



DEPARTMENT OF THE ARMY  
U. S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT  
2000 FORT POINT ROAD  
GALVESTON, TEXAS 77550

January 12, 2024

Compliance Branch

SUBJECT: **SWG-2023-00142**; [REDACTED] Approved Jurisdictional Determination (AJD), Approximate 25 Acre Tract, Houston, Harris County, Texas



Dear Mr. [REDACTED]:

This letter is in response to your letter, dated February 1, 2023, requesting an approved jurisdictional determination (AJD) on behalf of [REDACTED], on an approximate 25-acre tract. The tract is located north of Ellis Lane in Houston, Harris County, Texas. (Map enclosed).

The Corps of Engineers has the regulatory responsibility over two primary federal laws, Section 10 of the Rivers and Harbors Act (Section 10) which regulates work and/or structures in/or affecting navigable waters of the United States (U.S.) and Section 404 of the Clean Water Act (Section 404) which regulates the discharge of dredged and/or fill material into waters of the U.S., including navigable waters. If activities involved trigger either of these aforementioned federal regulations, a Department of the Army (DA) permit is required prior those activities occurring. Based on a review of federal regulations and a desk review, we determined the seven wetlands, totaling approximately 4.51 acres, do not have any known continuous surface connection to Vogel Creek, a relatively permanent waterway (RPW) located approximately 0.25 miles northeast of the project site, or any other water of the United States. Therefore, wetlands EW-01, EW-02, EW-03, FW-01, FW-02, FW-03 and FW-04 do not meet the definition of adjacent as defined in the pre-2015 regime post Sackett guidance and are not waters of the United States subject to Section 404 of the Clean Water Act. Therefore, any work in or fill material placed in these seven wetlands does not require a Department of the Army permit.

Areas of Federal Interests (federal projects, and/or work areas) may be located within this proposed project area. Any activities in these federal interest areas would also be subject to federal regulations under the authority of Section 14 of the Rivers and Harbors Act (aka Section 408). Section 408 makes it unlawful for anyone to alter in any manner, in whole or in part, any work (ship channel, flood control channels, seawalls, bulkhead, jetty, piers, etc.) built by the United States unless it is authorized by the Corps of Engineers (i.e., Navigation and Operations Division).

The delineation and/or jurisdictional determination included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

This letter constitutes an AJD for your subject site. The AJD is valid for five years from the date of this letter unless new information warrants a revision prior to the expiration date. For the purposes of this AJD, we have relied on Pre-2015 Regulatory Regime implemented consistent with *Sackett v. EPA* in evaluating jurisdiction. If you object to the AJD portion determination, you may request an administrative appeal under USACE regulations at 33 CFR Part 331. You will find an enclosed Notification of Appeals Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Southwest Division Office at the following address:



In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete; that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP; noting the letter date is considered day 1. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

If you have any questions concerning this matter, please reference file number, **SWG-2023-00142** and contact [REDACTED] at the letterhead address or by

telephone at [REDACTED]. To assist us in improving our service to you, please complete the survey found at <https://regulatory.ops.usace.army.mil/customer-service-survey> and/or if you would prefer a hard copy of the survey form, please let us know, and one will be mailed to you.

Sincerely

[REDACTED]

[REDACTED]  
Acting Chief, Compliance Branch

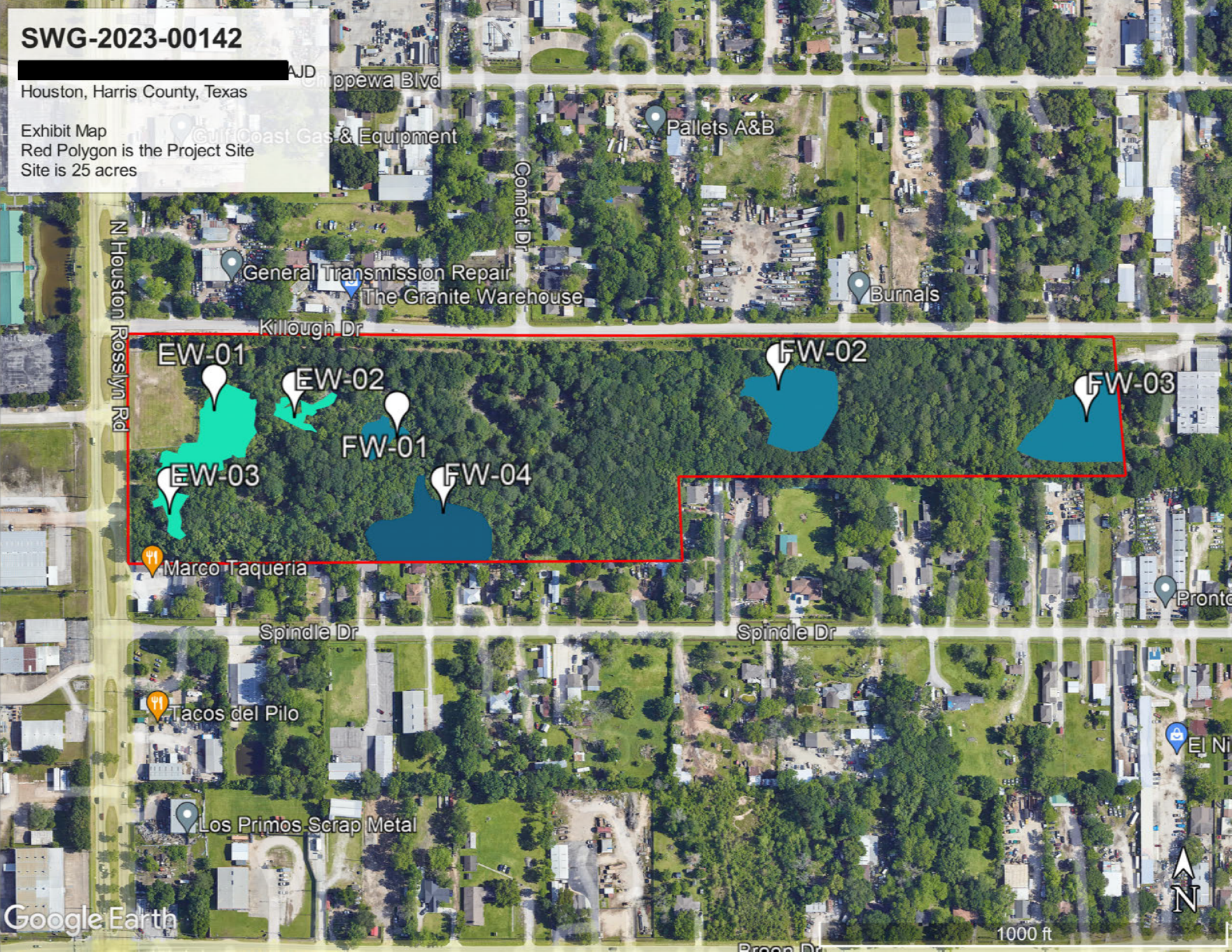
Enclosure



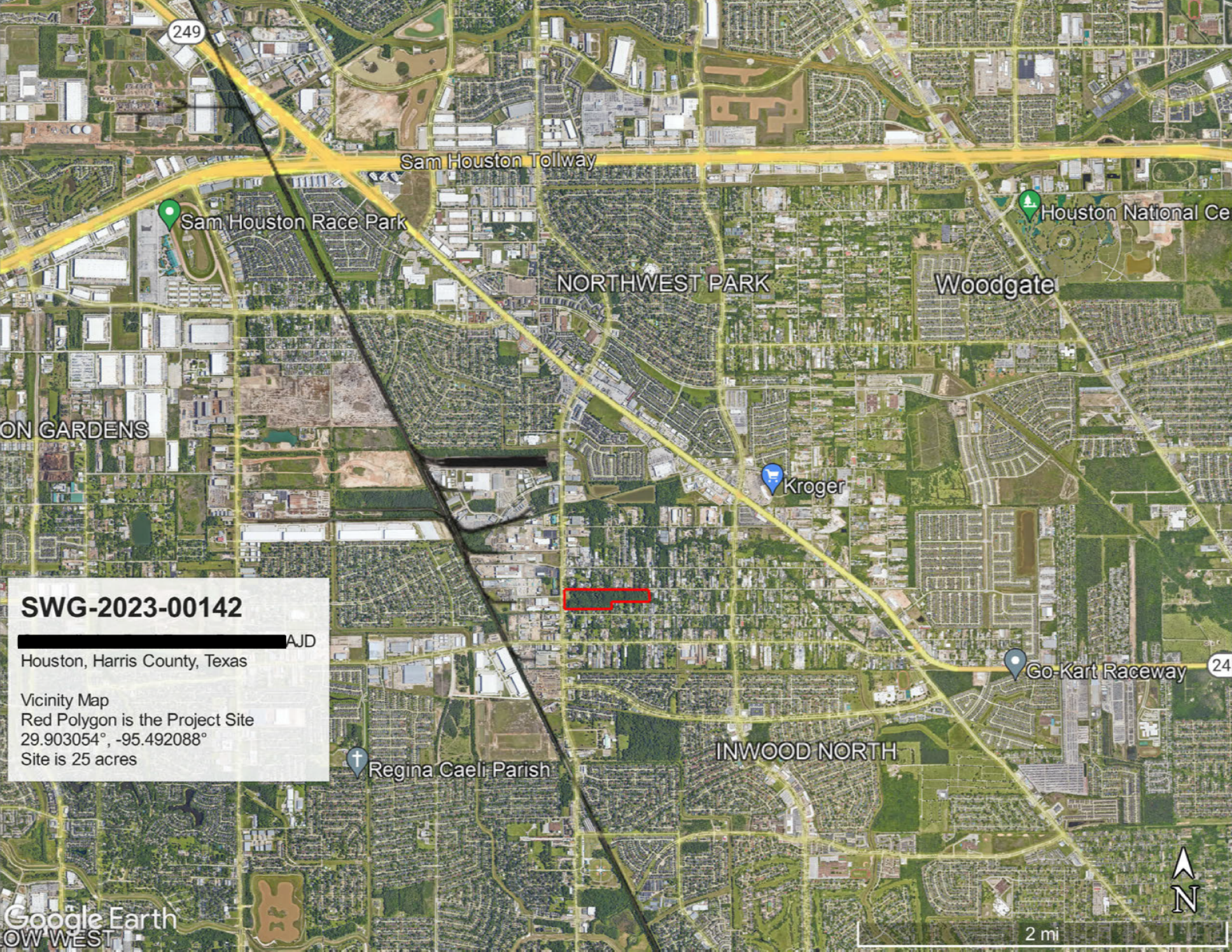
SWG-2023-00142

AJD  
Houston, Harris County, Texas

Exhibit Map  
Red Polygon is the Project Site  
Site is 25 acres







249

Sam Houston Tollway

Sam Houston Race Park

Houston National Ce

NORTHWEST PARK

Woodgate

ON GARDENS

Kroger

Go-Kart Raceway

24

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AJD

Houston, Harris County, Texas

Vicinity Map

Red Polygon is the Project Site

29.903054°, -95.492088°

Site is 25 acres

Regina Caeli Parish

INWOOD NORTH

Google Earth  
HOW WEST

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2 mi