

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



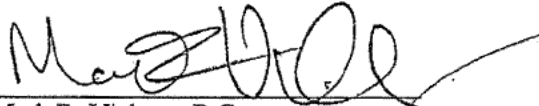
MUNICIPAL SETTING DESIGNATION CERTIFICATE

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. 127, 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 3<sup>rd</sup> day of March, 2010

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

## EXHIBIT A

### DESCRIPTION OF A 22.5 ACRE TRACT OF LAND SITUATED IN THE DISSEN HEIGHTS, CITY OF HOUSTON, HARRIS COUNTY, TEXAS

*Properties owned by 5436, LLC*

#### TRACT 1:

Being 1.681 acres (73,244 square feet) of land out of the Luke Moore Survey, Abstract 51, Harris County, Texas, being part of Lots Ten (10), Eleven (11), Twenty (20), Twenty-One (21) and all of Lots Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), of Block One (1), being a part of Lots Seven (7), Eight (8), Nineteen (19), and Twenty (20), and all of Lots Nine (9), Ten (10), Sixteen (16), Seventeen (17), Eighteen (18) of Block Four (4) of DISSEN HEIGHTS, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 3 at Page 21 of the Map Records of Harris County, Texas and being an abandoned part of Clay Avenue (60 feet wide) lying between said Blocks One (1) and Four (4), said 1.681 acre tract being more particularly described by metes and bounds as follows:

Being 1.681 acres (72,244 square feet) of land out of the Luke Moore Survey, A-51, Harris County, Texas, being a part of Lots 10, 11, 20, 21, and all of Lots 12, 13, 14, 15, 16, 17, 18, and 19 of Block 4 of Dissen Heights according to the map or plat recorded in Volume 3, Page 21 of the Harris County Map Records, and being an abandoned part of Clay Avenue (60 feet wide) lying between said Blocks 1 and 4. Said 1.681-acre track being more particularly described by metes and bounds as follows:

BEGINNING at 5/8-inch rod set for the point-of-intersection of the southerly right-of-way line of Polk Avenue (60 feet wide), for the northeasterly corner of said Block 1, and for the northeasterly corner of said track herein described;

THENCE South 34 deg. 30 min. 00 sec. west with the westerly right-of-way line of said Hughes Street, and with the easterly line of said Block 1, a distance of 206.58 feet to a 5/8-inch rod set for the point-of-intersection of the westerly line of said Hughes Street northerly right-of-way line of Clay Avenue, for the southeasterly corner of said Block 1, for the most easterly southeasterly corner of said tract herein described;

THENCE North 70 deg. 00 min. 00 sec. West with the northerly right-of-way line of said Clay Avenue, and with the southerly line of said Block 1, a distance of 138.82 feet to a 5/8-inch rod set for the southwesterly corner of said Block Lot 19, for the southeasterly corner of Lot 20 of said Block 1, and for an interior corner of said tract herein described;

THENCE South 20 deg. 00 min. 00 sec. West with a westerly right-of-way line of the residue of said Clay Avenue, at a distance of 60.00 feet pass the southerly right-of-way line of said Clay Avenue, same being the northerly line of Block 4, continuing with the common line of said Lots 10, and 11 of said Block 4, at a distance of 160.00 feet pass the common corner of said Lots 10, 11, 15, and 16 of said Block 4, and continuing with the common line of Lots 15, and 16 for a total distance of 260.00 feet to a 1-inch iron pipe found in the northerly right-of-way line of Bell Avenue (60 feet wide), same being the southerly line of said Block 4 for the most southerly southeasterly corner of said tract herein described;

THENCE North 70 deg. 00 min. 00 sec. West with the northerly right-of-way line of said Bell Avenue, and with the southerly line of said Block 4, a distance of 180.60 feet to a 5/8-inch rod set in the southeasterly line of the Houston Belt & Terminal Railway Company Right-of-Way (width varies) 25.60 feet perpendicularly from the centerline of the H. B. & T. R. Co. main line track for the most southwesterly corner of said tract herein described;

THENCE North 41 deg. 54 min. 00 sec. East with the southeasterly line of the Houston Belt & Terminal Railway Company Right-of-Way (width varies) parallel to and 25.60 feet southeasterly and measured perpendicularly from the centerline of the H. B. & T. R. Co. main line track, a distance of 215.56 feet to a 5/8-inch rod set in the northerly line of said Block 4 for a northwesterly corner of said tract herein described;

THENCE South 70 deg. 00 min. 00 sec. East with the northerly line of said Block 4, and with the southerly line of a 587.7-square foot track of land quitclaimed from Houston Belt & Terminal Railway Company to Westinghouse Electric Company as recorded under Harris County Clerk's File No. J-575627, Film Code No. 086-93-0056, a distance of 20.20 feet to a point inside a 1-story metal building for an interior corner of said tract herein described;

THENCE North 22 deg. 55 min. 00 sec. East with the easterly line of said 587.7-square foot tract, a distance of 60.08 feet to a 5/8-inch rod set in the southerly line of Block 1 for an interior corner of said tract described herein;

THENCE South 70 deg. 00 min. 00 sec. West with the southerly line of said Block 1, a distance of 0.86 feet to a 5/8-inch rod set in the southeasterly line of said Houston Belt & Terminal Railway Company Right-Of-Way 24.00 feet perpendicularly from the centerline of the H. B. & T. R. Co. main line track for a northwesterly corner of said tract herein described;

THENCE North 41 deg. 54 min. 00 sec. East with the southeasterly line of the Houston Belt & Terminal Railway Company Right-of-Way parallel to and 24.00 feet southeasterly and measured perpendicularly from the centerline of the H. B. & T. R. R. Co. main line track, a distance of 215.56 feet to a 5/8-inch rod set in the northerly line of said Block 1, same being the southerly right-of-way of said Polk Avenue for a northwesterly corner of said tract herein described;

THENCE South 70 deg. 00 min. 00 sec. East with the northerly line of said Block 1, same being the southerly right-of-way line of Polk Avenue, a distance of 187.94 feet to the POINT OF BEGINNING, and containing 1.681 acres (73,244 square feet) of land.

**TRACT 2:**

All of Lots Eight (8) and Nine (9), in Block Five (5), of DISSEN HEIGHTS, an addition in Harris County, Texas, according to map or plat thereof recorded in Volume 3, Page 21 of the Map Records of Harris County, Texas.

***Properties Owned by 5610 Company, LLC***

Lots 1 and 2, and Lots 14, 15, 16, 17, and 18 in Block 1 of SWOPE ADDITION, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 536, Page 98, of the map records of Harris County, Texas.

***Properties Owned by Estate of E.R. Schumacher***

Lots Three (3), Four (4) and Five (5), in Block 1 of SWOPE ADDITION, an addition in the City of Houston, Harris County, Texas, according to the map or plat thereof recorded in Volume 536, Page 98 and 99, of the Deed Records of Harris County, Texas.

***Properties Owned by Schumacher Company, Inc.***

Lots Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), and Lot Twelve (12) and the adjoining Easterly Forty Eight (48) Feet of Lot Thirteen (13), in Block One (1) SWOPE ADDITION in the City of Houston; and Lot Ten (10) and Eleven (11) of Block 2 of SWOPE ADDITION, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 536, Page 98 and 99, of the Deed Records of Harris County, Texas.

*Properties Owned by Metropolitan Transit Authority*

Metro Bus Operating Facility at Polk Street, a subdivision of 18.5138 acres of land out of the W.M. Williams Survey, Abstract 87 and the Luke Moore League, Abstract 51, as recorded under Harris County Clerk File No. U088804, in Volume 430, Page 101 of the Map Records of Harris County, Texas, and including the following tracts:

**TRACT 1:**

All of that certain tract or parcel of land containing 10.0439 acres of land, more or less, being a portion of Lot Two in the East One-half of the Luke Moore League, Abstract 51, located in the City of Houston, Harris County, Texas, and being all of the land described in that certain deed dated September 25, 1973, from Polk Avenue Enterprises to George W. Lollis, recorded under Harris County Clerk's file No. D-987,676, film code 168-29-1811 in the Harris County Deed Records, and being more particularly described by metes and bounds as follows:

COMMENCING at the City of Houston Reference Monument Number 622 at the intersection of Hughes Street and Polk Avenue;

THENCE S 67° 10' 00" E, 526.32 feet to an "X" cut in the pavement;

THENCE S 27° 00' 00" W, 20.05 feet to the Point of Beginning and Northwest corner of the herein described tract;

THENCE S 67° 10' 00" E, along the South Line of Polk Avenue 660.63 feet to a point for an interior corner of the tract herein described;

THENCE the following courses and distances to the Point of Beginning established and shown on a survey map by K. T. Edminster, dated 7-22-44 and revised 8-17-53;

N 07° 32' 00" E, 67.65 feet to the centerline of Slaughter Pen Bayou;

THENCE along the centerline of Slaughter Pen Bayou the following courses and distances;

S 15° 15' 21" E, 128.03 feet;

S 25° 13' 44" E, 77.15 feet;

S 89° 34' 04" E, 64.97 feet;

THENCE S 72° 38' 42" E, 56.77 feet to a point for the northeast corner of the herein described tract;

THENCE S 09° 35' 00" W, 286.21 feet to a point for the southeast corner of the herein described tract;

THENCE along the meanders of Micheaux Gully as established by K. T. Edminster on a survey map dated 7-22-44 and revised 8-17-53 and corrected for closure, the following courses and distances;

N 66° 55' 37" W, 64.97 feet;  
N 82° 28' 00" W, 31.20 feet;  
N 23° 49' 00" W, 60.00 feet;  
N 85° 39' 00" W, 85.00 feet;  
N 39° 07' 00" W, 48.00 feet;  
N 80° 59' 00" W, 105.30 feet;  
S 06° 70' 00" W, 61.16 feet;  
S 82° 38' 00" W, 155.00 feet;  
N 40° 42' 00" W, 53.00 feet;  
S 89° 50' 00" W, 72.34 feet;  
N 35° 04' 00" W, 124.00 feet;  
S 28° 17' 00" W, 48.00 feet;  
S 81° 37' 00" W, 110.00 feet;  
N 03° 44' 00" W, 56.00 feet;  
N 36° 42' 00" W, 90.00 feet

THENCE N 27° 00' 00" E, 517.95 feet to the Point of Beginning.

SAVE and EXCEPT from the above described premises, there not being hereunder conveyed to Grantor, any portion of the described premise lying below the cut bank of Slaughter Pen Bayou, or Country Club Bayou and/or Micheaux Gully.

**TRACT 2:**

All of that certain 3.475 acre tract of parcel or land out of the Reserve of Supply Row Center, a 70 acre subdivision out of S. M. Williams Survey, Abstract 87, as recorded in Volume 30, page 16 of the Harris County Map Records; being more particularly described by metes and bounds as follows:

COMMENCING at a found 5/8 inch rod in the southerly dedicated right-of-way of Polk Street (80'), as recorded in Volume 30 page 16 of the Harris County Map Records; said 5/8 inch rod being the point of curvature of a curve to the left and also being the PLACE OF BEGINNING for the tract herein described;

THENCE along the arc of a curve to the left, having a chord of North 75° 31' 13" East, 153.47 feet, a radius of 787.34 feet, a central angle of 11° 11' 10", a distance of 153.71 feet to a 5/8 inch iron rod for a corner in the southerly right-of-way of Polk Street;

THENCE South 31° 32' 36" East, passing a 5/8 inch iron rod at 242.20 feet, a total distance of 324.27 feet to a point for a corner in the centerline of Country Club Bayou;

THENCE in a westerly direction with the meanders of the centerline of Country Club Bayou as follows:

South 65° 58' 49" West, 52.77 feet;  
North 85° 32' 43" West, 50.00 feet;  
South 68° 45' 08" West, 55.04 feet;  
North 75° 14' 07" West, 50.99 feet;  
North 59° 58' 49" West, 55.90 feet;  
North 75° 14' 07" West, 55.99 feet;  
North 87° 24' 15" West, 200.02 feet;  
South 71° 39' 12" West, 53.85 feet;  
South 84° 21' 52" West, 50.64 feet;  
North 81° 24' 09" West, 100.40 feet;  
South 68° 45' 08" West, 35.81 feet;

THENCE North 19° 18' 04" West, passing a 5/8 inch iron rod at 119.80 feet, a total distance of 198.04 feet to a 5/8 inch iron rod for a corner in the south right-of-way of Polk Street;

THENCE North 89° 11' 40" East, with said right-of-way, 98.36 feet to a 5/8 inch iron rod for a corner;

THENCE along the arc of a curve to the left having a chord of North 86° 37' 34" East, 167.88 feet, a radius of 994.93 feet, a central angle of 09° 40' 45", a distance of 168.08 feet to a 5/8 inch iron rod for a corner;

THENCE North 80° 35' 46" East, 214.59 feet to a 5/8 inch iron rod for a corner and being the PLACE OF BEGINNING; containing 3.475 acres of land, more or less.

### TRACT 3:

All of that certain tract or parcel of land containing 0.3070 acres (13,375 square feet) in the east one-half of the Luke Moore Survey, A-51, City of Houston, Harris County, Texas, and being portions of Swope Street (50 feet wide) and Bell Avenue (50 feet wide) and shown on plat of Swope Addition as recorded in volume 536, page 98 and 99 of the Deed Records of Harris County, said 0.3070 acre tract is more particularly described, with bearings and coordinates referred to the Texas Plane Coordinate System, South Central Zone, by metes and bounds as follows:

COMMENCING at City of Houston Survey Marker No. 5566-0609 having a coordinate value of  $x=3,169,363.69$  and  $y=708,898.91$ ;

THENCE, North 76° 52' 25" West, a distance of 120.52 feet to an "x" in concrete at the intersection of the southerly line of Polk Avenue (80 feet wide) and the easterly line of Swope Street;

THENCE, North 70° 34' 56" West, a distance of 25.00 feet to a nail in concrete at the intersection of the southerly line of Polk Avenue (projected) and the centerline of Swope Street, said nail being the northeast corner and PLACE OF BEGINNING of the herein described tract;

THENCE, South 19° 25' 04" West, along the centerline of Swope Street, a distance of 485.00 feet to a point at its intersection with the centerline of Bell Avenue;

THENCE, North 70° 34' 56" West, along the centerline of Bell Avenue, a distance of 75.00 feet to a point;

THENCE, North 19° 25' 04" East, a distance of 25.00 feet to the northerly line of Bell Avenue, at the southwest corner of Lot 11, Block 2 of Swope Addition;

THENCE, South 70° 34' 56" East, along the common line of Bell Avenue and said Lot 11, a distance of 50.00 feet to a nail in the concrete at its intersection with the westerly line of Swope Street, said nail being the southeast corner of said Lot 11;

THENCE, North 19° 25' 04" East, along the common line of Swope Street and Lots 11 and 10, Block 2 and Lots 10 and 9, Block 1 of Swope Addition, a distance of 460.00 feet to a 5/8-inch rod at its intersection with the southerly line of Polk Avenue, same being the northeast corner of said Lot 9;

THENCE, South 70° 34' 56" East, along the southerly line of Polk Avenue (projected), a distance of 25.00 feet to the PLACE OF BEGINNING and containing 0.3070 acre (13,375 square feet),

#### TRACT 4:

ALL that certain tract or parcel of land containing 0.0574 acre (2,500 square feet) in the east one-half of the Luke Moore Survey, A-51, City of Houston, Harris County, Texas, being a portion of SWOPE ADDITION (50 feet wide) as shown on the plat of SWOPE ADDITION recorded in volume 536, page 98 and 99 of the Deed Records of Harris County, said 0.0574 acre is more particularly described, with bearing and coordinates referred to the Texas Platte Coordinate System, South Central Zone, by metes and bounds as follows:

COMMENCING at City of Houston Survey Marker No. 5556-0609 having a coordinate value of X=3,169,363.69 and Y=708,898.91;

THENCE, North 76° 52' 25" West, a distance of 120.52 feet to an "X" in concrete at the intersection of the southerly line of Polk Avenue (80 feet wide) and the easterly line of Swope Street;



THENCE, North 70° 34' 56" West, a distance of 25.00 feet to a nail in concrete at the intersection of southerly line of Polk Avenue (projected) and the centerline of Swope Street, said nail being the north-east corner and PLACE OF BEGINNING of the herein described tract;

THENCE, South 19° 25' 04" West, along the centerline of Swope Street a distance of 100.00 feet to a point;

THENCE, North 70° 34' 56" West, a distance of 25.00 feet to the westerly line of Swope Street, at the southeast corner of Lot 9, Block 1 SWOPE ADDITION;

THENCE, North 19° 25' 04" East, along the common line of Swope Street and said Lot 9, a distance of 100.00 feet to a 5/8" iron rod in the southerly line of Polk Avenue, said iron rod being the northeast corner of said Lot 9;

THENCE, South, 70° 34' 56" East, along the southerly line of Polk Avenue (projected), a distance of 25.00 feet to the PLACE OF BEGINNING and containing 0.0574 acre (2,500 square feet).

***Properties owned by the City of Houston, Texas***

Portions of the dedicated streets known as Clay Street, Hughes Street and Polk Avenue, located within or between the foregoing described tracts.

Exhibit "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.

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? 2 / 1 / 95	<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.

[Signature]  
Applicant Signature

2-15-10  
Date

Before me ANA KATSARAS the undersigned authority, on this day personally appeared  
PAUL J. COSELLI Name of Notary and signed this Municipal Setting Designation Application.  
Name of Applicant

Sworn, subscribed and signed before me in the County of HARRIS, State of TEXAS on the 15<sup>th</sup> day of FEBRUARY, this month of 2010.

TCEQ-20149 June 2007



[Signature]