

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 28, 2019

Mr. Herbert Fortson
TXE Capital, LLC DBA L-K Industries
c/o Fortson, Frazer and Segrist, LLP
2702 Jackson Street
Houston, Texas 77004

Re: Municipal Setting Designation (MSD) Certificate for L-K Industries, L-K Industries Site, located at 6952 Lawndale Street, Houston, Harris County, Texas; Voluntary Cleanup Program (VCP) No. 2733, MSD No. 396, Customer No. CN605562735; Regulated Entity No. RN102150083

Dear Mr. Fortson:

The Texas Commission on Environmental Quality (TCEQ) received the above referenced MSD application on September 7, 2018 and additional information supporting this MSD application on January 7, 2019. Based on our review, the application contains the required information as outlined in Texas Health and Safety Code (THSC) §361.804. Enclosed is the MSD 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).

Sincerely,

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

Timothy Eckert, Project Manager
VCP-CA Section
Remediation Division

TJE/jdm

Enclosure: MSD Certificate

cc: Mr. Eric Calderon, TXE Realty LLC, 6952 Lawndale Street, Houston, Texas 77023
Ms. Lauren Grawey, InControl Technologies (via e-mail)
Ms. Alma Jefferson, Waste Section Manager, TCEQ Houston Region Office, R-12

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. 396, 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 24th day of January, 2019

Beth Seaton

Beth Seaton, Director
Remediation Division
Texas Commission on Environmental Quality

STATE OF TEXAS

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EXHIBIT "A"
PAGE 1 OF 3

COUNTY OF HARRIS

Metes & Bounds Description

A tract of land containing 2.8567 Acres situated in the Jacob Thomas Survey, Abstract 74, Harris County Texas, being the remainder of a tract recorded in the name of L-K Industries, Inc. under Harris County Clerk's File (H.C.C.F.) No. S093241, C474546 and Volume 4033, Page 98 of the Harris County Deed Records (H.C.D.R.) all being out of a tract recorded in the name of the Japanese Nursery Company in Volume 969, Page 97 of the H.C.D.R. and being more particularly described by metes and bounds as follows: (bearings based on said (H.C.C.F.) No. S093241)

BEGINNING at a point on a southerly right-of-way line of Lawndale Street (80 Feet wide) being the most northerly northeast corner of Forest Park Cemetery and being the northwesterly corner of this tract;

THENCE, with said southerly right-of-way line of Lawndale Street the following two (2) courses:

- 1. SOUTH 48° 09' 00" EAST, a distance of 258.85 Feet to a point at a corner of this tract;
- 2. in southeasterly direction with the arc of a curve to the left having a radius of 995.00 Feet, and arc length of 44.97 Feet, a central angle of 02° 35' 22" and a chord bearing of SOUTH 49° 26' 41" EAST, and a chord distance of 44.97 Feet to a 1/2 Inch iron rod found at the most northerly northeasterly corner of this tract;

THENCE, with the lines of a tract recorded in the name of Miguel Angel Perez under H.C.C.F. No. U740103 the following two (2) courses:

- 1. SOUTH 18° 58' 00" WEST, a distance of 135.30 Feet to a point at an interior corner of this tract from which a fence corner bears North 55° 51' 07" East a distance of 0.61 Feet;
- 1. SOUTH 71° 02' 00" EAST, a distance of 114.72 Feet to a point on the westerly right-of-way line of Rainbow Avenue (60 Feet wide) being the most southerly northeasterly corner of this tract from which a fence corner bears South 59° 01' 15" East a distance of 0.95 Feet;

THENCE, SOUTH 18° 58' 32" WEST, with said westerly right-of-way line of said Rainbow Avenue, a distance of 91.54 Feet to a point at the most easterly southeast corner of this tract from which a fence corner bears South 60° 00' 23" East a distance of 0.80 Feet;

THENCE, with the lines of a tract recorded in the name of Fernando Mendiola and Mayda A. Mendiola under H.C.C.F. No. 20060041499 the following two (2) courses:

- 1. NORTH 71° 02' 00" WEST, a distance of 100.00 Feet to a point at an interior corner of this tract from which a fence corner bears North 82° 25' 05" East a distance of 0.45 Feet;
- 2. SOUTH 18° 58' 00" WEST, a distance of 50.60 Feet to a point at a reentrant corner of this tract from which a fence corner bears North 37° 21' 49" East a distance of 1.88 Feet;

THENCE, with the lines of a tract recorded in the name of Timothy J. McKinley under H.C.C.F. No. M129653 the following two (2) courses:

- 1. NORTH 71° 02' 00" WEST, a distance of 103.54 Feet to a point at an interior corner of this tract from which a fence corner bears North 48° 46' 41" East a distance of 1.61 Feet;
- 2. SOUTH 18° 58' 00" WEST, a distance of 100.00 Feet to an iron rod found at the most westerly southeast corner of this tract;

THENCE, NORTH 71° 02' 00" WEST, with a north line of a tract recorded in the name of the aforementioned Forest Park Cemetery in Volume 1256, Page 204 of the H.C.D.R., a distance of 191.46 Feet to a point at the southwesterly corner of this tract from which a fence corner bears North 48° 41' 03" East a distance of 1.43 Feet;

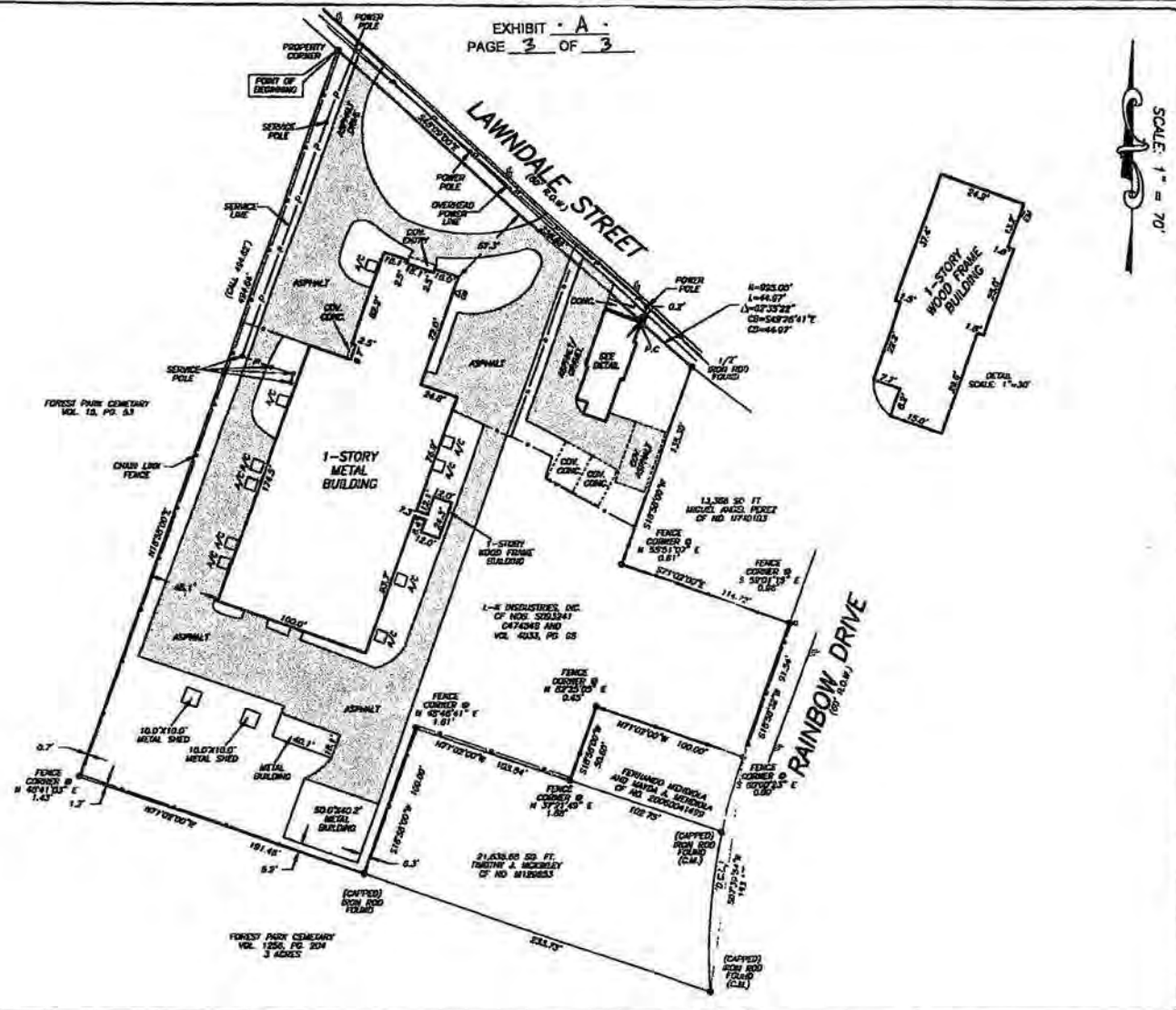
THENCE, NORTH 18° 58' 00" EAST, with a west line of a tract recorded in the name of said Forest Park Cemetery in Volume 15, Page 53 of the Harris County Map Records, a distance of

494.64 Feet (called 494.62 Feet) to the POINT OF BEGINNING and containing 2.8567 Acres of land.

(See attached drawing)



George J. Gale
Registered Professional Land Surveyor
No. 4678
Job No. 15-02418gg
April 9, 2015



OF NO. 15001264 OLD REPUBLIC TITLE
ADDRESS: 6952 LAWDALE STREET
HOUSTON, TEXAS 77023
BORROWER: TXE REALTY, LLC

2.8567 ACRES
SITUATED IN THE JACOB
THOMAS SURVEY, A-74
HARRIS COUNTY, TEXAS
(SEE ATTACHED METES AND BOUNDS DESCRIPTION)



THIS PROPERTY DOES NOT LIE WITHIN THE 100 YEAR FLOOD PLAIN AS PER FROM PANEL NO. 48203C 0285 L MAP NUMBER: 03/18/2007 ZONE X BASED ONLY ON VISUAL EXAMINATION OF MAPS. INCORPORATION OF FEMA MAPS PROVIDES EXACT DETERMINATION WITHOUT DETAILED FIELD STUDY.

A SUBSURFACE INVESTIGATION WAS BEYOND THE SCOPE OF THIS SURVEY

D.C.L. = DIRECTIONAL CONTROL LINE
RECORD BOOKING: OF NO. 502341 M.C.D.R. DRAWN BY: JAM

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, THAT THIS PLAN CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF SURVEY AND THAT THERE ARE NO ENCUMBRANCES APPLICABLE ON THE GROUND, EXCEPT AS SHOWN HEREON. THIS SURVEY IS CERTIFIED FOR THIS TRANSACTION ONLY AND ASSURANCE PROVIDED IN THIS ABOVE REFERENCED TITLE COMMITMENT WAS RELIED UPON IN PREPARATION OF THIS SURVEY.

GEORGE DALE
PROFESSIONAL LAND SURVEYOR
NO. 4878
JOB NO. 15-02418
MARCH 30, 2015
REVISED: APRIL 09, 2015 (REMOVE NAME)



OLD REPUBLIC
PAM LONCLEY
713-626-9220



PRECISION
surveyors

1-800-645-3129
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Exhibit B

Municipal Setting Designation

Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared Eric Calderon, as an authorized representative of L-K Industries, 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.


Signature

Date: 8/28/18

Eric Calderon
Printed Name

President and CEO
Title

President and CEO
Title

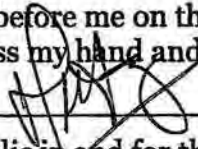
President and CEO
Title

STATE OF Texas

COUNTY OF Harris



SUBSCRIBED AND SWORN before me on this the 28th day of August 2018, to which witness my hand and seal of office.


Notary Public in and for the State of Texas