



RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

December 16, 2016

Ms. Carmen Pearson, P.E.
Wharton Retail, Ltd.
1520 Oliver Street
Houston, Texas 77007

RE: Certificate of Completion with Restrictions
±23-Acre Fannin Property
(Formerly the MIS of Texas RRC VCP Site 1)
South of Holmes Road along Fannin Street
Houston, Harris County, Texas
Voluntary Cleanup Program (VCP) No. 03-70010

Dear Ms. Pearson:

The above-referenced ±23-acre VCP property (Site) was formerly part of a larger tract of land (±45-acre) enrolled in the Railroad Commission of Texas (RRC) VCP under VCP No. 03-30004. The tract received a RRC VCP Certificate of Completion (COC) for commercial/industrial use in May 2005. As part of this COC, an institutional control in the form of a restrictive covenant was placed in the real property records of Harris County. The Site was subsequently enrolled in the RRC VCP under VCP No. 03-70010 in September 2007 in an effort to receive a COC for residential land use. Staff of the RRC VCP has reviewed the following reports pertaining to the Site:

- Phase I Environmental Site Assessment & Phase II Assessment, ±45-Acres of the MIS of Texas Property Within the Former Pierce Junction Oil Field, Southwest Corner of Fannin Street and Holmes Road, Houston, Harris County, Texas, dated November 25, 2002.
- Summary of Additional Assessment Activities, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated April 15, 2003.
- Summary of Additional Assessment Activities, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated November 20, 2003.
- Project Summary and Response to RRC December 19, 2003 Letter, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated March 16, 2004.

- Summary of Additional Assessment Activities, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated June 18, 2004.
- Chlorides Issue, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated August 27, 2004.
- Response to RRC VCP Letter dated September 16, 2004, dated October 28, 2004.
- Final Site Characterization and Response Action Report, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, dated March 1, 2005.
- Summary of Previous Soil Sampling Results, MIS of Texas RRC VCP Site 1, Former RRC VCP No. 03-3000 (New Number Pending), Fannin Business Centre Business Park, Houston, Harris County, Texas, TEI Project No. 248-05, dated January 19, 2007.
- Response Action Plan, ±23.88-Acre Fannin Street Property (Formerly the MIS of Texas RRC VCP Site 1), South of Holmes Road Along Fannin Street, Houston, Harris County, Texas, RRC VCP No. 03-70010, dated December 19, 2007.
- Response Action Completion Report; ±23.88-Acre Fannin Street Property (Formerly the MIS of Texas RRC VCP Site 1), South of Holmes Road along Fannin Street; Houston, Harris County, Texas; RRC VCP No. 03-70010, dated August 22, 2008.
- Response to Comments, ±23.88-Acre Fannin Street Property (Formerly the MIS of Texas RRC VCP Site 1), Houston, Harris County, Texas; RRC VCP No. 03-70010, dated October 27, 2008.
- Response to RRC December 8, 2008 Letter, Soil Response Action Completion Report, ±23.88-Acre Fannin Street Property (Formerly the MIS of Texas RRC VCP Site 1), Houston, Harris County, Texas; RRC VCP No. 03-70010, dated February 12, 2010.
- Response to May 12, 2010 Comment Letter, ±23.88-Acre Fannin Street Property (Formerly the MIS of Texas RRC VCP Site 1), Houston, Harris County, Texas; RRC VCP No. 03-70010, dated June 27, 2012.
- Response to RRC August 3, 2012 Comment Letter, ±23-Acre Fannin Property (Formerly the MIS of Texas RRC VCP Site 1), South of Holmes Road along Fannin Street, Houston, Harris County, Texas, RRC VCP No. 03-70010, dated January 26, 2016.

Based on staff's review, the RRC is pleased to enclose a COC with restrictions for the ±23-acre VCP property (Site). The Site is located west of Fannin Street and approximately 575 feet south of the intersection of Holmes Road and Fannin Street in Houston, Harris County, Texas, and is located within an area formerly known as the Pierce Junction Oil Field.

History of Site

This site was accepted into the RRC VCP in September 2007. The Site comprises 23.92 acres of undeveloped land that was historically developed for oil and/or gas exploration and production from 1928 through 1991. The Phase I Environmental Site Assessments (ESAs) identified several plugged and abandoned oil and/or gas wells, former tank batteries, and former reserve pits were located on the Site during this time. Extensive oil and/or gas exploration production activities were also identified on all properties adjoining the Site.

In January 2015, a geophysical survey was completed at the Site in an effort to physically locate historical oil and/or gas wells located at the Site. Based on RRC data and maps, 34 plugged and abandoned oil and/or gas wells were reportedly located at the Site. Magnetic anomalies identified during the geophysical survey were subsequently unearthed; however, only 14 of the 34 reported oil and/or gas wells were positively identified.

The Site is bounded to the north by commercial warehouses; to the south by undeveloped land identified as RRC-VCP No. 03-70011; to the east by multi-family residential properties and Mentis Neuro Rehabilitation Center; and to the west by undeveloped property.

Soil Assessment

Soil samples were collected from the Site between January 2000 and June 2007. Soil samples were analyzed for benzene, toluene, ethylbenzene, and total xylenes (BTEX), total petroleum hydrocarbons (TPH), polycyclic aromatic hydrocarbons (PAHs), Resource Conservation and Recovery Act (RCRA) 8 metals (i.e. arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver), and/or chloride.

No BTEX or PAH concentrations exceeded their critical Texas Risk Reduction Program (TRRP) Tier 1 Residential soil-to-groundwater ingestion (GWSoilIng) Protective Concentration Levels (PCLs).

Arsenic, barium, lead, and mercury exceeded their Tier 1 GWSoilIng PCLs and/or Texas-Specific Background Concentrations. Tier 2 GWSoilIng PCLs were calculated for these metals using site-specific pH values. All of the detected metals concentrations were below their Tier 2 GWSoilIng PCLs with the exception of arsenic and barium. None of the detected metals exceeded their Tier 1 Residential total-soil-combined (TotSoilComb) PCLs.

TPH in two soil samples collected on the northwestern portion of the Site in the area of a former tank battery and reserve pit and in one soil sample collected on the southeastern portion of the Site in the area of a former reserve pit exceeded the calculated site-specific total TPH concentration of 6,500 milligrams per kilogram (mg/kg) for the TotSoilComb pathway.

No other chemicals of concern were detected in soil on the Site at concentrations exceeding their GWSoilIng or TotSoilComb PCLs.

Additionally, chloride was detected in soil samples collected throughout the Site at concentrations exceeding the delineation criteria of 3,000 mg/kg suggested in the RRC's Field Guide for the

Assessment and Cleanup of Produced Water Releases. However, chloride impacts in soil at the Site are considered regional.

Soil Vapor Assessment

Soil vapor samples were collected from the Site in December 2015 and analyzed for carbon dioxide, methane, ethane, ethene, propane, propylene, isobutane, and n-butane. No vapor concentrations were identified in soil at the Site that required a response action.

Groundwater Assessment

Seven permanent monitoring wells were installed on the Site. The uppermost groundwater-bearing unit (GWBU) was encountered at depths ranging from 13 to 41 feet below ground surface (ft-bgs). The groundwater flow direction at the Site is to the southwest.

Groundwater was analyzed for BTEX, TPH, RCRA 8 metals, chloride, and/or total dissolved solids (TDS). BTEX, TPH, RCRA 8 metals, and chloride were detected in groundwater. Of these, only arsenic and lead historically exceeded their Tier 1 groundwater-ingestion (GWGWing) PCLs. Currently, no chemicals of concern in groundwater currently exceed their applicable regulatory levels with the exception of chloride.

Chloride concentrations in groundwater exceed the Texas Secondary Drinking Water Standard of 300 mg/L in all monitoring wells on the Site. Chloride concentrations in excess of the Texas Secondary Drinking Water Standard at the Site range from 352 mg/L to 24,300 mg/L, with the highest chloride concentration measured in monitoring well MW-1 located in the area of a former reserve pit. According to groundwater sampling data, the concentrations of chloride appear to be stable and/or decreasing.

Remedial Action

Soil exhibiting concentrations of total TPH exceeding its site-specific TotSoilComb PCL (6,500 mg/kg) were excavated in June 2008. A total of approximately 95 cubic yards (loose volume) of affected soils were excavated and transported off-site for disposal/recycling. The excavations were backfilled with native (un-impacted) soil from an off-site location.

Soil at the Site was deemed to be protective of residential use. An Institutional Control document with the following provisions was filed in the Harris County Clerk's Office on Monday, November 14, 2016. The document is filed as RP-2016-512327 and includes the following limitations:

1. Use of the groundwater beneath the Affected Property described in Exhibit "A" shall not be allowed except for monitoring purposes.
2. Penetration or excavation of the impacted soil and/or groundwater zones for any purpose shall only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.
3. These restrictions shall be a Covenant running with the land.

All monitoring wells at the Site should be plugged and abandoned in accordance with Texas Administrative Code (TAC) §76.1004. We ask that you provide copies of the well plugging records following the completion of the plugging activities.

On behalf of the staff of the Railroad Commission of Texas, I would like to thank you for your participation in the Voluntary Cleanup Program. Should you have questions regarding this letter, you may contact me at 512-463-8202 or peter.pope@rrc.texas.gov.

Sincerely,



Peter G. Pope, P.G.
Manager, Site Remediation

Enclosure: VCP Certificate of Completion with Restrictions

cc: Peter Fisher, District 3 RRC Office, Houston, Texas (via email)
Brian Weaver, SKA Consulting, L.P., Houston, Texas (via email)
VCP Reading File



RAILROAD COMMISSION OF TEXAS

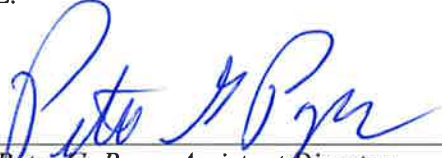
OIL AND GAS DIVISION

VOLUNTARY CLEANUP PROGRAM FINAL CERTIFICATE OF COMPLETION RELYING ON INSTITUTIONAL CONTROLS

As provided for Chapter 91, Subchapter 0, Texas Natural Resource Code.

I, PETER G. POPE, ASSISTANT DIRECTOR OF THE SITE REMEDIATION SECTION, OIL AND GAS DIVISION, RAILROAD COMMISSION OF TEXAS, CERTIFY UNDER CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE, THAT NECESSARY RESPONSE ACTIONS HAVE BEEN COMPLETED FOR VOLUNTARY CLEANUP PROGRAM SITE VCP NO.03-70011 FOR THE TRACT OF LAND DESCRIBED IN EXHIBIT "A", BASED ON THE AFFIDAVIT OF COMPLETION OF RESPONSE ACTION, EXHIBIT "B" AND WHICH ARE FURTHER DESCRIBED IN THE APPROVED FINAL REPORT FOR THE SITE. THE APPLICANT WAS NOT A RESPONSIBLE PARTY UNDER SECTION 91.113. ON THE DATE OF ISSUANCE OF THIS CERTIFICATE THE APPLICANT IS QUALIFIED TO OBTAIN THE PROTECTION FROM LIABILITY PROVIDED BY CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE.

EXECUTED on 16 December 2016

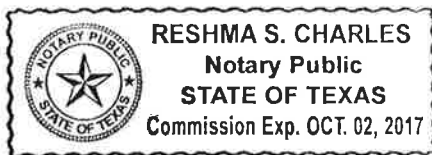

Peter G. Pope, Assistant Director
Site Remediation Section

STATE OF Texas

COUNTY OF Travis

BEFORE ME, personally appeared Peter G. Pope, Assistant Director, Site Remediation Section, of the Railroad Commission of Texas, known to me to be the person and agent of said commission whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 16th Day of December 2016.



Notary without Bond


Notary Public in and for the State of Texas

EXHIBIT "A"
RAILROAD COMMISSION OF TEXAS
VOLUNTARY CLEANUP PROGRAM
LEGAL DESCRIPTION 23.92-ACRE TRACT

VCP No. 03-70010

Exhibit A - 1 of 2

23.92 Acre Tract (1,042,306 square foot) METES & BOUNDS DESCRIPTION

A tract of land containing 23.92 acres (1,042,306 square feet) being a 22.03 Acre (959,695 square feet) portion of Unrestricted Reserve "A" of Fannin/610 Business Park Section 1, as set forth in Film Code No. 547227, of the Harris County Map Records (H.C.M.R.) and a 1.896 acre (82,611 Square feet) portion of Unrestricted Reserve "A" Fannin/610 Business Park Section 2, as set forth in Film Code No. 612028, H.C.M.R., located in the James Hamilton survey, abstract no. 885, Harris County, Texas, said 23.92 Acres (1,042,306 square feet) being more particularly described by metes and bounds as follows;

Beginning at a 5/8 Inch iron rod found in the West Right-Of-Way (R.O.W.) line of Fannin Street, 100 foot R.O.W., as set forth in Harris County Clerks File (H.C.C.F.) No. R329686, common with the East line of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2, said point being the Northeast corner of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2 and the Southeast corner of said Unrestricted Reserve "A" Fannin/610 Business Park Section 1 and the herein described tract of land;

Thence South 87° 20' 10" West departing the West R.O.W. line of said Fannin Street, along the North line of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2, a distance of 538.64 feet, common with the South line of said Unrestricted Reserve "A", Section 1 to a point for corner, being the Southeast corner of herein described tract of land;

Thence North, distance of 153.57 feet to a point for corner, said point being an interior corner of herein described tract of land;

Thence West along the South line of the herein described tract, common with the North line of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2, a distance of 200.78 feet to a point for corner being an interior corner of herein described tract of land;

Thence South along an East line of herein described tract, common with a West line of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2, a distance of 162.91 feet to a point for corner, said point being in the north line of the remainder of a called 21.27 Acre tract as set forth in Volume 1857, Page 367, of the Harris County Deed Records (H.C.D.R.), and an interior corner of herein described tract of land;

Thence South 87° 20' 16" West with the North line of said 21.27 acre remainder tract, common with the South line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 528.76 feet to a point in the East line of a called 17.81 Acres tract as set forth in H.C.C.F. No. 200602333, for the Southwest corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract of land;

Thence North 02°39'47" West with the East line of said 17.81 Acre tract, common with the West line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract, a distance of 580.72 feet to a 5/8 inch iron rod found in the east line of a called 10.68 Acre Tract as set forth in H.C.C.F. No. 20060232329, said point being also the Southwest corner of a called 6.0954 Acre tract as set forth in H.C.C.F. No. Y992615, and the Northwest corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract of land;

Thence North 69°14'36" East with the South line of said 6.0954 Acre Tract, common with the North line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 1294.66 feet to a capped 5/8 inch iron rod found (LIN 2414) at a South corner of a called 13.916 Acre tract as set forth in H.C.C.F. No. 20100468769, said point being common with the North corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract of land;

Thence South 20° 45' 24" East with the West line of said 13.916 acre tract, common with the East line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 343.93 feet to a capped 5/8 inch iron rod found (LIN 2414) for an interior corner in the South line of said 13.916 Acre tract, said point being also the Northeast corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract of land;

Thence North 69°14'36" East along the South line of said 13.916 acre tract, common with the North line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 75.93 feet to a capped 5/8 Inch

Exhibit A - 2 of 2

Iron rod found (LIN 2414) for an interior corner of said 13.916 acre tract, said point being also a North corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract of land;

Thence North 89° 18'03" East with the South line of said 13.916 acres tract, common with the North line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 27.84 feet to a 1/2 inch iron rod found in the West R.O.W. line of said Fannin Street, for the Southeast corner of said 13.916 acre tract, said point being also the Northeast corner of Unrestricted Reserve "A" of Fannin/610 Business Park Section 1, the herein described tract of land, and the beginning of a curve concave to the west;

Thence along the West R.O.W. line of said Fannin Street, common with the East line of Unrestricted Reserve "A" of Fannin/610 Business Park Section 1, the herein described tract and a curve concave to the west, having a radius of 1950.05 feet, a distance of 703.06 feet, with a chord bearing and distance of South 11° 19' 40" West, 699.26 feet to the point of beginning of the herein described tract, containing 23.92 Acres (1,042,306 Square Feet).

- 1.) THIS FIELD NOTE DESCRIPTION IS PART OF THE PLAT OF SAME DATE. (PLAT BEING PAGE 1 OF 2).
- 2.) THIS FIELD NOTE DESCRIPTION VALID FOR THIS TRANSACTION ONLY.
- 3.) THE SQUARE FOOTAGE AND ACREAGE VALUES SHOWN HEREON ARE MATHEMATICAL VALUES CALCULATED FROM THE BOUNDARY DATA SHOWN HEREON. THESE VALUES IN NO WAY REPRESENT THE PRECISION OF CLOSURE OF THIS SURVEY OR THE ACCURACY OF BOUNDARY MONUMENTS FOUND OR SET.



LISA M. DOBROWSKI, R.P.L.S. No. 6544
Job No. GTLV 1476-13
PAGE 2 OF 2



GLOBAL SURVEYORS, INC.
10401 WESTOFFICE DRIVE
HOUSTON, TEXAS 77042
(P)713-667-0800
TBPLS#10115912

EXHIBIT "B"
RAILROAD COMMISSION OF TEXAS
VOLUNTARY CLEANUP PROGRAM
AFFIDAVIT OF COMPLETION OF RESPONSE ACTION
AND INSTITUTIONAL CONTROLS

I, Ross Wang, representing Wharton Retail, Ltd., have completed the necessary response actions, pursuant to Chapter 91, Subchapter O, Texas Natural Resource Code, at a 23.92 acre tract of land described in Exhibit "A" (Site) of this certificate pertaining to Voluntary Cleanup Program (VCP) No. 03-70010 located in Houston, Harris County, Texas. The applicant has submitted and received approval from the Railroad Commission of Texas (RRC) on all plans and reports required by the Voluntary Cleanup Agreement. The plans and reports were prepared using a prudent degree of inquiry of the Site consistent with accepted industry standards to identify all contaminants, waste and contaminated media of regulatory concern. The response actions for the site have achieved response action levels as determined by the standards of the RRC and remain protective as long as the following controls are maintained:

1. Use of the groundwater beneath the Affected Property described in Exhibit "A" shall not be allowed except for monitoring purposes.
2. Penetration or excavation of the impacted soil and/or groundwater zones for any purpose shall only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.
3. These restrictions shall be a Covenant running with the land.

These restrictions were filed in the Harris County Clerk's office on November 14, 2016, Document RP-2016-512327 (Attachment 1). The response actions eliminate substantial present or future risk to public health and safety and to the environment from releases and threatened releases of contaminants at or from the Site. The Applicant has not acquired this certificate of completion by fraud, misrepresentation, or knowing failure to disclose material information. Further information concerning the response actions at this Site may be found in the final report at the central office of the RRC filed under VCP 03-70010.

The preceding is true and correct to the best of my knowledge and belief.

Applicant

By: _____

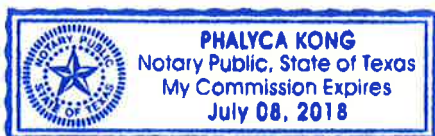
Print Name: _____

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, personally appeared Ross Wang, known to me to be the person and agent of said commission whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 14th day of November 2016.

Notary Public in and for the State of Texas



Attachment 1
Environmental Restrictive Covenant
Document RP-2016-512327
Harris County, Texas

8
RESTR
JD
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**RAILROAD COMMISSION OF TEXAS
ENVIRONMENTAL RESTRICTIVE COVENANT**

STATE OF TEXAS §

COUNTY OF HARRIS §

(3)
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10P

This Restrictive Covenant is filed pursuant to the authority of the Railroad Commission of Texas (Commission) to control and clean up pollution caused by activities over which the Commission exercises jurisdiction in accordance with Section 91.113 of the Texas Natural Resource Code, and affects the real property (**Affected Property**) described as follows:

Wharton Retail, Ltd. is the current Owner of the **Affected Property** and premises, and appurtenances thereto, located within the City of Houston, Harris County, Texas, consisting of a ±23.92-Acre Tract out of the James Hamilton (D. White) Survey, Abstract No. 885 in Harris County, Texas, according to deed recorded under Film Code Number 547227 of the Harris County Map Records in the office of the Harris County Clerk, Harris County, Texas, with a metes and bounds description as more fully described on **Exhibit A**, which exhibit is attached hereto and incorporated herein.

Soil and groundwater on the **Affected Property** are affected by a certain identified chemical of concern.

This restrictive covenant is required for the following reasons:

The **Affected Property** is an undeveloped tract of land that was historically utilized for oil and/or gas exploration and production (E&P) activities as part of the Pierce Junction Oil Field. A chemical of concern (chloride) attributable to the former oil and/or gas E&P production activities impacted soil and groundwater on the **Affected Property**, and an environmental investigation and response action was required in accordance with Commission regulations. Wharton Retail, Ltd. and Pasadena Harris, Ltd. performed the response action to characterize and remediate the chemical of concern. The response action was performed in such a manner that the following chemical of concern at the following maximum levels at the time of the restrictive covenant filing was left in soil and groundwater: chloride at 8,080 parts per million (ppm) in soil, and chloride at 24,300 ppm in groundwater. The investigation, assessment, and analytical data are contained in the following reports and/or documents:

- i. *Phase I Environmental Site Assessment & Phase II Assessment, ±45-Acres of the MIS of Texas Property Within the Former Pierce Junction Oil Field, Southwest Corner of Fannin Street and Holmes Road, Houston, Harris County, Texas, dated November 25, 2002.*
- ii. *Summary of Additional Assessment Activities, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated April 15, 2003.*
- iii. *Summary of Additional Assessment Activities, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated November 20, 2003.*
- iv. *Project Summary and Response to RRC December 19, 2003 Letter, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated March 16, 2004.*
- v. *Summary of Additional Assessment Activities, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated June 18, 2004.*

✓
return to: SKA Consulting, L.P.
1888 Stebbins Drive
100
Houston TX 77043

- vi. *Chlorides Issue, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, Houston, Harris County, Texas, dated August 27, 2004.*
- vii. *Response to RRC VCP Letter dated September 16, 2004, dated October 28, 2004.*
- viii. *Final Site Characterization and Response Action Report, MIS of Texas RRC VCP Site 1, RRC VCP No. 03-30004, dated March 1, 2005.*
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- x. *Response Action Plan, ±23.88-Acre Fannin Street Property (Formerly the MIS of Texas RRC VCP Site 1), South of Holmes Road Along Fannin Street, Houston, Harris County, Texas, RRC VCP No. 03-70010, dated December 19, 2007.*
- xi. *Response Action Completion Report; ±23.88-Acre Fannin Street Property (Formerly the MIS of Texas RRC VCP Site 1), South of Holmes Road along Fannin Street; Houston, Harris County, Texas; RRC VCP No. 03-70010, dated August 22, 2008.*
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Copies of these reports may be obtained from SKA Consulting, LP, 1888 Stebbins Drive, Suite 100, Houston, Texas 77043 and from the RRC under VCP Nos. 03-30004 and 03-70010.

The response action has been approved by the Commission based on presumption that groundwater beneath the **Affected Property** will not be used for any purposes except monitoring. The Commission has determined that the **Affected Property** currently meets standards for residential land use. Based on information contained in the reports identified above, the chemical of concern poses no significant present risk to humans or the environment based on residential land use. With the filing of this document, the Commission does not require any further remediation of the **Affected Property** as long as groundwater is not used for any purpose except monitoring.

For purposes of this restrictive covenant, the term “residential use” means use for dwellings such as single family houses and multi-family apartments, children’s homes, nursing homes, residential portions of government-owned lands (local, state, or federal), day care facilities, educational facilities, hospitals, residential portions of ranch and farm land, and parks (local, state, or federal).

This restrictive covenant is necessary to assure that all present and future owners of the **Affected Property** are aware of its condition and do not use the **Affected Property** in any manner inconsistent with this restrictive covenant. If any person desires to use the **Affected Property** in any manner inconsistent with the restrictions described in this covenant, the Commission must be notified at least 60 days in advance of such use. Additional response action contemplating a change in land use or the size of the assumed exposure area may be necessary. The additional response action must be approved by the Commission and completed prior to commencement of the new use of the **Affected Property**.

In consideration of the Response Actions leading to final approved remediation of the **Affected Property**, the Owners of the **Affected Property** have agreed to place the following restrictions on the **Affected Property** in favor of the Commission and the State of Texas. Now therefore, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following restrictive covenants in favor of the Commission and the State of Texas are placed on the **Affected Property** described in Exhibit "A", to-wit:

1. Use of the groundwater beneath the **Affected Property** described in Exhibit "A" shall not be allowed except for monitoring purposes.
2. Penetration or excavation of the impacted soil and/or groundwater zones for any purpose shall only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.
3. These restrictions shall be a Covenant running with the land.

For additional information, contact:

Railroad Commission of Texas
Voluntary Cleanup Program
P. O. Box 12967
1701 N. Congress
Austin, Texas 78711-2967

Railroad Commission of Texas Voluntary Cleanup Program Application Nos. 03-30004 and 03-70010. As of the date of this Covenant, the record owner of fee title to the Property is Wharton Retail, Ltd. with an address of 1520 Oliver Street, Suite 202, Houston, Texas 77007.

This Covenant may be rendered of no further force or effect only by a release executed by the Commission and filed in the same Real Property Records as those in which this Restrictive Covenant is filed.

Executed this 8th day of November, 2016.

Wharton Retail, Ltd

Signature: _____

Printed Name: _____

Title: _____

STATE OF TEXAS
HARRIS COUNTY

BEFORE ME, on this the 8th day of November, 2016 personally appeared Ross Wang, Vice President known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 8th day of November 2016.

Signature: _____

Notary Public in and for the State of Texas

County of _____

My Commission Expires: _____



Accepted as Third Party Beneficiary this 9th day of November, 2016

Railroad Commission of Texas

By: Kathy Keils

Name: Kathy Keils

Title: Attorney in General Counsel Section

STATE OF TEXAS
TRAVIS COUNTY

BEFORE ME, on this the 9th day of November, 2016 personally appeared Kathy Keils, Staff Attorney on behalf of the Site Remediation Section of the Oil and Gas Division of the Railroad Commission of Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 9th day of November, 2016

Signature: Reshma S. Charles

Notary Public in and for the State of Texas

County of Travis

My Commission Expires: October 2, 2017

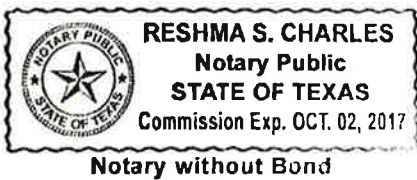


Exhibit A

23.92 Acre Tract (1,042,306 square foot)
METES & BOUNDS DESCRIPTION

A tract of land containing 23.92 acres (1,042,306 square feet) being a 22.03 Acre (959,695 square feet) portion of Unrestricted Reserve "A" of Fannin/610 Business Park Section 1, as set forth in Film Code No. 547227, of the Harris County Map Records (H.C.M.R.) and a 1.896 acre (82,611 Square feet) portion of Unrestricted Reserve "A" Fannin/610 Business Park Section 2, as set forth in Film Code No. 612028, H.C.M.R., located in the James Hamilton survey, abstract no. 885, Harris County, Texas, said 23.92 Acres (1,042,306 square feet) being more particularly described by metes and bounds as follows;

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Beginning at a 5/8 inch iron rod found in the West Right-Of-Way (R.O.W.) line of Fannin Street, 100 foot R.O.W., as set forth in Harris County Clerks File (H.C.C.F.) No. R329686, common with the East line of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2, said point being the Northeast corner of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2 and the Southeast corner of said Unrestricted Reserve "A" Fannin/610 Business Park Section 1 and the herein described tract of land;

Thence South 87° 20' 10" West departing the West R.O.W. line of said Fannin Street, along the North line of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2, a distance of 538.64 feet, common with the South line of said Unrestricted Reserve "A", Section 1 to a point for corner, being the Southeast corner of herein described tract of land;

Thence North, distance of 153.57 feet to a point for corner, said point being an interior corner of herein described tract of land;

Thence West along the South line of the herein described tract, common with the North line of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2, a distance of 200.78 feet to a point for corner being an interior corner of herein described tract of land;

Thence South along an East line of herein described tract, common with a West line of said Unrestricted Reserve "A" Fannin/610 Business Park Section 2, a distance of 162.91 feet to a point for corner, said point being in the north line of the remainder of a called 21.27 Acre tract as set forth in Volume 1857, Page 367, of the Harris County Deed Records (H.C.D.R.), and an interior corner of herein described tract of land;

Thence South 87° 20' 16" West with the North line of said 21.27 acre remainder tract, common with the South line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 528.76 feet to a point in the East line of a called 17.81 Acres tract as set forth in H.C.C.F. No. 200602333, for the Southwest corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract of land;

Thence North 02°39'47" West with the East line of said 17.81 Acre tract, common with the West line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract, a distance of 580.72 feet to a 5/8 inch iron rod found in the east line of a called 10.68 Acre Tract as set forth in H.C.C.F. No. 20060232329, said point being also the Southwest corner of a called 6.0954 Acre tract as set forth in H.C.C.F. No. Y992615, and the Northwest corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract of land;

Thence North 69°14'36" East with the South line of said 6.0954 Acre Tract, common with the North line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 1294.66 feet to a capped 5/8 inch iron rod found (LIN 2414) at a South corner of a called 13.916 Acre tract as set forth in H.C.C.F. No. 20100468769, said point being common with the North corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract of land;

Thence South 20° 45' 24" East with the West line of said 13.916 acre tract, common with the East line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 343.93 feet to a capped 5/8 inch iron rod found (LIN 2414) for an interior corner in the South line of said 13.916 Acre tract, said point being also the Northeast corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract of land;

Thence North 69°14'36" East along the South line of said 13.916 acre tract, common with the North line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 75.93 feet to a capped 5/8 inch

iron rod found (LIN 2414) for an interior corner of said 13.916 acre tract, said point being also a North corner of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and herein described tract of land;

Thence North 89° 18'03" East with the South line of said 13.916 acres tract, common with the North line of said Unrestricted Reserve "A" of Fannin/610 Business Park Section 1 and the herein described tract, a distance of 27.84 feet to a 1/2 inch iron rod found in the West R.O.W. line of said Fannin Street, for the Southeast corner of said 13.916 acre tract, said point being also the Northeast corner of Unrestricted Reserve "A" of Fannin/610 Business Park Section 1, the herein described tract of land, and the beginning of a curve concave to the west;

Thence along the West R.O.W. line of said Fannin Street, common with the East line of Unrestricted Reserve "A" of Fannin/610 Business Park Section 1, the herein described tract and a curve concave to the west, having a radius of 1950.05 feet, a distance of 703.06 feet, with a chord bearing and distance of South 11° 19' 40" West, 699.26 feet to the point of beginning of the herein described tract, containing 23.92 Acres (1,042,306 Square Feet).

- 1.) THIS FIELD NOTE DESCRIPTION IS PART OF THE PLAT OF SAME DATE. (PLAT BEING PAGE 1 OF 2).
- 2.) THIS FIELD NOTE DESCRIPTION VALID FOR THIS TRANSACTION ONLY.
- 3.) THE SQUARE FOOTAGE AND ACREAGE VALUES SHOWN HEREON ARE MATHEMATICAL VALUES CALCULATED FROM THE BOUNDARY DATA SHOWN HEREON. THESE VALUES IN NO WAY REPRESENT THE PRECISION OF CLOSURE OF THIS SURVEY OR THE ACCURACY OF BOUNDARY MONUMENTS FOUND OR SET.



LISA M. DOBROWSKI, R.P.L.S. No. 6544
Job No. GTLV 1476-13
PAGE 2 OF 2



GLOBAL SURVEYORS, INC.
10401 WESTOFFICE DRIVE
HOUSTON, TEXAS 77042
(P)713-667-0800
TBPLS#10115912

FILED FOR RECORD

11:50:03 AM

Monday, November 14, 2016

Stan Stuart

COUNTY CLERK, HARRIS COUNTY, TEXAS

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 stamped hereon by me; and was duly RECORDED; in the Official Public Records of Real Property of Harris County Texas

Monday, November 14, 2016



Stan Stuart

COUNTY CLERK
HARRIS COUNTY, TEXAS