

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 4, 2019

Mr. Andrew Bernstein, President  
Felix Center on Kirby, Ltd.  
1800 Saint James Place, Suite 300  
Houston, Texas 77056

Re: Municipal Setting Designation (MSD) Certificate for Felix Center on Kirby, Ltd., Felix Center on Kirby, 5829 Kirby Drive, Houston, Harris County, TX; Voluntary Cleanup Program (VCP) No. 2627; MSD No. 391; Customer No. CN604372557; Regulated Entity No. RN106891724

Dear Mr. Bernstein:

The Texas Commission on Environmental Quality (TCEQ) received the above referenced Municipal Setting Designation (MSD) application on August 9, 2018 and additional information supporting this MSD application on January 7, 2019 and January 17, 2018. Based on our review, the application contains the required information as outlined in Texas Health and Safety Code (THSC) §361.804. Enclosed is the Municipal Setting Designation Certification for your site. If you have any questions, please do not hesitate to contact me at (512) 239-3044 or via e-mail ([timothy.eckert@tceq.texas.gov](mailto:timothy.eckert@tceq.texas.gov)).

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Eckert".

Timothy Eckert, Project Manager  
VCP-CA Section  
Remediation Division

TJE/jdm

cc: Ms. Lauren Grawey, InControl Technologies, Inc. (via e-mail)  
Mr. R. Corey Walters, Kirby Center Partners, LLC, 222 Sidney Baker St. S, Suite 305, Kerrville, TX 78028-5900  
Mr. Kelly D. Brown-Shareholder, Crain, Caton & James, Five Center Houston, 1401 McKinney St., Suite 1700, Houston, TX 77010  
Ms. Alma Jefferson, Waste Section Manager, TCEQ Houston Region Office, R-12

Enclosure: MSD Certificate

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, Beth Seaton, Director, Remediation Division, TCEQ, certify the Municipal Setting Designation (MSD) for MSD No. 391, 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 ordinance or restrictive covenant required by Texas Health and Safety Code §361.8065 remains in effect.

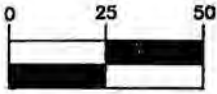
Any person addressing environmental impacts for a property located in the certified municipal setting designation shall complete any necessary investigation and response action requirements in accordance with Texas Health and Safety Code §361.808, in conjunction with the applicable Texas Commission on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

EXECUTED this the 4<sup>th</sup> day of February, 2019

Beth Seaton

Beth Seaton, Director  
Remediation Division  
Texas Commission on Environmental Quality

GRAPHIC SCALE



inch = 50 ft.

A.C. REYNOLDS SURVEY, A-61

CALLLED 0.0026 ACRE  
THE CITY OF HOUSTON  
H.C.C.F. NO. 20060118073

TANGLEY ROAD  
(50' R.O.W.)

N42°35'29"E  
21.20'

N87°37'59"E 135.16'

WEST HOUSTON ADDITION  
VOL. 60, PG. 184 H.C.D.R.

LOT 1

LOT 2

LOT 3

LOT 4

CALLLED 0.4110 ACRE  
KIRBY CENTER PARTNERS, LLC  
H.C.C.F. NO. 20130033507

KIRBY DRIVE  
H.C.C.F. NO. C335081  
VOL. 3422, PG. 181 H.C.D.R.  
(75' R.O.W. AS MONUMENTED)

N02°27'01"W 225.10'

0.8244 ACRE  
(35,911 SQ. FT.)

LOT 20

LOT 19

LOT 18

LOT 17

FELIX CENTER ON KIRBY, LTD.  
H.C.C.F. NO. N247780

S02°23'25"E 240.10'

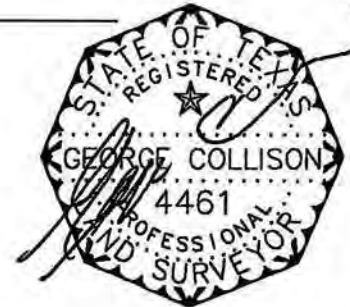
S87°38'02"W 149.91'

P.O.B.

DUNSTAN STREET  
(50' R.O.W.)

NOTES:

1. Bearings are based on the recorded deed for the called 0.4110 acre tract.
2. Corners have not been staked unless noted otherwise.
3. There exist a separate Metes and Bounds Description of this tract.



AN EXHIBIT OF  
0.8244 ACRE (35,911 SQ. FT.)  
A.C. REYNOLDS SURVEY, A-61  
HARRIS COUNTY, TEXAS

**TERRA**  
SURVEYING CO., INC.

3000 WILCREST DR., SUITE 210  
HOUSTON, TEXAS 77042  
(713) 993-0327 - FAX (713) 993-9231  
T.B.P.L.S. FIRM NO. 10043600

DRAWN BY: MES

SCALE: 1"=50'

KEY MAP: 532C

APPVD BY: GC

DATE: October 10, 2016

PRJ. No. 2020-0001

**METES AND BOUNDS DESCRIPTION**  
**0.8244 ACRE (35,911 SQUARE FEET)**  
**A.C. REYNOLDS SURVEY, ABSTRACT NUMBER 61**  
**HARRIS COUNTY, TEXAS**

Being a tract or parcel containing 0.8244 acre (35,911 square feet) of land situated in the A.C. Reynolds Survey, Abstract Number 61, Harris County, Texas, being all of Lots 1 through 3 and Lots 18 through 20 of West Houston Addition, a subdivision of record in Volume 60, Page 184 of the Deed Records of Harris County, Texas, all of called 0.4110 acre tract, as described in deed to Kirby Center Partners, LLC under Harris County Clerk's File Number 20130033507 and all of a tract of land described in deed to Felix Center on Kirby, Ltd., under Harris County Clerk's File Number N247780, said 0.8244 acre tract being more particularly described by metes and bounds as follows (bearings shown hereon are based on the recorded deed of said called 0.4110 acre tract);

**BEGINNING** at the intersection of the north right-of-way line of Dunstan Street (50 feet wide) and the east right-of-way line of Kirby Drive (75 feet wide), as recorded in Volume 3422, Page 181 of the Deed Records of Harris County, Texas and under Harris County Clerk's File Number C335081, same being the southwest corner of said Lot 20 and the southwest corner of said Felix Center on Kirby, Ltd. Tract;

**THENCE** North 02°27'01" West, along the east right-of-way line of said Kirby Drive, a distance of 225.10 feet to the southwest corner of a called 0.0026 acre tract, as described in deed to the City of Houston under Harris County Clerk's File Number 20060118073, same being the most westerly northwest corner of said Lot 1, the most westerly northwest corner of said called 0.4110 acre tract and the most westerly northwest corner of the herein described tract;

**THENCE** North 42°35'29" East, along the southeasterly line of said called 0.0026 acre tract, a distance of 21.20 feet to a point in the south right-of-way line of Tangley Road (50 feet wide), same being the most northerly northwest corner of said Lot 1, the most northerly northwest corner of said called 0.4110 acre tract and the most northerly northwest corner of the herein described tract;

**THENCE** North 87°37'59" East, along the south right-of-way line of said Tangley Road, a distance of 135.16 feet to the northwest corner of Lot 4 of the aforesaid West Houston Addition, the northeast corner of the aforesaid Lot 3, the northeast corner of said called 0.4110 acre tract and the northeast corner of the herein described tract;

**THENCE** South 02°23'25" East, departing the south right-of-way line of said Tangley Road, along the east line of said called 0.4110 acre tract and the east line of the aforesaid Felix Center on Kirby, Ltd. Tract, a distance of 240.10 feet to a point in the north right-of-way line of the aforesaid Dunstan Street, same being the southwest corner of Lot 17 of said West Houston Addition, the southeast corner of the aforesaid Lot 18, the southeast corner of said Felix Center on Kirby, Ltd. Tract and the southeast corner of the herein described tract;

**THENCE** South 87°38'02" West, along the north right-of-way line of said Dunstan Street, a distance of 149.91 feet to the **POINT OF BEGINNING** and containing 0.8244 acre (35,911 square feet) of land. This description is based on an exhibit made by Terra Surveying, Inc., dated October 10, 2016, TSC Project Number 2020-0001. This tract is not staked.

George Collison, RPLS  
Terra Surveying Company, Inc.  
3000 Wilcrest Drive, Suite 210  
Houston, Texas 77042  
2020-0001 0.8244ac mb.docx





**Exhibit B**  
**Municipal Setting Designation**  
**Affidavit of Eligibility**

BEFORE ME, the undersigned authority, on this day personally appeared Andrew Bernstein, as an authorized representative of Felix Center on Kirby, Ltd., known to me to be the person whose name is subscribed below who being by me first duly sworn, upon their oath, stated as follows:

I am over the age of 18 and legally competent to make this affidavit. I have personal knowledge of the facts stated herein.

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

- The MSD eligibility criteria of THSC Section 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 has been 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.



Date: 08-02-2018

Signature

Andrew Bernstein

Printed Name

President, Felix Center on Kirby, Ltd  
By Felix Center on Kirby Management, Inc.  
Title

STATE OF Texas

COUNTY OF Harris

SUBSCRIBED AND SWORN before me on this the 2 day of August, 2018, to which witness my hand and seal of office.



Suzanne M Parker  
Notary Public in and for the State of Texas

August 2011