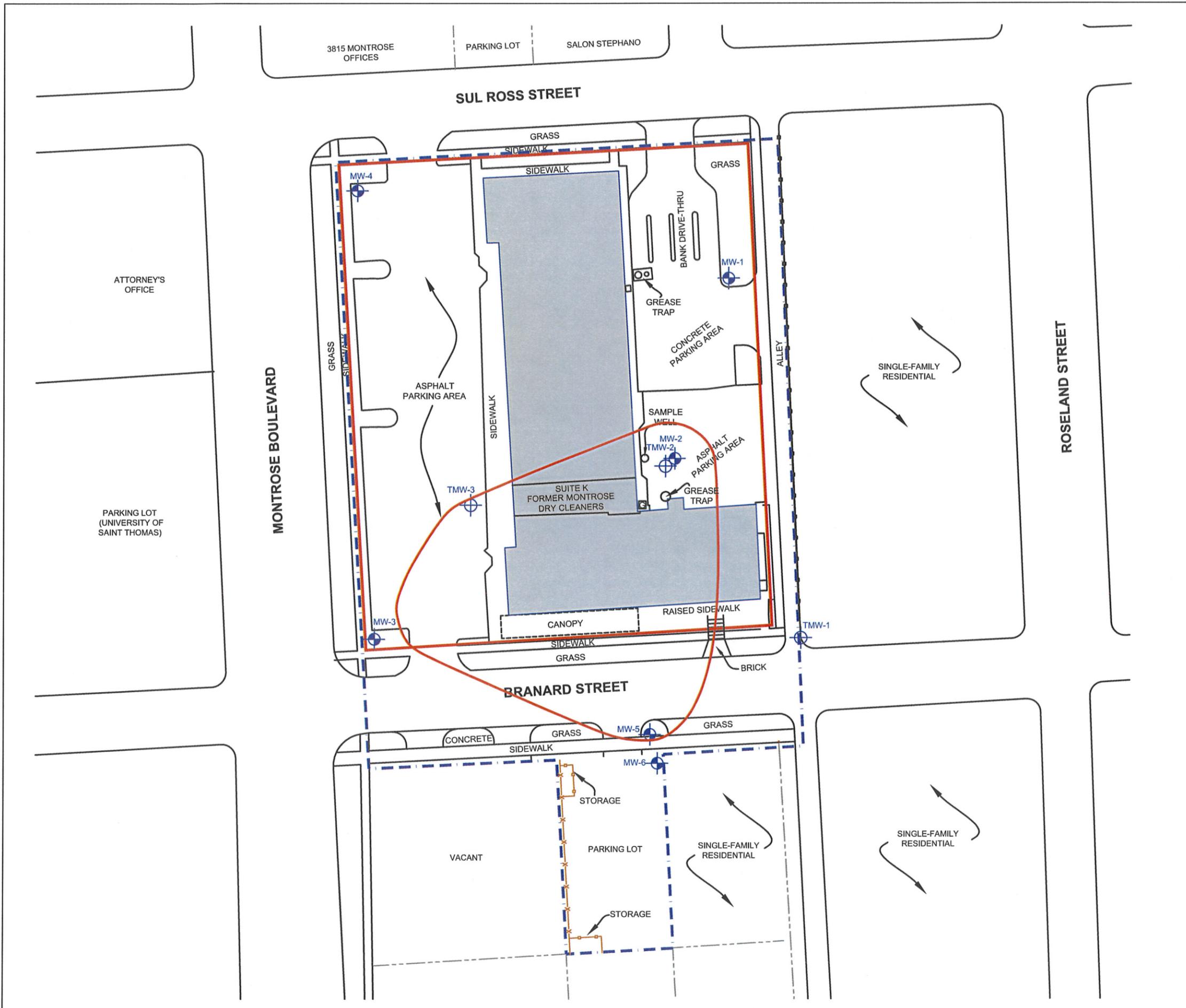
SKA CONSULTING, L.P.
 1515 WITTE ROAD, SUITE 150
 HOUSTON, TEXAS 77080
 Texas Registered Engineering Firm F-005009
 Texas Registered Geoscience Firm 50011

GROUNDWATER GRADIENT MAP
APRIL 18, 2014

CITY OF HOUSTON
MUNICIPAL SETTING DESIGNATION APPLICATION
MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
3939 MONTROSE BOULEVARD
HOUSTON, HARRIS COUNTY, TEXAS
VCP ID NO. 2604

DATE: JUNE 2014	JOB NO: 21011-0001	SCALE: AS SHOWN
1 FIRST REVISION	-	DRAWN BY: WPS
2 SECOND REVISION	-	CHECKED BY: VMM
3 THIRD REVISION	-	APPROVED BY: JRM

FIGURE
C.6D



LEGEND

- VCP PROPERTY BOUNDARY
- - - DESIGNATED PROPERTY BOUNDARY
- ON-SITE BUILDING
- SECOND FLOOR
- WOODEN FENCE
- x—x—x—x— CHAIN-LINK FENCE
- G GAS METER
- ⊕ TMW-1 FORMER TEMPORARY MONITORING WELL LOCATION
- ⊕ MW-1 PERMANENT MONITORING WELL LOCATION
- PCE/TCE/cis-1,2-DCE PCLE ZONE

NOTE: PCE - TETRACHLOROETHENE
 TCE - TRICHLOROETHENE
 cis-1,2-DCE - cis-1,2-DICHLOROETHENE

APPROXIMATE SCALE: 1"=50'

6/20/14

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 1515 WITTE ROAD, SUITE 150
 HOUSTON, TEXAS 77080
 Texas Registered Engineering Firm F-005009
 Texas Registered Geoscience Firm 50011

GROUNDWATER PROTECTIVE CONCENTRATION LEVEL EXCEEDENCE (PCLE) ZONE MAP		FIGURE C.7
CITY OF HOUSTON MUNICIPAL SETTING DESIGNATION APPLICATION MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY 3939 MONTROSE BOULEVARD HOUSTON, HARRIS COUNTY, TEXAS VCP ID NO. 2604		
DATE: JUNE 2014	JOB NO: 21011-0001	SCALE: AS SHOWN
1 FIRST REVISION	-	DRAWN BY: WPS
2 SECOND REVISION	-	CHECKED BY: VMM
3 THIRD REVISION	-	APPROVED BY: JRM

Appendix D – COCs in Designated Groundwater

Initial groundwater sampling and analysis activities indicated five contaminants of concern (COCs) (benzene, PCE, TCE, cis-1,2-DCE and VC) were present at the designated property. While benzene and VC were detected above applicable PCLs in groundwater sampled from temporary monitoring wells, they are not considered PCL exceedances as they were not confirmed above applicable PCLs in groundwater more recently sampled from permanent monitoring wells. In addition, as no sources of benzene are known to exist on the designated property, benzene is likely from an historical service station and former Leaking Petroleum Storage Tank (LPST) site located at 3807 Montrose Boulevard, 180 feet north and upgradient of the designated property. Therefore, there are three COCs currently above TRRP Tier I Groundwater Ingestion PCLs at the designated property; PCE, TCE, and cis-1,2—DCE.

A brief summary discussion regarding the three COCs currently present in the groundwater of the designated property follows. Maps showing the current locations and concentrations of COCs in the groundwater are provided in **Appendix C** and summary tables of all groundwater sampling and analysis results obtained for the designated property are provided in **Appendix G** as **Tables G.1** and **G.2**.

Ingestion PCLE Zone in Designated Groundwater

The results of the groundwater sampling and analytical testing from the designated property indicate PCE, TCE, and cis-1,2 DCE are present in the shallow GWBU in excess of the COCs' applicable TRRP Groundwater Ingestion PCLs (TRRP Tier 1 residential ^{GW}GW_{ing} PCLs). The groundwater gauging data collected from permanent monitoring wells in October and November 2013 within the VCP Property indicated groundwater in the shallow GWBU flowed to the south-southeast (**Figure C.6A and C.6B**). Consequently, a permanent monitoring well (MW-5) was installed on the south side of the Branard Street right-of-way in January 2014 to delineate the Protective Concentration Level Exceedance (PCLE) Zone. While the soils of the MW-5 boring indicated saturated conditions at 17.2 ft-bgs, the completed monitoring well could not yield sufficient water for groundwater sampling. Consequently, a second boring was advanced approximately 15 feet south of monitoring well MW-5 to 35 ft-bgs in a parking lot owned by Branard Street Partners LP. Saturated conditions were encountered in this boring at 16.5 ft-bgs and at 28 ft-bgs. This monitoring well, MW-6, was screened between 25 ft-bgs and 35 ft-bgs.

The initial static depth to water measurement from monitoring well MW-6 in January 2014 indicated a groundwater flow direction to the south within the designated property, consistent with previous groundwater gradient maps (**Figure C.6C**). However, rising water elevations from monitoring well MW-6 were noted in March and April 2014. To determine if the change in water level was due to an influx of processed water (potable water or wastewater from a sanitary sewer), low flow monitoring parameters (specific conductivity, dissolved oxygen, oxidation reduction potential) from selected monitoring wells as well as nitrate as nitrogen and total dissolved solids (TDS) data (included in **Table G.2**) were compared to the same parameters from monitoring well MW-6. The low flow parameters and inorganic groundwater constituent data from the monitoring wells are consistent, indicating the groundwater sampled from monitoring well MW-6 does not appear to have been affected by an influx of wastewater from a sanitary sewer. As the groundwater elevations of the monitoring wells on the VCP Property indicate a south to southwesterly gradient, the recent monitoring well MW-6 groundwater elevations are considered anomalous and are not included in **Figure C.6D**.

Further discussion regarding the TRRP groundwater ingestion PCLE zone follows. The location of the groundwater PCLE zone is shown on **Figure C.7** in **Appendix C**.

PCE/ TCE/ cis-1,2-DCE PCLE Zone

The most recent groundwater monitoring data indicates the existence of a PCE/TCE/cis-1,2-DCE groundwater ingestion PCLE zone in the shallow GWBU located in the central portion of the designated property. TCE and cis-1,2-DCE are degradation products of PCE. The maximum concentrations of PCE, TCE, and cis-1,2-DCE concentrations were detected at monitoring well TMW-2 in October 2011 and are 0.43 mg/L, 0.19 mg/L, 0.80 mg/L, and 0.0021 mg/L, respectively. Monitoring well MW-2 was installed in close proximity to the former TMW-2 location in May 2013. The most recent PCE, TCE, cis-1,2-DCE, and VC concentrations from MW-2 are 0.24 mg/L, 0.11 mg/L, 0.55 mg/L, and 0.00067 mg/L, respectively. While comparison of groundwater COCs from TMW-2 and MW-2 indicate decreasing COC concentrations, the detections of PCE, TCE, and cis-1,2-DCE exceed their applicable TRRP Groundwater Ingestion PCLs (TRRP Tier 1 residential ^{GW}GW_{ing} PCLs) of 0.005 mg/L (PCE), 0.005 mg/L (TCE), 0.07 mg/L (cis-1,2-DCE), respectively.

The PCE/TCE/cis-1,2-DCE PCLE zone encompasses approximately 19,000 square feet (SF), originates at the former dry cleaners facility and is comprised of permanent monitoring well MW-2 and temporary monitoring wells TMW-2, and TMW-3. A concentration of TCE slightly above the TRRP Groundwater Ingestion PCL was detected at monitoring well MW-6 in January 20, 2014. However, TCE concentrations in monitoring well MW-6 were below the TRRP Groundwater Ingestion PCL ten days later (January 30, 2014) and not detected above the sample detection limit (SDL) during the groundwater monitoring event on March 28, 2014. As such and based on the most recent laboratory results, monitoring well MW-6 is not included in the PCE/TCE/cis-1,2-DCE PCLE zone. The PCE/TCE/cis-1,2-DCE PCLE zone is delineated laterally by temporary monitoring well TMW-1 to the southeast; and monitoring wells MW-1, MW-3, MW-4, and MW-6 to the northeast, southwest, northeast, and south, respectively. **Figure C.6D** indicates that monitoring well MW-3 is the downgradient monitoring well for the designated property and delineates the PCE/TCE/cis-1,2-DCE PCLE Zone.

The COCs (PCE, TCE, and cis-1,2-DCE) detected in the PCE/TCE/ cis-1,2-DCE PCLE Zone are chlorinated ethenes as all are based on the ethene molecular structure (two double-bonded carbon atoms). The COCs are present in the groundwater in the dissolved-phase and no direct evidence of non-aqueous phase liquids (NAPLs) has been observed or detected. Due to their high densities, NAPLs with these COCs are dense non-aqueous phase liquids (DNAPLs). DNAPL-phase COCs have a tendency to migrate vertically and “sink” in GWBUs. Typically, dissolved-phase COCs preferentially migrate with groundwater flow. However, DNAPLs, when present, can migrate along the dip of geologic contacts counter to groundwater flow. Monitoring wells installed at the designated property fully penetrate the shallow GWBU, but no DNAPL-phase COCs have been observed.

Non-Ingestion PCLE Zone in Designated Groundwater

None of the COCs detected in the shallow GWBU which exceeded their applicable TRRP groundwater ingestion PCLs exceeded their applicable TRRP non-ingestion groundwater PCLs (TRRP Tier 1 residential ^{Air}GW_{inh-v} PCLs) of 500 mg/L (PCE), 24 mg/L (TCE), and 1,200 mg/L (cis-1,2-DCE). As such, no TRRP non-ingestion groundwater PCLE zones exist at the designated property.

Appendix E – Summary of Soil and Groundwater Data

Summary of Soil Data

Soil sampling and analysis results obtained for soil samples collected from the designated property indicate that one COC (benzene) was detected in excess of its TRRP soil-to-groundwater ingestion PCL (TRRP Tier 1 residential ^{GW}Soil_{Ing} PCLs) in one monitoring well, MW-4, located in the northwestern portion of the designated property. Benzene and other related volatile organic compounds (VOCs) commonly attributed to Leaking Petroleum Storage Tank (LPST) sites were also detected below applicable TRRP Tier 1 soil-to-groundwater PCLs in soils from monitoring well MW-4 and one temporary monitoring well (TMW-1) installed on the designated property. However, as no sources of benzene are known to exist on the designated property, the benzene is likely from an historical service station and the former LPST site located at 3807 Montrose Boulevard, 180 feet north and upgradient of the designated property. Therefore, the benzene concentration from the MW-4 soil sample was compared to TCEQ Petroleum Storage Tank (PST) Program Action Levels and not the TRRP Tier 1 soil-to-groundwater ingestion PCL. As shown in **Table G.1**, the benzene detection of 0.029 mg/kg is below the benzene PST Program Action Level of 0.12 mg/kg. Therefore, there are no surface or subsurface soil PCLE zones on the designated property.

The TRRP PCLs and PST Program Action Levels utilized for soils to determine the designated property's soil-to-groundwater ingestion and non-ingestion PCLE zones are included in **Table G.1**. A summary of maximum soil concentrations compared to applicable soil-to-groundwater ingestion PCLs, non-ingestion PCLs, and PST Program Action Levels are included in **Table E.1**.

None of the VOCs detected in the soil at the designated property exceed their applicable TRRP non-ingestion soil PCLs (^{Tot}Soil_{Comb}) PCLs for surface soils and ^{Air}Soil_{Inh-v} PCLs for subsurface soils). As such, no TRRP non-ingestion soil PCLE zones exist at the designated property.

Summary of Groundwater Data

As previously discussed and detailed in **Appendix D**, initial groundwater sampling and analysis activities performed to date have revealed detectable concentrations of PCE, TCE, cis-1,2-DCE, VC, and benzene were present in the groundwater of the designated property. While benzene and VC were detected above applicable PCLs in groundwater sampled from temporary monitoring wells, they are not considered PCL exceedances as they were not confirmed above applicable PCLs in groundwater more recently sampled from permanent monitoring wells. In addition, as no sources of benzene are known to exist on the designated property, benzene is likely from an historical service station and former Leaking Petroleum Storage Tank (LPST) site located 180 feet north and upgradient of the designated property. Therefore, there are three COCs currently above TRRP Tier I Groundwater Ingestion PCLs at the designated property; PCE, TCE, and cis-1,2-DCE. None of the COCs detected in the shallow GWBU exceed their applicable TRRP non-ingestion groundwater PCLs (TRRP Tier 1 residential ^{Air}GW_{Inh-v} PCLs). As such, no TRRP non-ingestion groundwater PCLE zones exist at the designated property.

Summary tables showing the maximum concentrations of COCs detected in groundwater at the designated property are provided in **Table E.2**. Included with the maximum COC concentrations detected in groundwater in **Table E.2** are the COC's applicable TRRP PCLs for both ingestion and non-ingestion exposure pathways.

The three COCs in groundwater on the designated property currently exceed their respective TRRP ingestion PCLs (the critical TRRP PCLs without an MSD) are indicated in **Table E.2**. These COCs are highlighted in yellow. However, no COCs currently exceed their respective TRRP non-ingestion PCLs (critical TRRP PCLs with an MSD).

Complete summaries of all sampling and analysis results for soil and groundwater samples collected from the designated property are provided in **Tables G.1** and **G.2**, respectively. The locations of all soil and groundwater sampling points are presented on **Figure C.5** in **Appendix C**.

**TABLE E.1
SUMMARY OF MAXIMUM SOIL CONCENTRATIONS
MUNICIPAL SETTING DESIGNATION APPLICATION
MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
3939 MONTROSE BOULEVARD
HOUSTON, HARRIS COUNTY, TEXAS**

CONTAMINANT OF CONCERN	MAXIMUM SOIL CONCENTRATION				CRITICAL TRRP TIER 1 RESIDENTIAL SOIL PROTECTIVE CONCENTRATION LEVEL (PCL)		TCEQ PST PROGRAM ACTION LEVEL
	Sample ID	Sample Depth	Sample Date	Detected Concentration (mg/kg)	Ingestion PCL (Without MSD)	Non-Ingestion PCL (With MSD)	Ingestion Action Level (With/Without MSD)
					^{GW} Soil _{Ing} (mg/kg)	^{Tot} Soil _{Comb} (mg/kg)	Action Level (mg/kg)
Acetone	MW-4	22.5-25	10/2/13	0.13	43	66,000	--
Benzene	MW-4	22.5-25	10/2/13	0.029	0.026	120	0.12
2-Butanone	MW-4	22.5-25	10/2/13	0.075	29	40,000	--
n-Butylbenzene	MW-4	22.5-25	10/2/13	0.15	150	3,300	--
sec-Butylbenzene	MW-4	22.5-25	10/2/13	0.032	85	3,300	--
Ethylbenzene	MW-4	22.5-25	10/2/13	0.80	7.6	6,400	36.8
Isopropylbenzene	TMW-1	17-18	9/29/11	0.093	350	4,300	--
Methylene Chloride	TMW-1	20-22	9/29/11	0.0069 J	0.013	480	--
Methyl-tert-butyl ether	MW-4	22.5-25	10/2/13	0.013	0.62	800	2.56
Naphthalene	MW-4	22.5-25	10/2/13	0.25	31	220	99.7
n-propylbenzene	MW-4	22.5-25	10/2/13	0.62	45	2,200	--
Toluene	MW-4	22.5-25	10/2/13	0.0019 J	8.2	5,900	39.1
1,2,4-Trimethylbenzene	MW-4	22.5-25	10/2/13	15	49	150	--
1,3,5-Trimethylbenzene	MW-4	22.5-25	10/2/13	0.77	53	110	--
Total Xylenes	MW-4	22.5-25	10/2/13	0.43	120	6,000	117

NOTE:

- 1) COCs highlighted in yellow exceed the critical TRRP Tier 1 Residential Soil PCL (applicable TRRP Tier 1 Residential Soil Ingestion PCL) without an MSD; but do not exceed the critical TRRP Tier 1 Residential Soil PCL (applicable TRRP Tier 1 Residential Soil Non-Ingestion PCL) with an MSD.
- 2) COCs highlighted in green exceed the critical TRRP Tier 1 Residential Soil PCL (applicable TRRP Tier 1 Residential Soil Non-Ingestion PCL) with an MSD.
- 3) COCs highlighted in blue exceed the TCEQ PST Program Action Level
- 4) Property land use is commercial/industrial, commercial/industrial PCLs will be utilized as needed in the TCEQ Affected Property Assessment Report (APAR).

**TABLE E.2
SUMMARY OF MAXIMUM GROUNDWATER CONCENTRATIONS
MUNICIPAL SETTING DESIGNATION APPLICATION
MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
3939 MONTROSE BOULEVARD
HOUSTON, HARRIS COUNTY, TEXAS**

CONTAMINANT OF CONCERN	GROUNDWATER-BEARING UNIT	MAXIMUM GROUNDWATER CONCENTRATION			CRITICAL TRRP TIER 1 RESIDENTIAL GROUNDWATER PROTECTIVE CONCENTRATION LEVEL (PCL)	
		Sample ID	Sample Date	Detected Concentration (mg/L)	Ingestion PCL (Without MSD)	Non-Ingestion PCL (With MSD)
					^{GW} GW _{Ing} (mg/L)	^{Air} GW _{Inh-V} (mg/L)
Benzene	Shallow	TMW-3	10/3/11	0.0053	0.005	180
Tetrachloroethene	Shallow	TMW-2	10/3/11	0.43	0.005	500
Trichloroethene	Shallow	TMW-2	10/3/11	0.19	0.005	24
cis-1,2-Dichloroethene	Shallow	TMW-2	10/3/11	0.80	0.07	1,200
trans-1,2-dichloroethene	Shallow	TMW-2	10/3/11	0.0042 J	0.1	1,200
Chloroform	Shallow	MW-4	10/4/13	0.0012 J	0.1	20
Toluene	Shallow	MW-6	3/28/14	0.00081 J	1.0	64,000
Vinyl Chloride	Shallow	TMW-2	10/3/11	0.0021	0.002	3.8

NOTES:

- 1) COCs highlighted in yellow exceed the critical TRRP Tier 1 Residential Groundwater PCL (applicable TRRP Tier 1 Residential Groundwater Ingestion PCL) without an MSD; but do not exceed the critical TRRP Tier 1 Residential Groundwater PCL (applicable TRRP Tier 1 Residential Groundwater Non-Ingestion PCL) with an MSD.
- 2) COCs highlighted in green exceed the critical TRRP Tier 1 Residential Groundwater PCL (applicable TRRP Tier 1 Residential Groundwater Non-Ingestion PCL) with an MSD.
- 3) Property land use is commercial/industrial, commercial/industrial PCLs will be utilized as needed in the TCEQ Affected Property Assessment Report (APAR).
- 4) The benzene detection in TMW-3 is attributed to an LPST site (LPST No. 111241) located 180 feet north and upgradient of the designated property. The LPST site was closed as a Priority 4.1 site, and no further assessments or actions are needed.

Appendix F – Off-Site Impacted Property Owners

As the groundwater PCLE zone is delineated on the designated property, there are no off-site property owners which have been impacted by the groundwater plume. Therefore, a list of off-site impacted property owners is not included in this MSD application.

Appendix G – Plume Stability

Soil and groundwater assessments and monitoring activities performed to date on the designated property have identified one distinct groundwater contaminant plume. No soil plumes have been identified at the designated property. The groundwater plume is composed of chlorinated ethene parent and daughter products, and is located on the central portion of the designated property. The following sections provide discussions regarding the stability of the groundwater contaminant plume within the designated property.

Groundwater Plume

Assessment activities performed to date in the designated property have revealed one distinct chlorinated ethene groundwater plume, shown on **Figure C.7**. The chlorinated ethene plume consists primarily of PCE and associated daughter products (TCE, and cis-1,2-DCE) that have adversely impacted groundwater. PCE degrades to TCE in a one-to-one relationship (i.e., one molecule of PCE degrades to one molecule of TCE [primarily] which degrades to one molecule of cis-1,2 DCE, which degrades to one molecule of VC).

Chlorinated Ethene Plume

Evidence of a chlorinated ethene plume was detected in groundwater sampled from temporary monitoring wells TMW-2 and TMW-3 and monitoring wells MW-2 and MW-6, entirely within the designated property. The concentrations of PCE, TCE, and cis-1,2-DCE are highest at temporary monitoring well TMW-2 and adjacent permanent monitoring well MW-2, indicating that these wells are relatively near the main source area, located near the sump of the former dry cleaners facility. The most recent groundwater sampling results indicate concentrations of PCE, TCE, and cis-1,2-DCE in monitoring well MW-2 are above their respective TRRP groundwater ingestion PCLs (TRRP Tier 1 Residential ^{GW}GW_{ing} PCLs). While VC was also detected above the TRRP Groundwater Ingestion PCL in temporary monitoring well TMW-2 in 2011, VC concentrations from the adjacent permanent monitoring well MW-2 have been consistently below the PCL.

Comparison of COCs from temporary monitoring well TMW-2 and permanent monitoring well MW-2 indicate that concentrations of PCE, TCE, cis-1,2-DCE, and VC are stable to slightly decreasing from October 2011 to January 2014 (**Table G.2**). A graph of total dissolved chlorinated ethene concentrations in groundwater sampled from temporary monitoring well TMW-2 and monitoring well MW-2 is included to illustrate the decreasing to stable nature of the chlorinated ethenes in these wells (**Graph G.1**). In addition, the presence of daughter products, TCE, cis-1,2-DCE and VC in temporary monitoring well TMW-2 and monitoring well MW-2 indicates that degradation of the chlorinated ethene plume is occurring.

Upgradient monitoring wells MW-1 and MW-4 have no detectable concentrations of PCE, TCE, cis-1,2-DCE, and VC. Monitoring well MW-6 initially exhibited a TCE concentration slightly above the TRRP Groundwater Ingestion PCL, concentrations of PCE and cis-1,2-DCE below applicable PCLs, and a VC concentration below detectable levels on January 20, 2014. However, January 30, 2014 analytical results indicated that concentrations of TCE, PCE, and cis-1,2-DCE decreased below applicable PCLs, and below detectable levels in March 28, 2014. As stated in **Appendix D**, the most recent groundwater gradient map (**Figure C.6D**) indicates that monitoring well MW-3 is the downgradient monitoring well for the designated property, and COC detections from groundwater sampled at monitoring well MW-3 and MW-6 are below

detectable levels or applicable PCLs for PCE, TCE, cis-1,2-DCE and VC. Therefore, the chlorinated ethene plume is delineated to the residential assessment level and contained within the designated property.

**TABLE G.1
SOIL DATA SUMMARY
CITY OF HOUSTON MUNICIPAL SETTING DESIGNATION
MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
3939 MONTROSE BOULEVARD
HOUSTON, HARRIS COUNTY, TEXAS
VCP NO. 2604**

Sample Name	Sample Depth (ft-bgs)	Sample Date	VOCs														
			Acetone	Benzene	2-Butanone	n-Butylbenzene	sec-Butylbenzene	Ethylbenzene	Isopropylbenzene	Methylene chloride	Methyl tert-butyl ether	Naphthalene	n-Propylbenzene	Toluene	1,2,4-Trimethylbenzene	1,3,5-Trimethylbenzene	Total Xylenes
			SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg	SW8260 mg/kg
TEMPORARY MONITORING WELLS																	
TMW-1	17-18	9/29/11	<0.0055	0.0014 J	<0.0026	<0.00072	<0.00072	<0.0011	0.093	0.0067 J	<0.0023	<0.00096	0.033	<0.00084	<0.00096	<0.00096	<0.0020
	20-22	9/29/11	0.026	<0.00074	<0.0027	<0.00074	0.0012 J	0.0034 J	0.0049 J	0.0069 J	<0.0023	0.0040 J	0.0015 J	<0.00086	<0.00099	<0.00099	<0.0021
TMW-2	4-6	9/29/11	0.022 J	<0.00075	<0.0028	<0.00075	<0.00075	<0.0011	<0.0013	0.0037 J	<0.0024	<0.0010	<0.0011	<0.00088	<0.0010	<0.0010	<0.0021
	12-14	9/29/11	0.020 J	<0.00072	<0.0026	<0.00072	<0.00072	<0.0011	<0.0012	<0.0030	<0.0023	<0.00096	<0.0011	<0.00084	<0.00096	<0.00096	<0.0020
TMW-3	14-16	9/29/11	<0.0054	<0.00071	<0.0026	<0.00071	<0.00071	<0.0011	<0.0012	<0.0029	<0.0022	<0.00094	<0.0011	<0.00082	<0.00094	<0.00094	<0.0020
	20-22	9/29/11	<0.0056	<0.00073	<0.0027	<0.00073	<0.00073	<0.0011	<0.0012	<0.0030	<0.0023	<0.00097	<0.0011	<0.00085	<0.00097	<0.00097	<0.0021
MONITORING WELLS																	
MW-1	77.5-80	5/15/13	<0.0058	<0.00076	<0.0028	<0.00076	<0.00076	<0.0011	<0.0013	<0.0032	<0.0024	<0.0010	<0.0011	<0.00089	<0.0010	<0.0010	<0.0021
MW-2	35-37.5	5/16/13	<0.0057	<0.00074	<0.0027	<0.00074	<0.00074	<0.0011	<0.0012	<0.0031	<0.0024	<0.00099	<0.0011	<0.00087	<0.00099	<0.00099	<0.0021
MW-3	25-27.5	5/16/13	<0.0058	<0.00075	<0.0028	<0.00075	<0.00075	<0.0011	<0.0013	<0.0031	<0.0024	<0.0010	<0.0011	0.0016 J	<0.0010	<0.0010	<0.0021
MW-4	22.5-25	10/2/13	0.13	0.029	0.075	0.15	0.032	0.80	0.092	<0.0030	0.013	0.25	0.62	0.0019 J	15	0.77	0.43
	27.5-30	10/2/13	<0.0055	0.0012 J	<0.0026	<0.00071	<0.00071	0.0011 J	<0.0012	<0.0030	<0.0023	<0.00095	<0.0011	0.00087 J	<0.00095	<0.00095	<0.0020
	72.5-75	10/2/13	<0.0061	<0.00080	<0.0029	<0.00080	<0.00080	<0.0012	<0.0013	<0.0033	<0.0025	<0.0011	<0.0012	<0.00093	<0.0011	<0.0011	<0.0023
MW-5	19-20	1/17/14	<0.0056	<0.00073	<0.0027	<0.00073	<0.00073	<0.0011	<0.0012	<0.0030	<0.0023	<0.00097	<0.0011	<0.00085	<0.00097	<0.00097	<0.0021
MW-6	32-33	1/17/14	<0.0055	<0.00071	<0.0026	<0.00071	<0.00071	<0.0011	<0.0012	<0.0030	<0.0023	<0.00095	<0.0011	<0.00083	<0.00095	<0.00095	<0.0020
REGULATORY STANDARDS																	
TCEQ TRRP Tier 1 ^{Tot} Soil _{Comb} Residential Soil PCLs (0.5-Acre Source Area)			66,000	120	40,000	3,300	3,300	6,400	4,300	480	800	220	2,200	5,900	150	110	6,000
TCEQ TRRP Tier 1 ^{GW} Soil _{Ing} Residential Soil PCLs (0.5-Acre Source Area)			43	0.026	29	150	85	7.6	350	0.013	0.62	31	45	8.2	49	53	120
TCEQ TRRP Tier 1 ^{Air} Soil _{Inh-v} Residential Soil PCLs (0.5-Acre Source Area)			600,000	160	200,000	--	--	29,000	9,200	13,000	1,400	270	6,300	63,000	160	120	9,400
TCEQ TRRP Tier 1 ^{Tot} Soil _{Comb} Commercial Soil PCLs (0.5-Acre Source Area)			440,000	240	190,000	34,000	41,000	29,000	11,000	5,000	2,000	360	7,300	42,000	220	160	12,000
TCEQ TRRP Tier 1 ^{GW} Soil _{Ing} Commercial Soil PCLs (0.5-Acre Source Area)			130	0.026	87	450	250	7.6	1,000	0.013	1.9	93	130	8.2	140	160	120
TCEQ TRRP Tier 1 ^{Air} Soil _{Inh-v} Commercial Soil PCLs (0.5-Acre Source Area)			840,000	270	280,000	--	--	41,000	13,000	21,000	2,300	370	8,900	88,000	220	160	13,000
TCEQ Petroleum Storage Tank (PST) Action Levels			--	0.12	--	--	--	36.8	--	--	2.56	99.7	--	39.1	--	--	117

NOTES:

Only analytes with at least one sample with a concentration above the laboratory reporting limit shown on this table.
 "TCEQ" represents Texas Commission on Environmental Quality.
 "TRRP" represents Texas Risk Reduction Program.
 "VCP" represents Voluntary Cleanup Program.
 "VOCs" represents volatile organic compounds.
 "ft-bgs" indicates feet below ground surface.
 "mg/kg" indicates milligrams per kilogram.
 "<" indicates a concentration less than the laboratory Sample Detection Limit (SDL).

"J" indicates that the target analyte was positively identified below the Method Quantitation Limit (MQL) and above the SDL.
Bold values exhibit a concentration in excess of the laboratory SDL.
 Concentrations in bold and highlighted yellow exhibit a concentration in excess of the laboratory SDL and the TRRP Tier 1 Residential Protective Concentration Level (PCL), respectively.
 Concentrations in bold and highlighted orange exhibit a concentration in excess of the laboratory SDL and the TCEQ PST Action Levels.
 Results from MW-4 have been compared to the TCEQ PST Action Levels, due to the presence of an upgradient Leaking Petroleum Storage Tank (LPST) site.
 TCEQ TRRP Tier 1 residential PCLs (30 TAC 350) Table 1: Tier 1 Residential Soil PCLs, Table 2: Tier 1 Commercial PCLs, dated June 29, 2012.
 TCEQ PST Program Action and Screening Levels Table 1: TCEQ Regulatory Guidance document RG-411, dated August 2011.

**TABLE G.2
GROUNDWATER DATA SUMMARY
CITY OF HOUSTON MUNICIPAL SETTING DESIGNATION
MORTGAGE RECOVERY FUND 3939, LTD. PROPERTY
3939 MONTROSE BOULEVARD
HOUSTON, HARRIS COUNTY, TEXAS
VCP NO. 2604**

Sample Name	Sample Date	VOCs											INORGANICS	
		Acetone	Benzene	2-Butanone (MEK)	Carbon tetrachloride	Chloroform	cis-1,2-Dichloroethene	trans-1,2-Dichloroethene	Tetrachloroethene	Toluene	Trichloroethene	Vinyl Chloride	Nitrate as Nitrogen	Total Dissolved Solids
		SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	SW8260 mg/L	E300 mg/L	M2540C mg/L
TEMPORARY MONITORING WELLS														
TMW-1	10/3/11	<0.0040	<0.0010	<0.0020	<0.0018	<0.0010	0.026	<0.0010	<0.0017	<0.0010	<0.0011	<0.0010	-	-
TMW-2	10/3/11	<0.0040	<0.0010	<0.0020	<0.0018	<0.0010	0.80	0.0042 J	0.43	<0.0010	0.19	0.0021*	-	-
TMW-3	10/3/11	<0.0040	0.0053*	<0.0020	<0.0018	<0.0010	0.22	0.0028 J	0.023	<0.0010	0.0096	<0.0010	-	-
MONITORING WELLS														
MW-1	5/21/13	<0.010	<0.00050	<0.0020	<0.0010	<0.0010	<0.0010	<0.0010	<0.0010	<0.00050	<0.0010	<0.00050	-	-
	10/3/13	<0.010	<0.00050	<0.0020	<0.0010	<0.0010	<0.0010	<0.0010	<0.0010	<0.00050	<0.0010	<0.00050	-	-
MW-2	5/21/13	<0.010	<0.00050	<0.0020	<0.0010	<0.0010	0.71	0.0035 J	0.31	<0.00050	0.14	<0.00050	-	-
	10/3/13	<0.010	<0.00050	<0.0020	<0.0010	<0.0010	0.55	0.0034 J	0.23	<0.00050	0.12	0.00082 J	-	-
MW-3	1/20/14	<0.0020	<0.00060	<0.0010	<0.00060	<0.00060	0.55	0.0028 J	0.24	<0.00050	0.11	0.00067 J	-	-
	5/21/13	<0.010	<0.00050	<0.0020	<0.0010	<0.0010	0.0054	<0.0010	<0.0010	<0.00050	<0.0010	<0.00050	-	-
	10/3/13	<0.010	<0.00050	<0.0020	<0.0010	<0.0010	0.0037 J	<0.0010	<0.0010	<0.00050	<0.0010	<0.00050	-	-
MW-4	1/20/14	<0.0020	<0.00060	<0.0010	<0.00060	<0.00060	0.0034 J	<0.00040	<0.00060	<0.00050	<0.00050	<0.00040	-	-
	4/18/14	-	-	-	-	-	-	-	-	-	-	-	0.106	658
MW-6	10/4/13	<0.010	<0.00050	<0.0020	<0.0010	0.0012 J	<0.0010	<0.0010	<0.0010	<0.00050	<0.0010	<0.00050	-	-
	4/18/14	-	-	-	-	-	-	-	-	-	-	-	0.193	606
MW-6	1/20/14	<0.0020	<0.00060	<0.0010	<0.00060	<0.00060	0.017	<0.00040	0.0016 J	<0.00050	0.0063	<0.00040	-	-
	1/30/14	<0.0020	<0.00060	<0.0010	<0.00060	<0.00060	0.013	<0.00040	0.0011 J	<0.00050	0.0048 J	<0.00040	-	-
	3/28/14	<0.0020	<0.00060	<0.0010	<0.00060	<0.00060	<0.00060	<0.00040	<0.00060	0.00081 J	<0.00050	<0.00040	-	-
	4/18/14	-	-	-	-	-	-	-	-	-	-	-	<0.0300	664
REGULATORY STANDARDS														
TCEQ TRRP Tier 1 ^{GW} _{Ing} Residential Groundwater PCLs		22	0.005	15	0.005	0.24	0.07	0.1	0.005	1.0	0.005	0.002	10	-
TCEQ TRRP Tier 1 ^{Air} _{Inh-v} Residential Groundwater PCLs (0.5-Acre Source Area)		1,000,000	180	1,000,000	20	20	1,200	770	500	64,000	24	3.8	-	-
TCEQ TRRP Tier 1 ^{GW} _{Ing} Commercial Groundwater PCLs (0.5-Acre Source Area)		66	0.005	44	0.005	0.73	0.07	0.1	0.005	1.0	0.005	0.002	10	-
TCEQ TRRP Tier 1 ^{Air} _{GW_{Inh-v}} Commercial Groundwater PCLs (0.5-Acre Source Area)		1,000,000	300	1,000,000	33	33	1,700	1,100	840	89,000	33	6.4	-	-

NOTES:

Only analytes with at least one sample with a concentration above the laboratory reporting limit shown on this table.

- ' - not applicable

"<" indicates a concentration less than the laboratory Sample Detection Limit (SDL).

"J" indicates that the target analyte was positively identified below the Method Quantitation Limit (MQL) and above the SDL.

Concentrations in bold and highlighted yellow exhibit a concentration in excess of the laboratory SDL and the TRRP Tier 1 Residential Protective Concentration Level (PCL), respectively.

TCEQ TRRP Tier 1 residential and commercial PCLs (30 TAC 350) Table 3: Tier 1 Residential and Commercial Groundwater PCLs- Dated June 29, 2012.

*The vinyl chloride detection in TMW-2 and benzene detection in TMW-3 are not considered PCL exceedances as they were not confirmed above applicable PCLs in groundwater sampled from permanent monitoring wells.

The benzene detection in TMW-3 is attributed to an LPST site (LPST No. 111241) located 180 feet north of the designated property. The LPST site was closed as a Priority 4.1 site, and no further assessments or actions are needed.

"VCP" represents Voluntary Cleanup Program.

"VOCs" represents Volatile Organic Compounds.

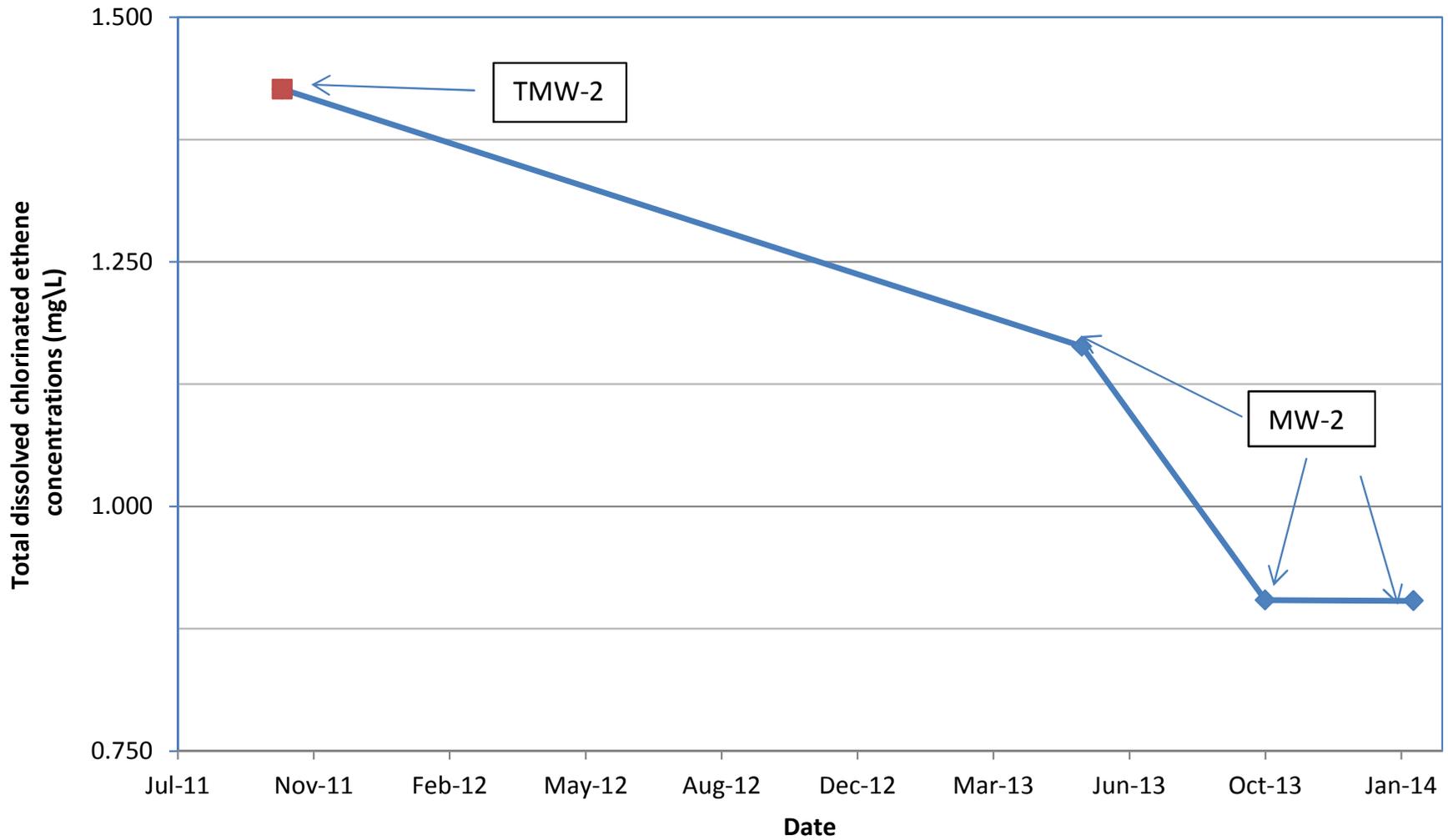
"TCEQ" represents Texas Commission on Environmental Quality.

"TRRP" represents Texas Risk Reduction Program.

Bold values exhibit a concentration in excess of the laboratory SDL.

"mg/L" indicates milligrams per liter.

Graph G1
Total Dissolved Chlorinated Ethene Concentrations in Groundwater
TMW-2 and MW-2



Appendix H – Contamination Exceedance Without MSD

Soil sampling and analysis activities did not reveal any COC detections above applicable TCEQ TRRP Tier 1 Groundwater Ingestion PCLs (TRRP Tier 1 residential ^{GW}Soil_{ing} PCL) or TCEQ PST Program Action Levels.

The most recent groundwater analytical results have revealed concentrations of chlorinated ethenes (PCE, TCE, and cis-1,2-DCE) present in the groundwater of the designated property currently above their respective TCEQ TRRP Tier 1 Groundwater Ingestion PCLs (TRRP Tier 1 Residential ^{GW}GW_{ing} PCLs). The chlorinated ethene groundwater PCLE zone is delineated within the designated property (VCP No. 2604).

Without an MSD, the TRRP residential ^{GW}GW_{ing} PCL represents the TRRP residential assessment level for all COCs present in groundwater except for benzene at the designated property. As such, the current concentrations of PCE, TCE, and cis-1,2-DCE in the groundwater of the designated property exceed their respective TRRP residential assessment levels. Based on the groundwater assessment results obtained to date, none of these COCs are known or expected to occur in groundwater downgradient of the designated property in excess of any TRRP residential assessment levels (with or without an MSD). As the chlorinated ethene plume is stable to decreasing, groundwater contamination exceeding residential assessment levels without an MSD will remain within the designated property.