

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 6, 2012

Ms. Eva Fromm O'Brien, Partner
Fulbright & Jaworski L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010

RE: Municipal Setting Designation (MSD) Certificate for D/J Venture, 3131
Argonne Street, Houston, Harris County, Texas; MSD No. 193

Dear Ms. O'Brien:

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) 239-6989 or via e-mail (Roslyn.Kygar@TCEQ.Texas.gov).

Sincerely,

A handwritten signature in cursive script that reads "Roslyn Kygar".

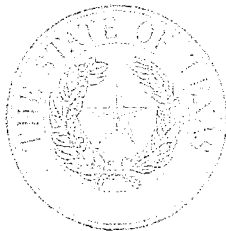
Roslyn Kygar, Project Manager
VCP-CA Section
Remediation Division

RK/mdh

Enclosure: MSD Certificate No. 193

Cc: Ms. Nicole Bealle, Waste Section Manager, TCEQ Region 12, Houston
Office

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



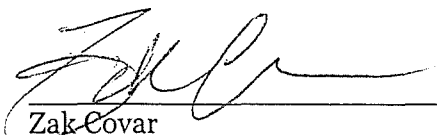
MUNICIPAL SETTING DESIGNATION CERTIFICATE

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

I, Zak Covar, Executive Director of the Texas Commission on Environmental Quality certify the Municipal Setting Designation (MSD) for MSD No. 193, 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 28th day of August, 2012



Zak Covar
Executive Director
Texas Commission on Environmental Quality

530- 4-0056

EXHIBIT "A"

Survey of 0.6885 acre (29,991.5 square feet) tract of land situated in the A.C. Reynolds Survey, Abstract No. 61, Harris County, Texas, being all of Lots 5, 6, 7 and 8, Block "B", Dozier Addition, according to the map thereof recorded in Volume 302, Page 30 of the Deed Records of Harris County, Texas, and 8,456 square feet out of Block 35, of Dickey's West Park Addition, in Houston, Harris County, Texas, said 0.6885 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a found 5/8 inch iron rod marking the North right-of-way line of Branard Street (50 feet wide) with the East right-of-way line of Argonne Avenue (50 feet wide), said point being the Southwest corner of said Lot 7, Block "B", Dozier Addition and the herein described tract;

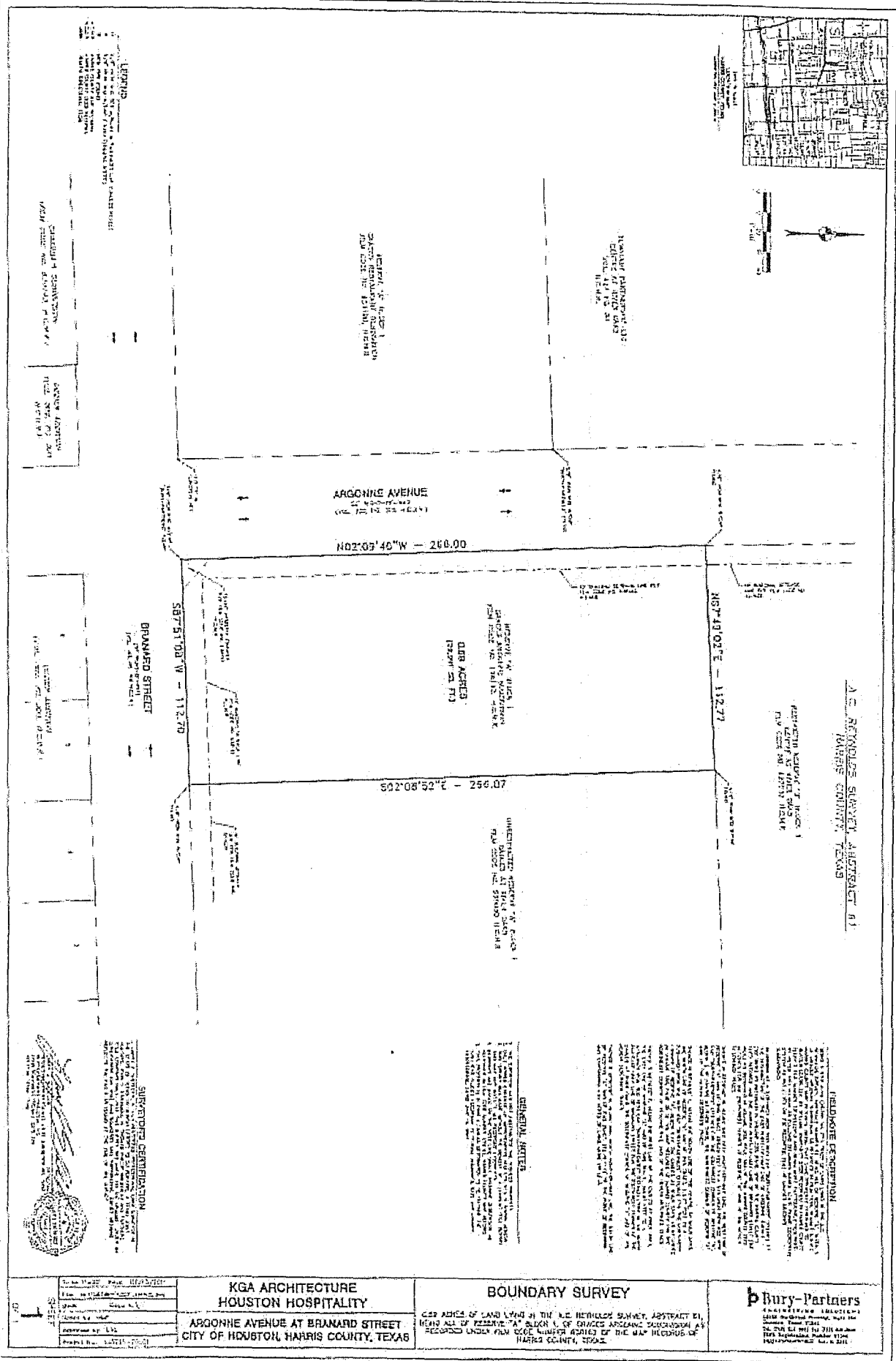
THENCE North, along the East right-of-way line of said Argonne Avenue, at 191.00 feet passing the Northwest corner of said Block "B", Dozier Addition and the Southwest corner said Block 35, of Dickey's West Park Addition, and continuing North, in all a distance of 266.00 feet to a 1 inch iron pipe found for the Northwest corner of the herein described tract;

THENCE South 89°54'15" East, a distance of 112.75 feet to a 5/8 inch iron rod found for the Northeast corner of the herein described tract;

THENCE South, at 75.00 feet passing the Northeast corner of Lot 5, Block "B", of said Dozier Addition, and continuing South along the East line of said Lots 5 and 8, in all a distance of 266.00 feet to a 5/8 inch iron rod, being on the North right-of-way line of said Branard Street, said point being the Southwest corner of Lot 9 and the Southeast corner of Lot 8, Block "B", Dozier Addition and the herein described tract;

THENCE North 89°54'15" West, along the North right-of-way line of said Branard Street, a distance of 112.75 feet to the POINT OF BEGINNING and containing 0.6885 acre (29,991.5 square feet) of land.

Exhibit 'A'



Project No.	1-1111
Client	KGA ARCHITECTURE
Surveyor	BOUNDRY SURVEY
Date	1-11-11

KGA ARCHITECTURE
HOUSTON HOSPITALITY
ARGONNE AVENUE AT BRANARD STREET
CITY OF HOUSTON, HARRIS COUNTY, TEXAS

BOUNDARY SURVEY
 CSD ADVICE OF LAND LINDA IN THE N.E. HENDERSON SURVEY, ABSTRACT 81,
 BEING ALL OF SECTION "A" BLOCK 1, OF GRACES ARCADE SUBDIVISION AS
 RECORDED UNDER FILE NO. 1001, HARRIS COUNTY, TEXAS.

Bury-Partners
 ENGINEERING ARCHITECTS
 10000 Katy Road, Suite 100
 Houston, Texas 77054
 Phone: 281.461.1111
 Fax: 281.461.1112
 www.bury-partners.com

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 ³	<input type="radio"/> NA ⁴
³ Do not submit application.			
⁴ 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. TCEQ VCP No. 1734		
Is the proposed designated groundwater contaminated in excess of an applicable potable water ⁵ use standard (i.e., 30 TAC 350, ^{GW} GW _{ing})?	<input checked="" type="radio"/> Yes	<input type="radio"/> No ⁶
Was the groundwater contamination previously reported to the TCEQ? (To support implementation of HB 3030, 78 th Legislature.)	<input checked="" type="radio"/> Yes, when? 11 /13 /2003	<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 ⁶	<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 ⁶	<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 ⁶
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
⁵ "Potable water" means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes [THSC §361.801(2)].		
⁶ 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.

Applicant Signature

Date

Before me Deanna L. Davis the undersigned authority, on this day personally appeared

Name of Notary

John C. Carrabba and signed this Municipal Setting Designation Application.
Name of ApplicantSworn, subscribed and signed before me in the County of Harris, State of TX on the 29th day of July, this month of July, 2012.

TCEQ-20149 June 2007

