

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 23, 2022

Mr. Don Sorbello
Carrier Corporation
13995 Pasteur Blvd
Palm Beach Gardens, FL 33418

Via e-mail

Re: Municipal Settings Designation Certificate for Carrier Corporation, Carrier Corporation Site, located at 1700 East Duncan Street, Tyler, Smith County, TX; MSD No. 462; Customer No. CN600383590; Regulated Entity No. RN102775095

Dear Mr. Sorbello:

The Texas Commission on Environmental Quality (TCEQ) received the above referenced Municipal Setting Designation (MSD) application on July 16, 2021 and additional information supporting this MSD application. 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).

Sincerely,

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

Timothy Eckert, Project Manager
VCP-CA Section
Remediation Division

Enclosure: MSD Certificate

cc: Ms. Lori Goetz, Ensafe, Inc. (via email)
Mr. Jerry Tate, Rosemark Commercial Facilities Management (via e-mail)
Mr. Joseph Guida, Guida, Slavich and Flores, P.C. (via e-mail)
Mr. David M. Marks, Phoenix Tyler LLC (via e-mail)
Ms. Amy Wachs, Husch Blackwell LP (via e-mail)
Ms. Toni Schoen, SET Engineering LLC (via e-mail)
Ms. Michelle Baetz, Waste Section Manager, TCEQ Tyler Region Office, R-5

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, Deputy Director, Remediation Division, TCEQ, certify the Municipal Setting Designation (MSD) for MSD No. 462, in the City of Tyler, 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 23rd day of August, 2022

Beth Seaton

Beth Seaton, Deputy Director
Remediation Division
Texas Commission on Environmental Quality

ELIZABETH BODENHEIMER SURVEY, A-94

(R.O.W. & BEARING BASIS: TEXAS COORDINATE SYSTEM, NORTH CENTRAL ZONE, NAD 83 MAP DATUM)

- L-1 S87°46'34"W, 120.00' (RECORD: S87°49'W, 120.0')
L-2 N02°13'26"W, 115.66' (RECORD: N43°10'11"E, 58.81')
L-3 N87°49'30"E, 120.00' (RECORD: N89°49'E, 120.0')
L-4 S02°13'26"E, 115.56' (RECORD: 115.0')
L-5 N02°08'01"W, 140.06' (RECORD: N00°31'56"W, 140.00')
L-6 N87°49'48"E, 188.15' (RECORD: N89°26'28"E, 188.21')
L-7 N02°14'43"W, 140.00' (RECORD: N00°36'49"W, 140.00')
L-8 S88°11'20"W, 31.85' (RECORD: S89°48'33"W, 31.85')
L-9 N87°55'50"E, 239.03' (RECORD: N89°33'28"E, 239.01')
L-10 N02°07'45"W, 140.08' (RECORD: N00°25'58"W, 139.97')
L-11 N87°53'52"E, 120.16' (RECORD: N89°31'11"E, 120.09')
L-12 N53°53'12"W, 109.73' (RECORD: N52°29'55"W, 109.27')
L-13 S82°29'29"E, 227.28' (RECORD: S80°38'00"E, 227.08')
L-14 N41°19'49"E, 58.84' (RECORD: N43°10'11"E, 58.81')
L-15 N02°07'25"W, 150.18' (RECORD: N00°29'26"W, 150.17')
L-16 S87°46'41"W, 135.81' (RECORD: S89°24'44"W, 135.81')
L-17 N02°04'40"W, 103.51' (RECORD: N00°42'10"W, 103.42')
L-18 N87°33'12"E, 47.81' (RECORD: N85°51'35"E, 47.99')
L-19 S77°41'27"E, 22.18' (RECORD: S76°34'43"E, 22.18')
L-20 N28°14'34"E, 210.41' (RECORD: N29°51'54"E, 210.44')
L-21 N12°06'11"E, 118.68' (RECORD: N13°44'22"E, 118.70')
L-22 S87°58'24"W, 25.69' (RECORD: S89°40'46"W, 25.72')
L-23 N87°51'48"W, 170.21' (RECORD: N85°14'E, 219.27')
L-24 N48°14'19"E, 219.20' (RECORD: N50°14'E, 219.27')
L-25 N48°17'34"E, 219.78' (RECORD: N49°53'52"E, 219.76')

NOTES:

- 1. Evaluation of restrictions and easements has been limited to those provided in Schedule B of the Old Republic National Title Insurance Company Title Commitment GF NO. 514100194, with an effective date of February 6, 2015. The following easements and rights-of-way listed in Schedule B of said Title Commitment are shown on the survey and do affect the subject tract:
Item 1. Restrictive Covenants recorded in/under Vol. 592, Pg. 215 (as to Lot 45); Vol. 666, Pg. 22 (as to Lots 52, 53 and 54); Vol. 800, Pg. 131 (as to Lot 72); Vol. 751, Pg. 236; and Vol. 1287, Pg. 84 (as to Lots 5 and 6) of the Deed Records and Official Public Records of Smith County, Texas.
Item 10.1. Right-of-Way Easement executed by Carrier Corp. to Texas Power & Light Co., recorded in/under Vol. 961, Pg. 255 of the Deed Records and Real Property Records of Smith County, Texas.
Item 10.4. Right-of-Way easements executed by American Telephone and Telegraph Company, recorded in/under Vol. 511, Pg. 180, Vol. 507, Pg. 394, Vol. 866, Pg. 141, Vol. 2278, Pg. 660 (insofar as that portion (shown hereon) of said easements not released in Vol. 2337, Pg. 508, of the Deed Records and Official Public Records of Smith County, Texas.
Item 10.10. Right-of-Way easement executed by Tytex Realty Company, Inc. to American Telephone and Telegraph Company, dated 3/14/1984, recorded in/under Vol. 2278, Pg. 660, insofar as that portion (shown hereon) of said easement not released in Vol. 2337, Pg. 508, of the Deed Records and Official Public Records of Smith County, Texas.
Item 10.m. Right-of-Way Easement executed by Carrier Corporation to TXU Electric Delivery Company, dated 8/31/2004, recorded in/under Vol. 7635, Pg. 127, of the Official Public Records of Smith County, Texas.
Item 10.n. Right-of-Way Easement (blanket, over-and-across) executed to Dixie Gas and Fuel Company, recorded in/under Vol. 207, Pg. 353, of the Deed Records and Real Property Records of Smith County, Texas.
Item 10.o. Right-of-Way Easement executed to Texas Power and Light Company, recorded in/under Vol. 689, Pg. 337, Vol. 756, Pg. 344, Vol. 286, Pg. 142, Vol. 253, Pg. 513, Vol. 354, Pg. 110, of the Deed Records and Official Public Records of Smith County, Texas.

LEGAL DESCRIPTION

(Schedule A, Exhibit A Tracts One, Two, Three, Four and Five described as one tract)
All that certain tract or parcel of land situated partially within New City Block 671-J and New City Block 774 in the City of Tyler, a part of the Elizabeth Bodenheimer Survey, Abstract 94, the F.D. Bodenheimer Survey, Abstract 95, and the Hugh Wall Survey, Abstract 1062, Smith County, Texas, being all of those certain nine tracts, and resurveyed as a called 36.905 acre tract, as described in a Special Warranty Deed from Tytex Realty Company to Carrier Corporation, recorded in Volume 4782, Page 227 of the Official Public Records of Smith County, Texas, being all of Lots 5 and 6, N.C.B. 671-J, of the Lavender Addition (a subdivision of record in Volume 1, Page 272 of the Plat Records of Smith County), described in a Warranty Deed from Roy Edmonds to Carrier Corporation, dated December 16, 1999, and recorded in Volume 5085, Page 16 of the Official Public Records of Smith County, Texas, and being all of those certain three tracts, part of N.C.B. 671-J, of the Lavender Addition, described in a Warranty Deed from Bill R. Lynn and Nancy Ann McIwley Lynn to Carrier Corporation, dated March 30, 2001, and recorded in Volume 5727, Page 54 of the Official Public Records of Smith County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod for the southeast corner of said 36.905 acre tract, same being in the north right-of-way line of East Duncan Street, same being in the west right-of-way line of the St. Louis and Southwestern Railway, same being 50.00 feet westerly from and perpendicular to the centerline of the main line track;
THENCE North 89°04'08" West, with said north right-of-way line of East Duncan Street, a distance of 947.85 feet to a boat spike found for the easternmost southeast corner of said 36.905 acre tract;
THENCE North 12°06'11" East, a distance of 118.68 feet to a 3/4" iron rod found for a southern interior corner of said 36.905 acre tract;
THENCE South 87°58'24" West, a distance of 25.69 feet to a 1/2" iron rod found for a corner of said 36.905 acre tract;
THENCE South 87°49'52" West, with a south line of said 36.905 acre tract, a distance of 504.60 feet to a 1/2" iron rod set for the northeast corner of said Lot 6, N.C.B. 671-J, of said Lavender Addition;
THENCE South 02°13'26" East, a distance of 115.56 feet to a 1/2" iron rod set for the southeast corner of said Lot 6, same being in said north right-of-way line of East Duncan Street;
THENCE South 87°46'34" West, with said north right-of-way line of East Duncan Street, a distance of 120.00 feet to a 1/2" iron rod found for the southwest corner of said Lot 5, N.C.B. 671-J;
THENCE North 02°13'26" West, a distance of 115.66 feet to a 1/2" iron rod set for the northwest corner of said Lot 5, same being in said south line of said 36.905 acre tract;
THENCE North 87°45'20" West, with said south line of said 36.905 acre tract, a distance of 55.94 feet to a 1/2" iron rod set for the westernmost southwest corner of said 36.905 acre tract;
THENCE North 02°08'01" West, a distance of 140.06 feet to a 1/2" iron rod found for a northwest corner of said 36.905 acre tract, same being in the east right-of-way line of the Old Gladewater Highway;
THENCE North 87°49'48" East, a distance of 188.15 feet to a chain link fence corner post found marking an interior corner of said 36.905 acre tract;
THENCE North 02°14'43" West, a distance of 140.00 feet to a chain link fence corner post found marking an interior corner of said 36.905 acre tract, same being the northwest corner of Lot 29, N.C.B. 671-J;
THENCE North 88°11'20" West, a distance of 31.85 feet to a chain link fence corner post found marking a southwest corner of said 36.905 acre tract, same being in said east right-of-way line of the Old Gladewater Highway;
THENCE North 49°17'34" East, with said east right-of-way line of said Old Gladewater Highway, a distance of 219.78 feet to a 1/2" iron rod found for a northwest corner of said 36.905 acre tract, same being the southwest corner of Tract Three described in said Deed recorded in Volume 5727, Page 54 of said Official Public Records;
THENCE North 48°14'19" East, continuing with said east right-of-way line of said Old Gladewater Highway, a distance of 219.20 feet to a 1/2" iron rod set for the northwest corner of Tract Two described in said Deed recorded in Volume 5727, Page 54 of said Official Public Records;
THENCE North 87°53'52" East, a distance of 120.16 feet to a chain link fence corner post found marking the northeast corner of Lot 49, same being the northeast corner of Lot 50, same being the southwest corner of Lot 52, N.C.B. 671-J, same being an interior corner of said 36.905 acre tract;
THENCE North 38°55'52" East, at 224.25 feet pass the northwest corner of Lot 57, N.C.B. 671-J, and continuing in all a total distance of 248.88 feet to a 1/2" iron rod found for an interior corner of said 36.905 acre tract;
THENCE North 53°53'12" West, a distance of 109.73 feet to a 1/2" iron rod found for a southwest corner of said 36.905 acre tract, same being in said east right-of-way line of Old Gladewater Highway;
THENCE North 37°47'17" East, a distance of 103.14 feet to a 1/2" iron rod found for a northwest corner of said 36.905 acre tract, same being the southwest corner of that certain tract described in a Quit Claim Deed from Carrier Corporation to American Telephone and Telegraph Company, recorded in Volume 903, Page 398 of the Deed Records of Smith County;
THENCE South 82°29'29" East, a distance of 227.28 feet to a 1/2" iron rod found for the southeast corner of said American Telephone and Telegraph Company tract;
THENCE North 41°19'49" East, a distance of 58.84 feet to a chain link fence corner post found marking the northeast corner of said American Telephone and Telegraph Company tract, same being the northeast corner of Lot 59, same being an interior corner of said 36.905 acre tract;
THENCE North 02°07'25" West, a distance of 150.18 feet to a chain link fence corner post found marking an interior corner of said 36.905 acre tract;
THENCE South 87°46'41" West, a distance of 135.81 feet to a chain link fence corner post found marking a southwest corner of said 36.905 acre tract, same being in said east right-of-way line of Old Gladewater Highway;
THENCE North 39°20'20" East, with said east right-of-way line of Old Gladewater Highway, a distance of 86.05 feet to a 1/2" iron rod set for a northwest corner of said 36.905 acre tract;
THENCE North 87°30'36" East, a distance of 484.42 feet to a steel bed rail found for an interior corner of said 36.905 acre tract;
THENCE North 02°04'40" West, a distance of 103.51 feet to a chain link fence corner post found marking a northwest corner of said 36.905 acre tract;
THENCE North 87°33'12" East, a distance of 47.81 feet to a 1/2" iron rod found for an interior corner of said 36.905 acre tract;
THENCE North 11°42'06" East, a distance of 515.60 feet to a 2" iron pipe found for an interior corner of said 36.905 acre tract;
THENCE South 87°56'29" West, a distance of 148.30 feet to a 1/2" iron pipe found for a southwest corner of said 36.905 acre tract, same being in said east right-of-way line of Old Gladewater Highway;
THENCE North 37°49'08" East, with said east right-of-way line of Old Gladewater Highway, a distance of 324.88 feet to a 1/2" iron rod found for a northwest corner of said 36.905 acre tract;
THENCE South 77°41'27" East, a distance of 22.18 feet to a 1/2" iron rod found for an interior corner of said 36.905 acre tract;
THENCE North 28°14'34" East, a distance of 210.41 feet to a 1/2" iron rod found for the northernmost northwest corner of said 36.905 acre tract, same being the southwest corner of that certain 0.056 acre tract described in a deed from Ela D. Story et ux to the St. Louis and Southwestern Railway, and recorded in Volume 276, Page 249 of said Deed Records;
THENCE North 88°09'48" East, a distance of 56.91 feet to the northeast corner of said 36.905 acre tract, same being the southeast corner of said 0.056 acre tract, same being in said west right-of-way line of said St. Louis and Southwestern Railway, same being 50.00 feet westerly from and perpendicular to the centerline of the main line track;
THENCE South 04°58'09" West, with said west right-of-way line of the St. Louis and Southwestern Railway, a distance of 929.10 feet to a 1/2" iron rod set for an east corner of said 36.905 acre tract;
THENCE South 04°55'18" West, continuing with said west right-of-way line of the St. Louis and Southwestern Railway, a distance of 1,358.91 feet to the POINT OF BEGINNING and containing 37.712 acres of land.

LEGEND

- A/C=AIR CONDITIONER
BF=BOARD FENCE
BP=BRICK PLANTER
CC=CONC. CURB
CF=CONC. FLUME
CH=CONC. HEADWALL
CI=CONC. ISLAND
CR=CONC. RAMP
CCR=COVERED CONC. RAMP
CLF=CHAIN LINK FENCE
CP=CONC. PORT
CCW=COVERED CONC. WALK
CRW=CONC. RETAINING WALL
CS=CONC. STEPS
CW=CONC. WALK
CLD=CONC. LOADING DOCK
CCLD=COVERED CONC. LOADING DOCK
DR=DRAIN GRATE
EOC=EDGE OF CONC.
EOP=EDGE OF PAVEMENT
FH=FIRE HYDRANT

LEGEND

- FP=FLAG POLE
FB=FRAME BLDG.
FOC=BURIED FIBER OPTIC CABLE SIGN
GS=GUARD SIGN
GW=GUY WIRE
GV=GAS VALVE
LP=LIGHT POLE
MP=METER POLE
MB=METAL BLDG.
PP=POWER POLE
SP=SPRINKLER CONTROL HOUSE
SMH=SANITARY SINK MANHOLE
TCB=TEL. CABLE BOX
WM=WATER METER
WV=WATER MAIN VAULT
WVW=WATER VALVE
WSA=WASTE STORAGE AREA

INDICATES FND. 1/2" I. ROD UNLESS OTHERWISE NOTED.

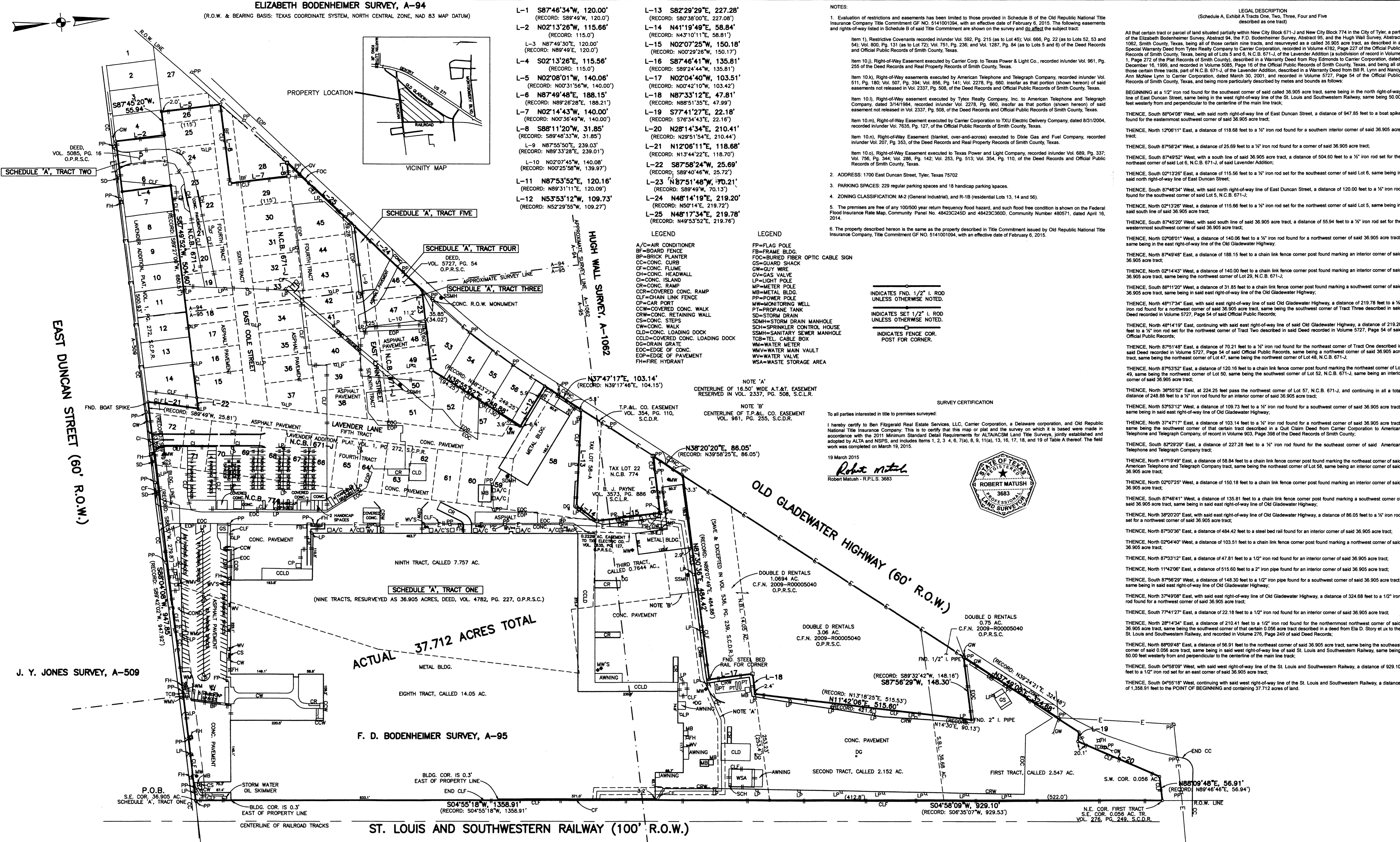
INDICATES SET 1/2" I. ROD UNLESS OTHERWISE NOTED.

INDICATES FENCE COR. POST FOR CORNER.

SURVEY CERTIFICATION

I hereby certify to Ben Fitzgerald Real Estate Services, LLC, Carrier Corporation, a Delaware corporation, and Old Republic National Title Insurance Company. This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6, 7(a), 8, 9, 11(a), 13, 16, 17, 18, and 19 of Table A thereof. The field work was completed on March 19, 2015.

19 March 2015
Robert Matush
Robert Matush - R.P.L.S. 3683



ACTUAL 37.712 ACRES TOTAL

ALTA/ACSM SURVEY
37.712 ACRES
ELIZABETH BODENHEIMER SURVEY, A-94,
F.D. BODENHEIMER SURVEY, A-95
HUGH WALL SURVEY, A-1062
CITY OF TYLER
SMITH COUNTY, TEXAS

BOB MATUSH SURVEYING, INC.
REGISTERED PROFESSIONAL LAND SURVEYORS
T.B.P.L.S. FIRM NO. 10048200
2624 KENSINGTON DRIVE, SUITE 107 TYLER, TEXAS 75703
TEL. (903) 561-7287 FAX (903) 561-2013 www.brmstyer.com

JOB NO. 14-237 DATE: 19 MARCH 2015 SCALE: 1"=100'



Exhibit B
Municipal Setting Designation
Affidavit of Eligibility

BEFORE ME, the undersigned authority, on this day personally appeared Don Sorbello, as an authorized representative of Carrier Corporation, 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:

7/9/21

Don Sorbello

Printed Name

Sr Manager, Remediation

Title

STATE OF New York

COUNTY OF Onondaga

SUBSCRIBED AND SWORN before me on this the 9th day of July 2021, to which witness my hand and seal of office.

Erin L. Markey
Notary Public in and for the State of _____

ERIN L. MARKEY

Notary Public, State of New York
Appointed in Onondaga County

Commission Expires September 25, 192021