

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 28, 2009

Mr. Brian Flaherty
Arkansas 360 Business Center, LP and Pioneer 360 Business Center, LP
910 Stratford Drive
Southlake, TX 76092

Re: Municipal Setting Designation (MSD) Certificate for 2801 E. Arkansas Lane and
3000 E. Pioneer Parkway, Arlington, Tarrant County, Texas; MSD No. 102

Dear Mr. Flaherty:

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 512/239-5872 or via e-mail (mfrew@tceq.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Frew".

Mike Frew, P.G., Work Leader
IT and Special Projects Team
Technical Support Section
Remediation Division

MF/sr

Enclosure

cc: Chris Swiderski, VCP 2166 Project Manager, Remediation Division, MC-221

Texas Commission on Environmental Quality



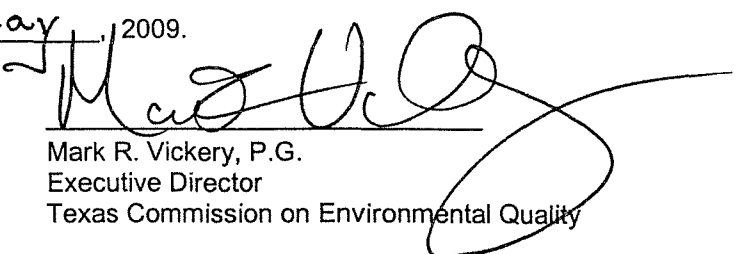
Municipal Setting Designation

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. 102, in the City of Arlington, 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 18th day of May, 2009.



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

EXHIBIT "A"

The legal description for 3000 East Pioneer Parkway is Pioneer 360 Business Center, Block 1, Lot 1.

The legal description for 2801 East Arkansas Lane is Pioneer 360 Business Center, Block 1, Lot 4.

OWNER'S CERTIFICATE

STATE OF TEXAS

COUNTY OF TARRANT

INDICATE, OWNER 360 BUSINESS CENTER, L.P. AND ARKANSAS 360 BUSINESS CENTER, L.P. hereby certify that the undersigned, their duly authorized agents, or their duly authorized agents...

INDICATE, a 1/2-inch iron rod with "Purcuse Mark" cap set for corner for the south and west ends of the following corner...

INDICATE, North 51 degrees, 29 minutes, 06 seconds East, along said corner with a distance of 128.67 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 12 degrees, 08 minutes, 36 seconds East, a distance of 218.28 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, along said corner having a central angle of 02 degrees, 19 minutes, 11 seconds, a radius of 1142.00 feet, on a closed bearing and distance of 18 degrees, 42 minutes, 00 seconds West, 37.18 feet, an arc distance of 571.8 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 00 degrees, 56 minutes, 28 seconds East, a distance of 203.92 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 01 degrees, 12 minutes, 37 seconds East, a distance of 217.37 feet to a 3/8-inch iron rod with "Victor Burgess" cap found for corner...

INDICATE, North 02 degrees, 01 minutes, 11 seconds East, a distance of 147.15 feet to a bronze Texas Department of Transportation monument found for corner...

INDICATE, along said corner having a central angle of 18 degrees, 22 minutes, 26 seconds, a radius of 1618.00 feet, on a closed bearing and distance of 18 degrees, 22 minutes, 44 seconds East, 43.20 feet, an arc distance of 431.16 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 21 degrees, 01 minutes, 00 seconds East, a distance of 146.30 feet to a bronze Texas Department of Transportation monument found for corner...

INDICATE, along said north-south line of State Highway 360, along the south line of said Lot 48, Tract I, the following four (4) rods:

INDICATE, South 89 degrees, 02 minutes, 50 seconds East, a distance of 66.74 feet to a 3/8-inch iron rod with "Victor Burgess" cap found for corner...

INDICATE, North 48 degrees, 13 minutes, 16 seconds East, a distance of 41.70 feet to a 3/8-inch iron rod with "Victor Burgess" cap found for corner...

INDICATE, North 53 degrees, 27 minutes, 42 seconds East, a distance of 48.71 feet to a "T" set in concrete found for corner...

INDICATE, North 28 degrees, 11 minutes, 49 seconds East, a distance of 61.27 feet to a "T" set in concrete found for corner...

INDICATE, North 87 degrees, 20 minutes, 31 seconds East, a distance of 46.13 feet to a "T" set in concrete found for corner...

INDICATE, North 84 degrees, 43 minutes, 15 seconds East, a distance of 52.12 feet to a 3/8-inch iron rod with "Victor Burgess" cap found for corner...

INDICATE, North 78 degrees, 27 minutes, 18 seconds East, a distance of 62.55 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, along the south and west line of said Lot 44, Tract I, the following four (4) rods:

INDICATE, North 45 degrees, 43 minutes, 20 seconds East, a distance of 51.36 feet to a 3/8-inch iron rod with "Victor Burgess" cap found for corner...

INDICATE, North 09 degrees, 18 minutes, 16 seconds East, a distance of 47.42 feet to a 3/8-inch iron rod with "Victor Burgess" cap found for corner...

INDICATE, North 82 degrees, 32 minutes, 38 seconds East, a distance of 38.94 feet to a 1/2-inch iron rod found for corner...

INDICATE, North 48 degrees, 44 minutes, 24 seconds East, a distance of 36.76 feet to a 3/8-inch iron rod with "Victor Burgess" cap found for corner...

INDICATE, North 02 degrees, 18 minutes, 18 seconds East, along the west line of said Lot 44, Tract I, a distance of 116.31 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 23 degrees, 26 minutes, 22 seconds East, continuing along said west line of Lot 44, Tract I, a distance of 26.48 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 89 degrees, 20 minutes, 47 seconds East, departing along said west line of Lot 44, Tract I along said north-south line of State Highway 360, a distance of 97.70 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, along said north-south line of State Highway 360, along the west and south line of said Lot 1, Tract I, the following four (4) rods:

INDICATE, along said north-south line of State Highway 360, along the west and south line of said Lot 1, Tract I, the following four (4) rods:

INDICATE, North 08 degrees, 18 minutes, 00 seconds East, a distance of 116.90 feet to a 3/8-inch iron rod with "Victor Burgess" cap found for corner...

INDICATE, North 08 degrees, 48 minutes, 00 seconds East, a distance of 81.43 feet to a "T" set in concrete found for corner...

INDICATE, North 89 degrees, 20 minutes, 38 seconds East, having a distance of 114.42 feet to a monument set in concrete found for corner...

INDICATE, North 00 degrees, 20 minutes, 12 seconds West, along the west line of said Lot 1, Tract I, a distance of 144.64 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, along said north-south line of State Highway 360, along the west and south line of said Lot 1, Tract I, the following three (3) rods:

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, along the west and south line of said Lot 8, Tract I, the following three (3) rods:

INDICATE, North 09 degrees, 08 minutes, 25 seconds East, along the south line of said Lot 8, Tract I, a distance of 293.74 feet to a 3/8-inch iron rod found for corner...

INDICATE, North 87 degrees, 41 minutes, 22 seconds East, a distance of 212.15 feet to a 3/8-inch iron rod found for corner...

INDICATE, North 46 degrees, 03 minutes, 23 seconds East, a distance of 378.01 feet to a 3/8-inch iron rod found for corner...

INDICATE, North 89 degrees, 20 minutes, 37 seconds East, a distance of 38.04 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 00 degrees, 20 minutes, 12 seconds West, along the west line of said Lot 1, Tract I, a distance of 144.64 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

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INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

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INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

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INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 09 degrees, 20 minutes, 25 seconds East, a distance of 48.43 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

INDICATE, North 47 degrees, 14 minutes, 26 seconds East, a distance of 10.80 feet to a 1/2-inch iron rod with "Purcuse Mark" cap set for corner...

OWNER'S DEDICATION

HOW, HEREIN, KNOW ALL MEN BY THESE PRESENTS:

DALE FLEMMER, 360 BUSINESS CENTER, L.P. and ARKANSAS 360 BUSINESS CENTER, L.P., hereby do hereby dedicate to the City of Arlington, Texas, the following property...

This plat shall not alter or remove existing deed restrictions or covenants, if any, on this property.

Witness my hand and seal of office on the 20th day of February, 2007.

By: Dale Flemmar, Notary Public in and for the State of Texas

STATE OF TEXAS COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared Dale Flemmar, known to me to be the person whose name is subscribed to the foregoing instrument...

WITNESSE MY HAND AND SEAL OF OFFICE on the 20th day of February, 2007.

By: Dallas Mack, Notary Public in and for the State of Texas

STATE OF TEXAS COUNTY OF TARRANT

BEFORE ME, the undersigned authority, on this day personally appeared Dale Flemmar, known to me to be the person whose name is subscribed to the foregoing instrument...

WITNESSE MY HAND AND SEAL OF OFFICE on the 20th day of February, 2007.

By: Dallas Mack, Notary Public in and for the State of Texas

SURVEYOR'S CERTIFICATE

I, Mark Kramiec, a Registered Professional Land Surveyor of the State of Texas, have surveyed the above instrument...

WITNESSE MY HAND AND SEAL OF OFFICE on this 20th day of February, 2007.

By: Mark Kramiec, Registered Professional Land Surveyor

CITY APPROVAL STATEMENT

Approved by the City of Arlington Planning and Zoning Commission on _____ (Date)

Commissioner - Planning and Zoning Commission

Secretary - Planning and Zoning Commission

OWNER/DEVELOPER: PIONEER 360 BUSINESS CENTER, L.P. 910 STRATFORD DRIVE, SOUTHLAKE, TEXAS 76092

OWNER/DEVELOPER: ARKANSAS 360 BUSINESS CENTER, L.P. 910 STRATFORD DRIVE, SOUTHLAKE, TX 76092

ENGINEER/SURVEYOR: PACHECO KOCH CONSULTING ENGINEERS, INC. 8350 N. CENTRAL EXPY., SUITE 1000 DALLAS, TEXAS 75206

Pacheco Koch Consulting Engineers 8350 N. CENTRAL EXPY., SUITE 1000 DALLAS, TX 75206

SHEET 4 OF 4 REPEAT PIONEER 360 BUSINESS CENTER LOT 1, 2, 3 & 4 BLOCK 1 BEING A REVISION OF LOTS 1R, TRACT 1, LOT 1, TRACT 1R, PART OF TRACT III, AND ALL OF TRACT IV, FORUM 363 ADDITION, AN ADDITION TO THE CITY OF ARLINGTON, TARRANT COUNTY, TEXAS

FORUM 360 MALL - REPEAT

ARLINGTON, TEXAS 76010

DATE: 02/20/07

'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 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.

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? 04/ 30 / 08	<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.

Brian Abely Applicant Signature 02/02/09 Date
P361BLCG, LLC

Before me Aaron Herring the undersigned authority, on this day personally appeared
Brian Flaherty Name of Applicant and signed this Municipal Setting Designation Application.

Sworn, subscribed and signed before me in the County of Tarrant, State of TX, on the 2ND day of FEB, this month of FEB, 2009.

