

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. Gary Benson (via email)  
Eureka Properties, Ltd.  
8300 Hempstead Highway  
Houston, Texas 77008

Re: Municipal Setting Designation (MSD) Certificate for Eureka Properties Ltd. and KCH Properties Holdings, LLC, Former Smith Industries, 8300 Hempstead Highway, Houston, Harris County, Texas; Voluntary Cleanup Program (VCP) No. 275; MSD No. 400; Customer No. CN602526600; CN605578582; Regulated Entity No. RN110511078

Dear Mr. Benson:

The Texas Commission on Environmental Quality (TCEQ) received the above referenced MSD application on September 24, 2018 and additional information supporting this MSD application on January 21, 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](mailto:timothy.eckert@tceq.texas.gov)).

Sincerely,

A handwritten signature in black ink, appearing to read "T. Eckert", written over a horizontal line.

Timothy Eckert, Project Manager  
VCP-CA Section  
Remediation Division

TJE/jdm

Enclosure: MSD Certificate

cc: Mr. Michael F. Marcon, InControl Technologies, Inc. (via e-mail)  
Ms. Lauren Grawey, InControl Technologies, Inc. (via e-mail)  
Mr. Philip Kochman, KCH Property Holdings, LLC (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. 400, 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 affidavits in Exhibit "B-1" and Exhibit "B-2", 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



METES AND BOUNDS DESCRIPTION  
16.9516 ACRES OUT OF  
JOHN REINERMAN SURVEY, A-642  
HOUSTON, HARRIS COUNTY, TEXAS

All that certain 16.9516 acres of land out of the John Reinerman Survey, A-642 and portions of Lots 28 through 38, Warnecke Subdivision according to the plat thereof filed at Volume 359, Page 461 Harris County Deed Records and being more particularly described by metes and bounds as follows:

BEGINNING at a found railroad rail in the north right-of-way line of Eureka Road (60' wide) at its intersection with the west right-of-way line of Rawls Street (width varies),

THENCE N 00° 42' 36" W - 473.70', with said west right-of-way line to a found 5/8" iron rod with cap for corner, being the most southerly southeast corner of a called 20.2613 acre tract of land described in a deed dated 02-16-1995 from Smith Industries, Incorporated to Smith Corrosion Services, Inc. filed in the Official Public Records of Real Property of Harris County, Texas at Clerk File No. R-281216, Film Code No. 502-88-0732;

THENCE with the southerly line of said 20.2613 acre tract the following five (5) courses and distances:

- West - 136.07' to a found chain link fence corner;
- North - 93.10' to a found 5/8" iron rod with cap for corner;
- West - 530.66' to a nail found in the concrete base of a chain link fence corner;
- North - 147.03' to a found chain link fence corner;
- West - 472.00' to a set 5/8" iron rod with cap for corner;

THENCE S 31° 12' 41" W - 177.33', with the easterly line of a tract of land described in a deed dated 08-25-1930 from L. H. Georgi to Houston Lighting & Power Company, filed in Volume 852, Page 431, Harris County Deed Records, to a point for corner;

THENCE N 89° 56' 38" W - 35.06', with the southerly line of said Houston Lighting & Power Company tract, to a point for corner;

THENCE N 310 12'41" E - 177.29', with the westerly line of said Houston Lighting & Power Company tract, to a set 5/8" iron rod with cap for corner;

THENCE with the southerly line of said 20.2613 acre tract the following two (2) courses and distances:

- West - 239.08' to a found 5/8" iron rod with cap for corner;
- S 00° 41' 36" E - 202.86' to a found P. K. nail in asphalt for corner;

THENCE S 49° 11' 21" E - 599.91', with the northeast line of a called 60' wide easement tract described in a deed dated 09-06-1929 from Houston Belt & Terminal Railway Company to Missouri-Kansas & Texas Railroad Company filed in the Deed Records of Harris County, Texas in Volume 818, Page 43, to a found railroad spike marking the Point of Curvature of a curve to the left having a central angle of 12° 30' 14", a radius of 931.87';

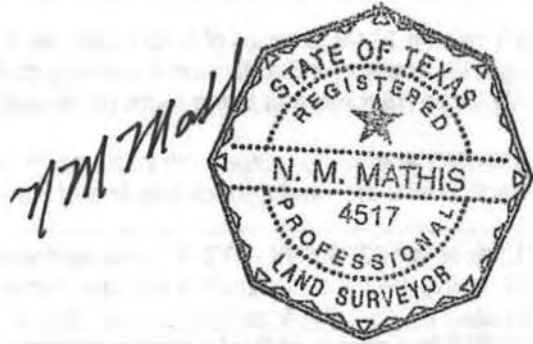
THENCE continuing with said northeast line, at 83.53' pass the most northerly corner of a called 0.15 acre tract described in a Quitclaim Deed dated 08-24-1928 from Adam E. Spurck, et al to Missouri-Kansas-Texas Railroad Company filed in the Deed Records of Harris County, Texas in Volume 771, Page 167, and continue, with the northeast line of said 0.15 acre tract in all an arc distance of 203.37' to a found railroad spike for corner;

THENCE S 89° 43' 50" E - 795.10' with the aforementioned north right-of-way line of Eureka Road to the POINT OF BEGINNING and containing 16.9516 acres (738,414 square feet) of land, more or less.

Compiled from survey by:

**PREJEAN & COMPANY, INC.**  
**Surveying/Mapping**

n: docs\101-106-1a.mb.doc  
March 30, 1998  
Reissued Feb 25, 1999



METES AND BOUNDS DESCRIPTION  
0.9416 ACRES OUT OF  
JOHN REINERMAN SURVEY, A-642  
HOUSTON, HARRIS COUNTY, TEXAS

All that certain 0.9416 acres of land out of the John Reinerman Survey, A-642 and being all that certain called 0.9367 acre tract of land described in a deed dated 11-20-1961 from Claude A. Zachry, Commissioner to Smith Industries, Inc. filed in the Deed Records of Harris County, Texas at Volume 4556, Page 205 and being more particularly described by metes and bounds as follows:

BEGINNING at a found 2" iron bar in the north right-of-way line of Eureka Road (60' wide) at its intersection with the east right-of-way line of Kansas Street (width varies);

THENCE N 12° 19' 35" W - 239.08', with said east right-of-way line to a P.K. Nail set in asphalt for corner;

THENCE N 40° 29' 15" E - 39.40' to a P.K. Nail set in asphalt for corner in the southwesterly line of a called 60' wide easement tract described in a deed dated 09-06-1929 from Houston Belt and Terminal Railway Company to Missouri-Kansas-Texas Railroad Company filed in the Deed Records of Harris County, Texas at Volume 818, Page 43;

THENCE S 49° 11' 21" E - 299.48' with said southwesterly line to a P.K. Nail set in asphalt marking the Point of Curvature of a curve to the left having a central angle of 06° 33' 46", a radius of 991.87';

THENCE continuing with said southwesterly line for an arc distance of 113.61' to a P.K. Nail set in asphalt for corner in the aforementioned north right-of-way line of Eureka Road;

THENCE N 89° 43' 50" W - 291.27' with said north right-of-way line to the POINT OF BEGINNING and containing 0.9416 acres (41,018 square feet) of land, more or less.

Compiled from survey by:

PREJEAN & COMPANY, Inc.  
surveying/mapping

n:101-106-1.mb.doc  
March 30, 1998  
Reissued Feb 25, 1999





502-88-0742

METES & BOUNDS DESCRIPTION  
20.2613 ACRES OUT OF  
JOHN REINERMAN SURVEY, A-642  
AND PORTIONS OF LOTS 23 THROUGH 38  
WARNECKE SUBDIVISION  
HOUSTON, HARRIS COUNTY, TEXAS

All that certain 20.2613 acres of land out of the John Reinerman Survey, A-642 and portions of Lots 23 through 38, Warnecke Subdivision according to the plat thereof filed at Volume 359, Page 461 Harris County Deed Records and being more particularly described by metes and bounds as follows:

BEGINNING at a found axle marking the northwest corner of said Warnecke Subdivision:

THENCE East - 735.20' to a point for corner;

THENCE S 31° 40' 00" W - 29.37' to a point for corner;

THENCE East - 71.00' to a point for corner;

THENCE North - 25.00' to a point for corner;

THENCE East - 1,064.26', with the south right-of-way line of Hurst Street (25' wide), to a found 1/2" iron rod for corner;

THENCE S 00° 40' 58" E - 523.32' to a point for corner;

THENCE N 89° 43' 23" W - 327.80', with the north right-of-way line of Toledo Street (width varies), to a point for corner;

THENCE S 00° 40' 58" E - 14.00' to a point for corner;

THENCE N 89° 43' 23" W - 7.58' to a point for corner;

THENCE S 00° 42' 36" E - 86.05', with the west right-of-way line of Rawls Street (width varies), to a point for corner;

THENCE West - 136.07' to a point for corner;

THENCE North - 93.10' to a point for corner;

THENCE West - 530.66' to a point for corner;

THENCE North - 147.03' to a point for corner;

THENCE West - 746.16' to a point for corner;

THENCE S 00° 41' 36" E - 202.86' to a point for corner;

THENCE N 51° 26' 23" W - 148.03', with the northerly line of a tract of land described in a deed from H. B. & T. RR. Co. to M. K. & T. RR. Co. filed at Volume 818, Page 43 Harris County Deed Records, to angle point;

THENCE N 00° 06' 38" W - 492.15' to the POINT OF BEGINNING and containing 20.2613 acres (882,581 square feet) of land, more or less.

Compiled from survey by:

*Daniel E. Kersten*

PREJEAN & COMPANY, INC.  
surveying/mapping  
101-106.mb  
December 22, 1994



FILED  
95 FEB 23 PM 1:59

*Daniel E. Kersten*  
REGISTERED

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLEGIBILITY, CARBON OR PHOTO COPY, DISCOLORED PAPER, ETC.

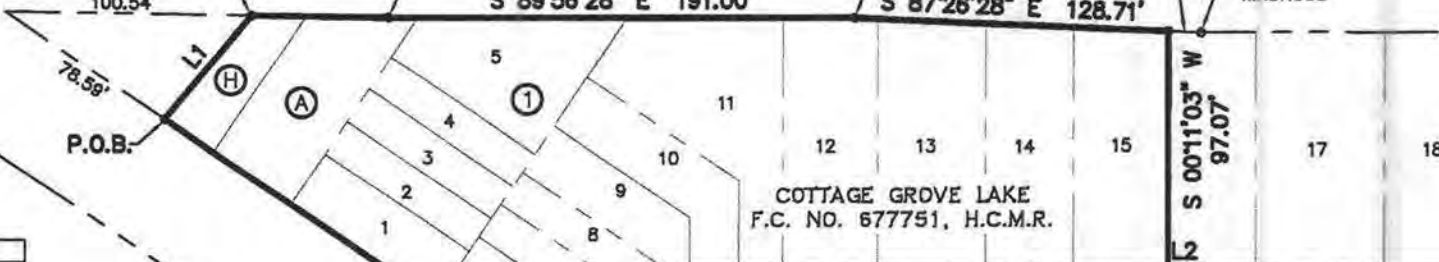
EXHIBIT "B"





MISSOURI, KANSAS & TEXAS RAILROAD COMPANY  
(VOL. 315, PG. 14, H.C.D.R.)

FND 5/8 I.R. W/CAP "WINDROSE" 100.54' S 89°56'28" E 191.00' FND. 5/8 I.R. 13.42' S 87°26'28" E 128.71' FND 5/8 I.R. W/CAP "WINDROSE"



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 39°49'31" E	55.37'
L2	S 89°48'57" E	13.73'
L3	S 33°10'02" W	54.55'

**GENERAL NOTES**

1. SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY, THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT OR ABSTRACTOR'S CERTIFICATE AND WOULD BE SUBJECT TO ANY AND ALL CONDITIONS OR RESTRICTIONS THAT A CURRENT TITLE REPORT OR ABSTRACTOR'S CERTIFICATE MAY DISCLOSE.
2. BEARINGS WERE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE. (NAD83)
3. THIS PLAT IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION.
4. THIS EXHIBIT DOES NOT IMPLY TO BE A LAND TITLE SURVEY OF THE SUBJECT PROPERTY AND IS NOT INTENDED TO BE USED FOR TITLE CONVEYANCE PURPOSES.

SOUTHERN PACIFIC RAILROAD COMPANY  
(VOL. 347, PG. 56, H.C.D.R.)

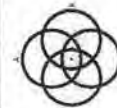
N 55°53'22" W 475.69'

COTTAGE GROVE LAKE DRIVE  
28' P.A.E. (F.C. NO. 677751, H.C.M.R.)

KANSAS STREET  
(50' R.O.W.)  
(VOL. 4, PG. 57, H.C.M.R.)

EXHIBIT OF  
1.723 AC. / 75,048  
SITUATED IN THE  
J. REINERMAN SURVEY, A-642  
HARRIS COUNTY, TEXAS

FILED BY: -	DATE: 11/27/2017
DRAWN BY: CJP	REV:
CHECKED BY: PK	REV:
JOB NO. 51556-MSD	REV:
SHEET 1 OF 2	REV:



**WINDROSE**

LAND SURVEYING | PLATTING

3200 WILCREST, SUITE 325 | HOUSTON, TX 77042 | 713.458.2281  
FIRM REGISTRATION NO. 10108800 | WINDROSESERVICES.COM



# WINDROSE

LAND SURVEYING | PLATTING

EXHIBIT "A"  
PAGE 6 OF 8

## DESCRIPTION OF 1.723 ACRES OR 75,048 SQ. FT.

A TRACT OR PARCEL CONTAINING 1.723 ACRES OR 75,048 SQUARE FEET OF LAND, SITUATED IN THE J. REINERMAN SURVEY, ABSTRACT NO. 642, HARRIS COUNTY, TEXAS, BEING ALL OF RESTRICTED RESERVES "A", "B", AND "H", ALL OF LOTS 1-15, BLOCK 1, LOTS 1-9 AND LOTS 18-22, BLOCK 2, AND PART OF COTTAGE GROVE LAKE DRIVE (28' WIDE PRIVATE R.O.W.) OF COTTAGE GROVE LAKE, MAP OR PLAT THEREOF RECORDED UNDER FILM CODE NO. 677751 OF THE HARRIS COUNTY MAP RECORDS (H.C.M.R.), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD83):

**BEGINNING** AT A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY (R.O.W.) LINE OF KANSAS STREET (CALLED 50' WIDE) AS RECORDED UNDER VOL. 4, PG. 57, H.C.M.R., SAME BEING THE MOST WESTERLY CORNER OF SAID RESTRICTED RESERVE "H";

THENCE, NORTH 39 DEG. 49 MIN. 31 SEC. EAST, ALONG THE NORTHWEST LINE OF SAID RESTRICTED RESERVE "H", A DISTANCE OF 55.37 FEET TO A 5/8 INCH CAPPED IRON ROD STMAPED "WINDROSE" FOUND FOR THE NORTHWEST CORNER OF SAID RESTRICTED RESERVE "H";

THENCE, ALONG THE NORTH LINE OF SAID BLOCK 1, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 89 DEG. 06 MIN. 58 SEC. EAST, A DISTANCE OF 55.76 FEET TO A 5/8 INCH CAPPED IRON ROD STMAPED "WINDROSE" FOUND FOR AN ANGLE POINT;

SOUTH 89 DEG. 56 MIN. 28 SEC. EAST, A DISTANCE OF 191.00 FEET TO A 5/8 INCH IRON ROD FOUND FOR AN ANGLE POINT;

SOUTH 87 DEG. 26 MIN. 28 SEC. EAST A DISTANCE OF 128.71 FEET TO THE NORTHEAST CORNER OF SAID LOT 15, BLOCK 1;

THENCE, SOUTH 00 DEG. 11 MIN. 03 SEC. WEST, ALONG THE EAST LINE OF SAID LOT 15, BLOCK 1, A DISTANCE OF 97.07 FEET TO THE SOUTHEAST CORNER OF SAID LOT 15, BLOCK 1, BEING ON THE NORTH R.O.W. LINE OF SAID COTTAGE GROVE LAKE DRIVE;

THENCE, SOUTH 89 DEG. 48 MIN. 57 SEC. EAST, ALONG THE NORTH R.O.W. LINE OF SAID COTTAGE GROVE LAKE DRIVE, A DISTANCE OF 13.73 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 00 DEG. 11 MIN. 02 SEC. WEST, CROSSING SAID COTTAGE GROVE LAKE DRIVE, PASSING AT A DISTANCE OF 28.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 9, BLOCK 2, BEING ON THE SOUTH R.O.W. LINE OF SAID COTTAGE GROVE LAKE DRIVE, AND CONTINUING ALONG THE EAST LINE OF SAID LOTS 9 AND 18, BLOCK 2 FOR A TOTAL DISTANCE OF 159.71 FEET TO AN EAST CORNER OF SAID LOT 18, BLOCK 2;

THENCE, SOUTH 33 DEG. 10 MIN. 02 SEC. WEST, ALONG THE SOUTHEAST LINE OF SAID LOT 18, BLOCK 2, A DISTANCE OF 54.55 FEET TO THE SOUTH CORNER OF SAID LOT 18, BLOCK 2, BEING ON THE NORTHEAST R.O.W. LINE OF SAID KANSAS STREET;

THENCE, NORTH 55 DEG. 53 MIN. 22 SEC. WEST, ALONG THE NORTHEAST R.O.W. LINE OF SAID KANSAS STREET, A DISTANCE OF 475.69 FEET TO THE **POINT OF BEGINNING** AND CONTAING 1.723 ACRES OR 75,048 SQUARE FEET OF LAND.

RONALD PATRICK KELL  
R.P.L.S. NO. 6424  
STATE OF TEXAS  
FIRM REGISTRATION NO. 10108800



11/27/17

11-27-2017  
DATE

# Exhibit B

## Municipal Setting Designation

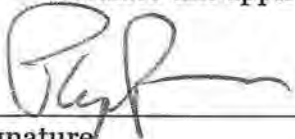
### Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared Philip Kochman, as an authorized representative of KCH Property Holdings, LLC, 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

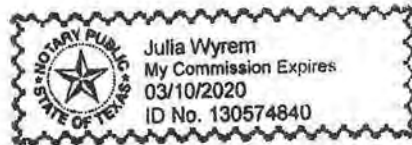
Date: 09.19.18

Philip Kochman  
Printed Name

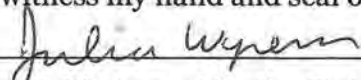
Secretary  
Title

STATE OF Texas

COUNTY OF Harris



SUBSCRIBED AND SWORN before me on this the 19th day of September 2018, to which witness my hand and seal of office.

  
Notary Public in and for the State of Texas

# Exhibit B

## Municipal Setting Designation

### Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared Gary Benson, as an authorized representative of Eureka Properties, 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.

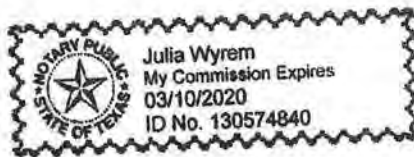
Gary Benson  
Signature

Date: 9/19/18

Gary Benson  
Printed Name

President  
Title

STATE OF Texas  
COUNTY OF Harris



SUBSCRIBED AND SWORN before me on this the 19<sup>th</sup> day of September 2018, to which witness my hand and seal of office.

Julia Wyrem  
Notary Public in and for the State of Texas