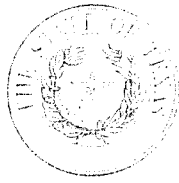


Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 7, 2009

Mr. Gary K. Ferguson  
Fondren Road Plaza, Ltd.  
3800 Southwest Freeway, Suite 304  
Houston, TX 77027

Re: Municipal Setting Designation (MSD) Certificate for Fondren Road Plaza,  
Ltd., 7042 Bissonet, Houston, Harris County, TX; MSD No. 96

Dear Mr. Ferguson:

Enclosed is the Municipal Setting Designation Certification for your site. You can use this certification as the basis to avail of the groundwater assessment and remediation flexibility offered in accordance with Texas Health and Safety Code §361.808, consistent with the site-specific circumstances.

If I can be of any further assistance, please do not hesitate to contact me at 512/239-5872 or via e-mail ([mfrew@tceq.state.tx.us](mailto:mfrew@tceq.state.tx.us)).

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Work Leader  
QA/Technical Support Section  
IT & Special Projects Team  
Remediation Division

MF/sr

Enclosure

cc: Scott Settemeyer, Project Manager VCP No. 1395, Remediation Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



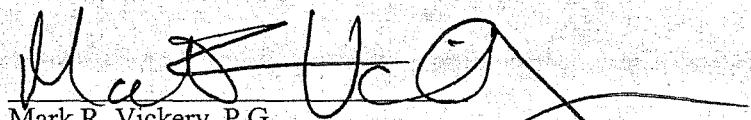
MUNICIPAL SETTING DESIGNATION CERTIFICATE

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 96, in the City of Houston, for the tract of land described in Exhibit "A". The eligibility requirements of Texas Health and Safety Code §361.803 are satisfied as attested to by the affidavit in Exhibit "B", provided pursuant to Texas Health and Safety Code §361.804(b)(2)(D). This certificate shall continue in effect so long as the institutional control required by Texas Health and Safety Code §361.8065 is maintained in effect.

Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this the 26<sup>th</sup> day of June, 2009

  
Mark R. Vickery, P.G.  
Executive Director  
Texas Commission on Environmental Quality

'A'

**PROPERTY DESCRIPTION**

BEING 7.5677 ACRES OR 329,649 SQUARE FEET OF LAND AND BEING A PART OF A 9.087 ACRE TRACT OUT OF TRACT "C", BONNIE BRAE ORANGE ORCHARDS, AS RECORDED IN VOLUME 2, PAGE 66, HARRIS COUNTY MAP RECORDS, HARRIS COUNTY, TEXAS, IN THE J. R. BLACK SURVEY, A-134, CITY OF HOUSTON, HARRIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at ½ inch iron rod found for the northwest corner of herein described tract, said point also being the intersection of the east right-of-way of Fondren Road (100 feet wide), as recorded in Volume 6051, Page 52, of the Harris County Deed Records, Harris County, Texas, and the south line of a 60-foot drainage easement as recorded in Volume 2882, Page 628, of the Harris County Deed Records, Harris County, Texas.

THENCE N 89° 51' 12" E, along the southerly line of said 60-foot drainage easement, a distance of 880.54 feet to a 5/8 inch iron rod found for the northeast corner of this tract;

THENCE S 01° 38' 00" W, along the easterly line of a 10-foot sanitary sewer easement recorded in Volume 7813, Page 424, Harris County Deed Records, a distance of 193.44 feet to a 5/8 inch iron rod found for the southeast corner of this tract, also being the north right-of-way line of Bissonnet Avenue, as recorded in Volume 6051, Page 52, Harris County Deed Records, Harris County, Texas.

THENCE S 60° 15' 30" W, along the north right-of-way line of said Bissonnet Avenue, a distance of 716.63 feet to a 1-1/8 inch iron rod found for a corner, said corner also being the southeast corner of a Texaco Tract;

THENCE N 23° 35' 00" W, along the easterly property line of said Texaco Station Tract, a distance of 150.00 feet to a ½ inch iron rod for a corner, said corner being the northeast corner of said Texaco Tract;

THENCE S 82° 47' 38" W, along the north property line of said Texaco Tract, a distance of 150.00 feet to a 5/8 inch iron rod found for the most westerly southwest corner of this tract, said corner being on the east right-of-way line of said Fondren Road, said iron rod also being the point of curvature of a curve to the left, subtending a central angle of 06° 31' 17";

535-43-0638

THENCE, northwesterly along the said curve, having a radius of 3,781.67 feet, an arc length of 430.44 feet, and a tangent of 215.45 feet, along the east right-of-way line of said Fondren Road to the POINT OF BEGINNING of the herein described tract containing as aforesaid 7.5677 Acres or 329,649 Square Feet of land.

'B'

c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup>	<input type="radio"/> NA <sup>4</sup>
<sup>3</sup> Do not submit application.			
<sup>4</sup> NA only when no such municipality, private well owner, or retail public utility exists			

**MSD Information:**

List all existing TCEQ and US Environmental Protection Agency registration, permit, identification numbers (e.g., SWR No., VCP No., LPST ID No., UIC Registration No., PWS ID. No.), if any, that apply to the groundwater contamination situation within the proposed MSD boundary. State "none" if none applicable. VCP No. 1395		
Is the proposed designated groundwater contaminated in excess of an applicable potable water <sup>5</sup> use standard (i.e., 30 TAC 350, <sup>GW</sup> GW <sub>ing</sub> )?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 <sup>th</sup> Legislature.)	<input checked="" type="radio"/> Yes, when? / /2001	<input type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as source water?	<input type="radio"/> Yes <sup>6</sup>	<input checked="" type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses a deeper groundwater zone for the source water that is not properly sealed off from the designated groundwater?	<input type="radio"/> Yes <sup>6</sup>	<input checked="" type="radio"/> No
Is the applicant aware of any non-consumptive use of the groundwater or other human health or ecological exposure pathways that are of concern? If yes, specify:	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has each municipality and retail public utility identified in §361.8065 provided firm commitment to adopt an ordinance or resolution in support of the application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Is a copy of the ordinance or restrictive covenant that restricts consumptive use and appropriately restricts other uses of and contact with the designated groundwater, and any required resolutions provided with this application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
<sup>5</sup> "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].		
<sup>6</sup> Do not submit an application.		

I affirmatively state that (place an X in all applicable blanks):

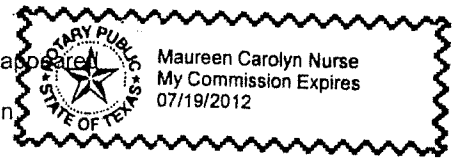
- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed MSD property is included with the application.
- Notice was provided in accordance with THSC §361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

Michael Marcon  
Applicant Signature

12/11/08  
Date

Before me Maureen Carolyn Nurse the undersigned authority, on this day personally appeared Michael Marcon and signed this Municipal Setting Designation Application.

Name of Notary  
Name of Applicant



Sworn, subscribed and signed before me in the County of Harris, State of TX, on the 11th day of Dec, this month of December, 2008.



Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 7, 2009

Ms. Thelma A. Lenz, City Secretary  
City of West University Place  
3800 University Boulevard  
West University Place, TX 77005

Re: Municipal Setting Designation Certification (MSD) for Fondren Road  
Plaza, Ltd., 7042 Bissonnet, Houston, TX; MSD No. 96

Dear Ms. Lenz:

As required by TEX HEALTH & SAFETY CODE §361.807(a)(2), enclosed is a copy of the MSD dated June 26, 2009. The City of Houston passed a resolution (Resolution No. 2008-16) in support of this MSD application. For this reason, the Texas Commission on Environmental Quality is required to provide you a copy of the MSD Certificate.

If you have any questions, please contact me at 512/239-5872.

Sincerely,

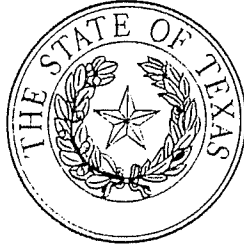
A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Work Leader  
QA/Technical Support Section  
IT & Special Projects Team  
Remediation Division

MF/sr

Enclosure

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



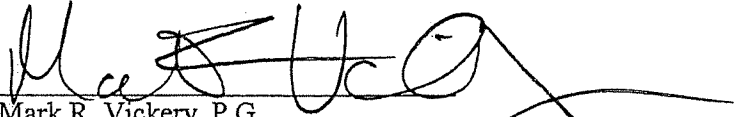
MUNICIPAL SETTING DESIGNATION CERTIFICATE

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 96, in the City of Houston, for the tract of land described in Exhibit "A". The eligibility requirements of Texas Health and Safety Code §361.803 are satisfied as attested to by the affidavit in Exhibit "B", provided pursuant to Texas Health and Safety Code §361.804(b)(2)(D). This certificate shall continue in effect so long as the institutional control required by Texas Health and Safety Code §361.8065 is maintained in effect.

Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this the 26<sup>th</sup> day of June, 2009

  
Mark R. Vickery, P.G.  
Executive Director  
Texas Commission on Environmental Quality



'A'

PROPERTY DESCRIPTION

BEING 7.5677 ACRES OR 329,649 SQUARE FEET OF LAND AND BEING A PART OF A 9.087 ACRE TRACT OUT OF TRACT "C", BONNIE BRAE ORANGE ORCHARDS, AS RECORDED IN VOLUME 2, PAGE 66, HARRIS COUNTY MAP RECORDS, HARRIS COUNTY, TEXAS, IN THE J. R. BLACK SURVEY, A-134, CITY OF HOUSTON, HARRIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at ½ inch iron rod found for the northwest corner of herein described tract, said point also being the intersection of the east right-of-way of Fondren Road (100 feet wide), as recorded in Volume 6051, Page 52, of the Harris County Deed Records, Harris County, Texas, and the south line of a 60-foot drainage easement as recorded in Volume 2882, Page 628, of the Harris County Deed Records, Harris County, Texas.

THENCE N 89° 51' 12" E, along the southerly line of said 60-foot drainage easement, a distance of 880.54 feet to a 5/8 inch iron rod found for the northeast corner of this tract;

THENCE S 01° 38' 00" W, along the easterly line of a 10-foot sanitary sewer easement recorded in Volume 7813, Page 424, Harris County Deed Records, a distance of 193.44 feet to a 5/8 inch iron rod found for the southeast corner of this tract, also being the north right-of-way line of Bissonnet Avenue, as recorded in Volume 6051, Page 52, Harris County Deed Records, Harris County, Texas.

THENCE S 60° 15' 30" W, along the north right-of-way line of said Bissonnet Avenue, a distance of 716.63 feet to a 1-1/8 inch iron rod found for a corner, said corner also being the southeast corner of a Texaco Tract;

THENCE N 23° 35' 00" W, along the easterly property line of said Texaco Station Tract, a distance of 150.00 feet to a ½ inch iron rod for a corner, said corner being the northeast corner of said Texaco Tract;

THENCE S 82° 47' 38" W, along the north property line of said Texaco Tract, a distance of 150.00 feet to a 5/8 inch iron rod found for the most westerly southwest corner of this tract, said corner being on the east right-of-way line of said Fondren Road, said iron rod also being the point of curvature of a curve to the left, subtending a central angle of 06° 31' 17";

535-43-0638

THENCE, northwesterly along the said curve, having a radius of 3,781.67 feet, an arc length of 430.44 feet, and a tangent of 215.45 feet, along the east right-of-way line of said Fondren Road to the POINT OF BEGINNING of the herein described tract containing as aforesaid 7.5677 Acres or 329,649 Square Feet of land.

B

c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup>	<input type="radio"/> NA <sup>4</sup>
<sup>3</sup> Do not submit application.			
<sup>4</sup> NA only when no such municipality, private well owner, or retail public utility exists			

**MSD Information:**

List all existing TCEQ and US Environmental Protection Agency registration, permit, identification numbers (e.g., SWR No., VCP No., LPST ID No., UIC Registration No., PWS ID. No.), if any, that apply to the groundwater contamination situation within the proposed MSD boundary. State "none" if none applicable. VCP No. 1395		
Is the proposed designated groundwater contaminated in excess of an applicable potable water <sup>5</sup> use standard (i.e., 30 TAC 350, <sup>GW</sup> GWing)?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 <sup>th</sup> Legislature.)	<input checked="" type="radio"/> Yes, when? / /2001	<input type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as source water?	<input type="radio"/> Yes <sup>6</sup>	<input checked="" type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses a deeper groundwater zone for the source water that is not properly sealed off from the designated groundwater?	<input type="radio"/> Yes <sup>6</sup>	<input checked="" type="radio"/> No
Is the applicant aware of any non-consumptive use of the groundwater or other human health or ecological exposure pathways that are of concern? If yes, specify:	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has each municipality and retail public utility identified in §361.8065 provided firm commitment to adopt an ordinance or resolution in support of the application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Is a copy of the ordinance or restrictive covenant that restricts consumptive use and appropriately restricts other uses of and contact with the designated groundwater, and any required resolutions provided with this application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
<sup>5</sup> "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].		
<sup>6</sup> Do not submit an application.		

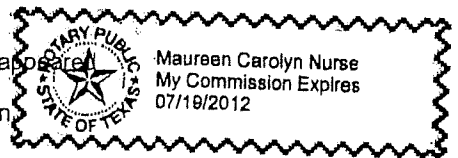
I affirmatively state that (place an X in all applicable blanks):

- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed MSD property is included with the application.
- Notice was provided in accordance with THSC §361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

Michael Marcon  
Applicant Signature

12/11/08  
Date

Before me Maureen Carolyn Nurse the undersigned authority, on this day personally appeared Michael Marcon Name of Applicant and signed this Municipal Setting Designation Application.



Sworn, subscribed and signed before me in the County of Harris, State of TX, on the 11th day of Dec, this month of December, 2008.



Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 7, 2009

Ms. Tracy Dutton, City Secretary  
City of Bellaire  
7008 S. Rice  
Bellaire, TX 77401

Re: Municipal Setting Designation Certification (MSD) for Fondren Road  
Plaza, Ltd., 7042 Bissonnet, Houston, TX; MSD No. 96

Dear Ms. Dutton:

As required by TEX HEALTH & SAFETY CODE §361.807(a)(2), enclosed is a copy of the MSD dated June 26, 2009. The City of Bellaire passed a resolution (Resolution No. 08-10) in support of this MSD application. For this reason, the Texas Commission on Environmental Quality is required to provide you a copy of the MSD Certificate.

If you have any questions, please contact me at 512/239-5872.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Work Leader  
QA/Technical Support Section  
IT & Special Projects Team  
Remediation Division

MF/sr

Enclosure

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



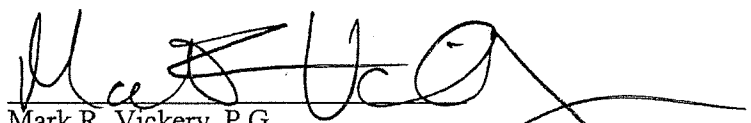
MUNICIPAL SETTING DESIGNATION CERTIFICATE

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 96, in the City of Houston, for the tract of land described in Exhibit "A". The eligibility requirements of Texas Health and Safety Code §361.803 are satisfied as attested to by the affidavit in Exhibit "B", provided pursuant to Texas Health and Safety Code §361.804(b)(2)(D). This certificate shall continue in effect so long as the institutional control required by Texas Health and Safety Code §361.8065 is maintained in effect.

Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this the 26<sup>th</sup> day of June, 2009

  
Mark R. Vickery, P.G.  
Executive Director  
Texas Commission on Environmental Quality

'A'

**PROPERTY DESCRIPTION**

BEING 7.5677 ACRES OR 329,649 SQUARE FEET OF LAND AND BEING A PART OF A 9.087 ACRE TRACT OUT OF TRACT "C", BONNIE BRAE ORANGE ORCHARDS, AS RECORDED IN VOLUME 2, PAGE 66, HARRIS COUNTY MAP RECORDS, HARRIS COUNTY, TEXAS, IN THE J. R. BLACK SURVEY, A-134, CITY OF HOUSTON, HARRIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at ½ inch iron rod found for the northwest corner of herein described tract, said point also being the intersection of the east right-of-way of Fondren Road (100 feet wide), as recorded in Volume 6051, Page 52, of the Harris County Deed Records, Harris County, Texas, and the south line of a 60-foot drainage easement as recorded in Volume 2882, Page 628, of the Harris County Deed Records, Harris County, Texas.

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THENCE S 82° 47' 38" W, along the north property line of said Texaco Tract, a distance of 150.00 feet to a 5/8 inch iron rod found for the most westerly southwest corner of this tract, said corner being on the east right-of-way line of said Fondren Road, said iron rod also being the point of curvature of a curve to the left, subtending a central angle of 06° 31' 17";

535-43-0638

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'B'

c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup>	<input type="radio"/> NA <sup>4</sup>
<sup>3</sup> Do not submit application.			
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**MSD Information:**

List all existing TCEQ and US Environmental Protection Agency registration, permit, identification numbers (e.g., SWR No., VCP No., LPST ID No., UIC Registration No., PWS ID. No.), if any, that apply to the groundwater contamination situation within the proposed MSD boundary. State "none" if none applicable. VCP No. 1395		
Is the proposed designated groundwater contaminated in excess of an applicable potable water <sup>5</sup> use standard (i.e., 30 TAC 350, <sup>GW</sup> GW <sub>ing</sub> )?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 <sup>th</sup> Legislature.)	<input checked="" type="radio"/> Yes, when? / / 2001	<input type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as source water?	<input type="radio"/> Yes <sup>6</sup>	<input checked="" type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses a deeper groundwater zone for the source water that is not properly sealed off from the designated groundwater?	<input type="radio"/> Yes <sup>6</sup>	<input checked="" type="radio"/> No
Is the applicant aware of any non-consumptive use of the groundwater or other human health or ecological exposure pathways that are of concern? If yes, specify:	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has each municipality and retail public utility identified in §361.8065 provided firm commitment to adopt an ordinance or resolution in support of the application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
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<sup>5</sup> "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].		
<sup>6</sup> Do not submit an application.		

I affirmatively state that (place an X in all applicable blanks):

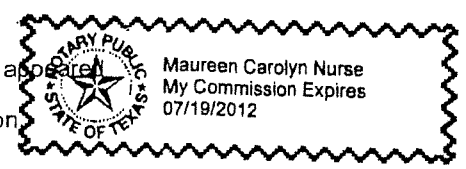
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- Notice was provided in accordance with THSC §361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

Michael Marcon  
Applicant Signature

12/11/08  
Date

Before me Maureen Carolyn Nurse the undersigned authority, on this day personally appeared Michael Marcon and signed this Municipal Setting Designation Application.

Name of Notary  
Name of Applicant



Sworn, subscribed and signed before me in the County of Harris, State of TX, on the 11th day of Dec, this month of December, 2008.



Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 7, 2009

Ms. Olge Garza, City Secretary  
6309 Edloe Avenue  
Houston, TX 77005-3699

Re: Municipal Setting Designation Certification (MSD) for Fondren Road  
Plaza, Ltd., 7042 Bissonnet, Houston, TX; MSD No. 96

Dear Ms. Garza:

As required by TEX HEALTH & SAFETY CODE §361.807(a)(2), enclosed is a copy of the MSD dated June 26, 2009. The City of Southside Place passed a resolution (Resolution No. 2008-9-9) in support of this MSD application. For this reason, the Texas Commission on Environmental Quality is required to provide you a copy of the MSD Certificate.

If you have any questions, please contact me at 512/239-5872.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Work Leader  
QA/Technical Support Section  
IT & Special Projects Team  
Remediation Division

MF/sr

Enclosure

535-43-0638

THENCE, northwesterly along the said curve, having a radius of 3,781.67 feet, an arc length of 430.44 feet, and a tangent of 215.45 feet, along the east right-of-way line of said Fondren Road to the POINT OF BEGINNING of the herein described tract containing as aforesaid 7.5677 Acres or 329,649 Square Feet of land.

'B'

c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup>	<input type="radio"/> NA <sup>4</sup>
<sup>3</sup> Do not submit application.			
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**MSD Information:**

List all existing TCEQ and US Environmental Protection Agency registration, permit, identification numbers (e.g., SWR No., VCP No., LPST ID No., UIC Registration No., PWS ID. No.), if any, that apply to the groundwater contamination situation within the proposed MSD boundary. State "none" if none applicable. VCP No. 1395		
Is the proposed designated groundwater contaminated in excess of an applicable potable water <sup>5</sup> use standard (i.e., 30 TAC 350, <sup>GW</sup> GW <sub>ing</sub> )?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 <sup>th</sup> Legislature.)	<input checked="" type="radio"/> Yes, when? / /2001	<input type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses the designated groundwater as source water?	<input type="radio"/> Yes <sup>6</sup>	<input checked="" type="radio"/> No
Is there a potable-use well within the boundary of the proposed MSD that uses a deeper groundwater zone for the source water that is not properly sealed off from the designated groundwater?	<input type="radio"/> Yes <sup>6</sup>	<input checked="" type="radio"/> No
Is the applicant aware of any non-consumptive use of the groundwater or other human health or ecological exposure pathways that are of concern? If yes, specify:	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has each municipality and retail public utility identified in §361.8065 provided firm commitment to adopt an ordinance or resolution in support of the application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
Is a copy of the ordinance or restrictive covenant that restricts consumptive use and appropriately restricts other uses of and contact with the designated groundwater, and any required resolutions provided with this application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
<sup>5</sup> "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].		
<sup>6</sup> Do not submit an application.		

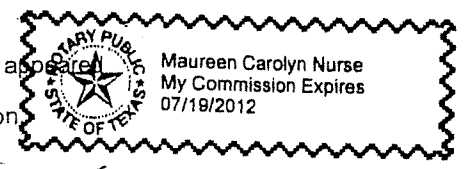
I affirmatively state that (place an X in all applicable blanks):

- The MSD eligibility criteria of THSC §361.803 are satisfied.
- True and accurate copies of all documents demonstrating that the MSD eligibility criteria provided by THSC §361.803 have been satisfied and are included with the application.
- A true and accurate copy of a legal description of the proposed MSD property is included with the application.
- Notice was provided in accordance with THSC §361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

Michael Marcon  
Applicant Signature

12/11/08  
Date

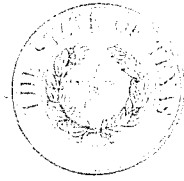
Before me Maureen Carolyn Nurse the undersigned authority, on this day personally appeared  
Name of Notary  
Michael Marcon and signed this Municipal Setting Designation Application.  
Name of Applicant



Sworn, subscribed and signed before me in the County of Harris, State of TX, on the 11th day of Dec, this month of December, 2008.



Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D.; *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 7, 2009

Mr. Steven Ellinger, President  
Southwest Harris County MUD 1  
C/O Smith, Murdaugh, Little & Bonham  
1100 Louisiana Street, Suite 400  
Houston, TX 77002

Re: Municipal Setting Designation Certification for Fondren Road Plaza, Ltd.,  
7042 Bissonnet, Houston, TX; MSD No. 96

Dear Mr. Ellinger:

As required by TEX. HEALTH AND SAFETY CODE §361.807(a)(2), please find an enclosed copy of the Municipal Setting Designation Certificate for the above-referenced property. The application was certified on June 26, 2009. Fort Bend County WCID 2 issued a resolution of support dated September 9, 2008 for this Municipal Setting Designation application. For this reason, the Texas Commission on Environmental Quality is required to provide you a copy of this Municipal Setting Designation Certificate.

If you have any questions, please do not hesitate to contact me at 512/239-5872.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Work Leader  
QA/Technical Support Section  
IT & Special Projects Team  
Remediation Division

MF/sr

Enclosure

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



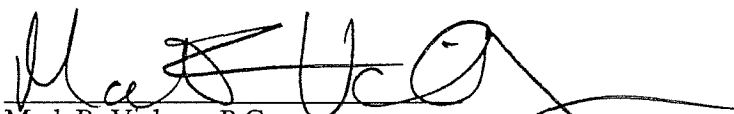
MUNICIPAL SETTING DESIGNATION CERTIFICATE

As provided for in §361.807, Subchapter W, Texas Health and Safety Code (Solid Waste Disposal Act):

I, Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation for MSD No. 96, in the City of Houston, for the tract of land described in Exhibit "A". The eligibility requirements of Texas Health and Safety Code §361.803 are satisfied as attested to by the affidavit in Exhibit "B", provided pursuant to Texas Health and Safety Code §361.804(b)(2)(D). This certificate shall continue in effect so long as the institutional control required by Texas Health and Safety Code §361.8065 is maintained in effect.

Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on Environmental Quality environmental remediation regulation, as modified by Texas Health and Safety Code §361.808.

EXECUTED this the 26<sup>th</sup> day of June, 2009

  
Mark R. Vickery, P.G.  
Executive Director  
Texas Commission on Environmental Quality



'A'

**PROPERTY DESCRIPTION**

BEING 7.5677 ACRES OR 329,649 SQUARE FEET OF LAND AND BEING A PART OF A 9.087 ACRE TRACT OUT OF TRACT "C", BONNIE BRAE ORANGE ORCHARDS, AS RECORDED IN VOLUME 2, PAGE 66, HARRIS COUNTY MAP RECORDS, HARRIS COUNTY, TEXAS, IN THE J. R. BLACK SURVEY, A-134, CITY OF HOUSTON, HARRIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at ½ inch iron rod found for the northwest corner of herein described tract, said point also being the intersection of the east right-of-way of Fondren Road (100 feet wide), as recorded in Volume 6051, Page 52, of the Harris County Deed Records, Harris County, Texas, and the south line of a 60-foot drainage easement as recorded in Volume 2882, Page 628, of the Harris County Deed Records, Harris County, Texas.

THENCE N 89° 51' 12" E, along the southerly line of said 60-foot drainage easement, a distance of 880.54 feet to a 5/8 inch iron rod found for the northeast corner of this tract;

THENCE S 01° 38' 00" W, along the easterly line of a 10-foot sanitary sewer easement recorded in Volume 7813, Page 424, Harris County Deed Records, a distance of 193.44 feet to a 5/8 inch iron rod found for the southeast corner of this tract, also being the north right-of-way line of Bissonnet Avenue, as recorded in Volume 6051, Page 52, Harris County Deed Records, Harris County, Texas.

THENCE S 60° 15' 30" W, along the north right-of-way line of said Bissonnet Avenue, a distance of 716.63 feet to a 1-1/8 inch iron rod found for a corner, said corner also being the southeast corner of a Texaco Tract;

THENCE N 23° 35' 00" W, along the easterly property line of said Texaco Station Tract, a distance of 150.00 feet to a ½ inch iron rod for a corner, said corner being the northeast corner of said Texaco Tract;

THENCE S 82° 47' 38" W, along the north property line of said Texaco Tract, a distance of 150.00 feet to a 5/8 inch iron rod found for the most westerly southwest corner of this tract, said corner being on the east right-of-way line of said Fondren Road, said iron rod also being the point of curvature of a curve to the left, subtending a central angle of 06° 31' 17";

535-43-0638

THENCE, northwesterly along the said curve, having a radius of 3,781.67 feet, an arc length of 430.44 feet, and a tangent of 215.45 feet, along the east right-of-way line of said Fondren Road to the POINT OF BEGINNING of the herein described tract containing as aforesaid 7.5677 Acres or 329,649 Square Feet of land.

13

c) each retail public utility, as defined by Texas Water Code, §13.002, that owns or operates a groundwater supply well located within five miles beyond the proposed MSD boundaries?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>3</sup>	<input type="radio"/> NA <sup>4</sup>
<sup>3</sup> Do not submit application.			
<sup>4</sup> NA only when no such municipality, private well owner, or retail public utility exists			

**MSD Information:**

List all existing TCEQ and US Environmental Protection Agency registration, permit, identification numbers (e.g., SWR No., VCP No., LPST ID No., UIC Registration No., PWS ID. No.), if any, that apply to the groundwater contamination situation within the proposed MSD boundary. State "none" if none applicable. VCP No. 1395		
Is the proposed designated groundwater contaminated in excess of an applicable potable water <sup>5</sup> use standard (i.e., 30 TAC 350, <sup>GW</sup> GW <sub>ing</sub> )?	<input checked="" type="radio"/> Yes	<input type="radio"/> No <sup>6</sup>
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I affirmatively state that (place an X in all applicable blanks):

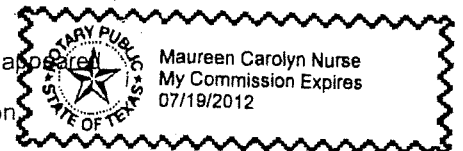
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- Notice was provided in accordance with THSC §361.805.
- A copy of an ordinance or restrictive covenant and any required resolutions are provided in this application or will be provided before the executive director certifies this application.

Michael Marcon  
Applicant Signature

12/11/08  
Date

Before me Maureen Carolyn Nurse the undersigned authority, on this day personally appeared Michael Marcon and signed this Municipal Setting Designation Application

Name of Notary  
Name of Applicant



Sworn, subscribed and signed before me in the County of Harris, State of TX, on the 11th day of Dec, this month of December, 2008.



Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 7, 2009

Ms. Anna Russell, City Secretary  
City of Houston  
P.O. Box 1562  
Houston, TX 77251

Re: Municipal Setting Designation Certification (MSD) for Fondren Road  
Plaza, Ltd., 7042 Bissonnet, Houston, TX; MSD No. 96

Dear Ms. Russell:

As required by TEX HEALTH & SAFETY CODE §361.807(a)(2), enclosed is a copy of the MSD dated June 26, 2009. The City of Houston passed an ordinance (Ordinance No. 2008-751) in support of this MSD application. For this reason, the Texas Commission on Environmental Quality is required to provide you a copy of the MSD Certificate.

If you have any questions, please contact me at 512/239-5872.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Work Leader  
QA/Technical Support Section  
IT & Special Projects Team  
Remediation Division

MF/sr

Enclosure

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



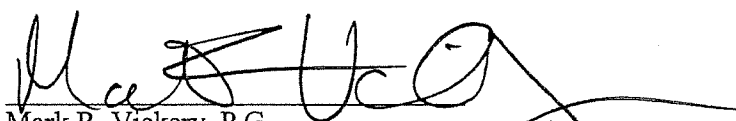
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EXECUTED this the 26<sup>th</sup> day of June, 2009

  
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Executive Director  
Texas Commission on Environmental Quality

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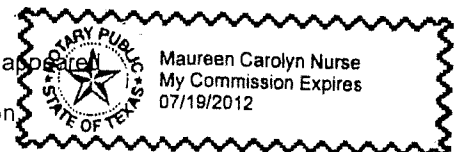
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Michael Marcon  
Applicant Signature

12/11/08  
Date

Before me Maureen Carolyn Nurse the undersigned authority, on this day personally appeared  
Michael Marcon Name of Applicant and signed this Municipal Setting Designation Application



Sworn, subscribed and signed before me in the County of Harris, State of TX, on the 11th day of Dec, this month of December, 2008.

