

December 12, 2023

Ms. Laurie Gharis
Office of the Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

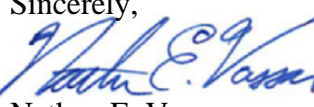
VIA ELECTRONIC FILING

Re: Ashton Gray Development, LLC – Withdrawal of Protest and Hearing Request
Proposed Permit Ashland Wastewater Treatment Facility TPDES Permit No.
WQ0016176001

Dear Ms. Gharis:

This letter is submitted on behalf of my client, the Angleton Drainage District (the “District”), as formal notice that the District unconditionally withdraws its comments, protest, and request for a contested case hearing with respect to the above-referenced application.

Please do not hesitate to contact me if you have any questions or if I can be of assistance. Thank you for your attention to this matter.

Sincerely,

Nathan E. Vassar

cc: Mr. Laurence Boyd, *Angleton Drainage District*
Ms. Lora Naismith, *Lloyd Gosselink Rochelle & Townsend, PC*

COMPROMISE AND SETTLEMENT AGREEMENT

I. PARTIES

1.1. The parties to this agreement are Angleton Drainage District (herein called ADD); Ashton Gray Development, LLC (herein called Ashton Gray); and Brazoria County Municipal Utility District No. 82 (herein called "the MUD" or "MUD 82"). All parties hereto other than ADD are sometimes jointly and severally called ("the Developer Parties.")

II. DEFINITIONS

2.1. The term "the Application" as used herein shall mean Ashton Gray Development, LLC's Application to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016176001, to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 1,000,000 gallons per day.

2.2. The term "Equivalent Single-Family Connection" ("ESFC") as used herein shall mean a measure of sewage treatment demand equivalent to that required by a typical detached single-family house, which is the lower of 300 GPD of Sewage flow or such lesser average daily flow as may be approved by TCEQ for use with respect to the System. For other types of buildings or premises, the number of ESFCs is calculated by dividing the domestic water usage, in GPD, by 360.

2.3. The term "the Development" as used herein shall mean the area containing approximately 3,000 ESFCs at full development, to be served by the wastewater treatment plant described in the Application for approval by TCEQ and described on Exhibit "A" attached hereto and incorporated herein in full.

2.4. The term "the Ditch" as used herein shall mean the ditch generally adjoining and paralleling the outside of ADD's western flood protection levee from the intersection of the Developer Parties' effluent channel with that Levee to the intersection of that Levee with ADD's Ditch 10, as shown on the map attached hereto as Exhibit "B" and incorporated herein in full.

2.5. The term "the Levee" as used herein shall mean the portion of ADD's western flood protection levee from the intersection of the Developer Parties' effluent channel with that Levee to the intersection of that Levee with ADD's Ditch 10, as shown on the map attached hereto as Exhibit "B" and incorporated herein in full.

2.6. The term "the System" herein shall mean the wastewater collection and treatment system for the Development.

III. SETTLEMENT

3.1. ADD has objected to the Application. The parties hereby settle that objection on the grounds herein stated. This settlement agreement is a compromise of disputed claims and is not an admission, or even an indication, of any fault, wrongdoing, or error by any party.

3.2. Subject to Section 3.5 below, the Developer Parties, jointly and severally, shall pay ADD _____ per ESFC, payable at ADD's headquarters in Angleton, TX or at such other address as ADD may specify in writing to the Developer Parties. The payments shall be made quarterly, within one month after the end of each calendar quarter, for the ESFCs newly connected to the System during that newly-expired calendar quarter. For example:

	Number of ESFC's newly connected during the newly-expired calendar quarter:
100	Typical single-family homes
3	One neighborhood facility using an average of 900 gallons of water per day (3 times the amount used by a typical single-family home, so 3 ESFCs)
103	Total ESFC's newly connected in the calendar quarter
<u>x</u>	per ESFC
\$	Amount due for the calendar quarter

3.3 The Developer Parties shall deliver to ADD with each payment a list of the addresses of the ESFCs for which the payment is made, with a signed certification on behalf of the MUD that the information in that document is true and complete. For each ESFC that is not a single-family home, the list shall also include a description of the type of facility, the number of gallons per day of water it is expected to use, and the number of ESFCs represented by the facility.

3.4. This agreement is made in reliance upon the Developer Parties' estimate -- but not a guaranty -- that the Development will have around 3,000 ESFCs in total, resulting in fees to ADD of around \$ _____ over 5-8 years after the date of this agreement. If that estimate is incorrect, then the Developer Parties shall have no liability for a misrepresentation or breach of warranty, but ADD may choose to cancel this agreement and retain any amounts paid hereunder.

3.5 Should the Development ever become -- with the express, written consent of Angleton Drainage District -- subject to an ad valorem tax levied by ADD, the Developer Parties will no longer have an obligation to make any further payments due under the terms of this Agreement, except for payments accrued before January 1st of the tax year for which the Development becomes subject to ad valorem taxes of the District. Payments to ADD for the ESFC's newly connected to the System shall terminate as to ESFC connections made after the final date (December 31st) of the calendar quarter preceding the effective date (January 1st) of the ad valorem tax levy, but this agreement shall not impair liability for payments for ESFC's connected before that effective date of the tax levy.

3.6. ADD hereby releases the Developer Parties from liability for physical damage to the Ditch and Levee resulting wholly or partly from runoff or from release of treated effluent from the System, provided that:

- a. the rate of such runoff added to the rate of release of effluent from the System is not more than the rate of runoff from the Development in its undeveloped state;
- b. the volume of treated effluent discharged from the System is not more than one million gallons per day and not more than 2,800 gallons per minute; and
- c. the System is constructed, maintained, and operated in accordance with: (1) all plans and agreements approved by Brazoria County; (2) all plans and agreements approved by the Texas Commission on Environmental Quality; and (3) all plans and agreements approved by ADD.

3.7. Regardless of any other provision, this agreement shall not impair ADD's right to seek damages or other remedies against the Developer Parties or any other person for any type of harm resulting wholly or partly, directly or indirectly, from any of the following:

- a. any unlawful conduct of any of the Developer Parties, other than release of runoff or treated effluent within the scope of the release in this agreement;
- b. improper operation of the wastewater treatment plant, other than release of runoff or treated effluent within the scope of the release in this agreement;
- c. environmental contamination, other than silt from erosion of the Ditch or Levee; or
- d. any cause other than the release of runoff or treated effluent within the scope of the release in this agreement:

3.8. ADD retains sole discretion for repairing the Ditch and the Levee, subject to the terms of this agreement. The Developer Parties shall have no financial responsibility for repairing the Ditch or the Levee, except as otherwise provided in this agreement.

3.9. ADD shall withdraw its objections to Ashton Gray's Application to TCEQ for Discharge Permit No. WQ0016176001. The Developer Parties shall not expand the scope of that Application in any way.

3.10. Each party shall bear its own costs, attorney's fees, and expenses of litigation concerning ADD's objections to the Application.

3.11. ADD shall abstain from protesting any other applications by the Developer Parties for approval of any plans or permits for drainage or discharge of water from the Development, provided that: a. those plans or permits have been approved by Brazoria County; b. the Developer Parties are not in breach of this agreement; and c. the grounds for such protest are within the scope of the release under this agreement. This section does not impair ADD's right to inform Brazoria County of ADD's objections to any plans or permits.

3.12. This agreement shall be binding upon the parties and their respective successors and assigns. An assignor of any rights or obligations under this agreement shall obtain from the assignee a signed, written commitment and obligation, for the benefit of ADD, to comply with the assignor's obligations under this agreement. An assignment of any rights or obligations hereunder shall not relieve the assignor of any such obligations; rather, the assignor and the assignee shall be jointly and severally liable for the obligations of the assignor. This section does not apply to the sale of an individual lot to the end user.

IV. GENERAL

4.1. **Authority of Parties.** Each party represents and warrants that it has not assigned any portion of any claim described herein, and that such party has full authority to make and perform this agreement.

4.2. **Further Actions.** The parties agree to execute all documents and take all actions necessary or appropriate to carry out the intent of this agreement.

4.3. **Texas Law.** This agreement shall be governed by the laws of the State of Texas, including both procedure and substance, but not conflict of laws rules that would result in the application of the law of a different jurisdiction than Texas.

4.4. **Venue.** Venue of any suit involving this agreement or the subject matter hereof, whether in contract, tort, or otherwise, shall lie only in Brazoria County, Texas or if there is federal jurisdiction, in a federal court for the Southern District of Texas, Galveston Division or Houston Division, except to the extent that mandatory venue is elsewhere.

4.5. **Construction of Agreement.** The parties hereto agree that this agreement shall not be construed in favor of or against a party on the basis that the party did or did not draft this agreement.

4.6. **Notices.** Any notice required or permitted to be given under the provisions of this agreement shall be in writing and shall be deemed received upon the earlier of the following: (1) actual receipt, regardless of the delivery method; (2) actual delivery to the address stated in this section, by hand delivery with a receipt for delivery signed by the addressee; (3) actual delivery to the address stated in this section by commercial courier, such as Federal Express or United Parcel Service, that provides tracking or proof of delivery; or (4) the deposit of the notice in the United States mail by certified or registered mail, postage prepaid, addressed as stated in this section. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To ADD: Angleton Drainage District
 Attention: Chairman
 1123 County Road 428
 Angleton, Texas 77515

With a copy to:

Laurence E. Boyd
Attorney for Angleton Drainage District
209 East Mulberry, Suite 200
Angleton, Texas 77515

To Ashton Gray: Ashton Gray Development, LLC
 101 Parklane Blvd., Suite 102
 Sugar Land, Texas 77478
 Attn: Mark Janik

To MUD 82: Brazoria County Municipal Utility District No. 82
 202 Century Square Blvd.
 Sugar Land, Texas 77478
 Attn: Richard L. Muller, Jr.

A party may designate a different address by giving each other party ten days written notice, as herein provided.

4.7. **Multiple Counterparts.** Since several parties will sign this agreement, it will be binding when each party has signed at least one of the identical counterparts of this agreement, even though the parties may sign separate but identical counterparts. This agreement may also be executed in multiple originals.

4.8. **Amendments.** The parties wish to avoid any ambiguity as to whether or how this agreement is ever amended. Accordingly, this agreement may not be amended except by a writing signed by all parties and expressly stating that it amends this agreement.

4.9. **Whole Agreement.** The parties hereby agree, represent, and stipulate that: (1) this written agreement is the sole and only agreement between them concerning this settlement; (2) in reaching their decision to make this agreement, they have not relied upon any oral or written representations whatsoever, except the ones herein stated; and (3) no such oral or written representations have been made.

Effective the 30th day of November, 2023.

ANGLETON DRAINAGE DISTRICT

BY: David B. Spoor
David B. Spoor, Chairman

ATTEST:

BY: Terry Nojak
Terry Nojak, Secretary

ASHTON GRAY DEVELOPMENT, LLC

BY: 14
Sudharsan Vembutty
President

BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 82

BY: David Garrett
David Garrett, Board President

EXHIBIT "A"

THE DEVELOPMENT

Brazoria County M.U.D. No. 82A
512.50 Acres

Shubael Marsh Surveys, Abstract 82

STATE OF TEXAS §

COUNTY OF BRAZORIA §

A **METES & BOUNDS** description of a 512.50 acre tract of land in the Shubael Marsh Survey, Abstract 82, Brazoria County, Texas, being comprised of that certain called 469.08 acre tract recorded under County Clerk's File Number 2021085145, Official Public Records, Brazoria County, Texas, that certain residue of a called 60 acre tract recorded under County Clerk's File Number 2011015753, Official Public Records, and in Volume 411, Page 456, Deed Records, Brazoria County, Texas and that certain called 8.35 acre tract recorded under County Clerk's File Number 2022009979, Official Public Records, Brazoria County, Texas, with all bearings based upon the Texas Coordinate System of 1983, South Central Zone, based upon GPS observations.

Beginning at the northwest corner of said called 469.08 acre tract, same being the southwest corner of an adjoining called 2.97 acre tract recorded under County Clerk's File Number 01-008056, Official Public Records, Brazoria County, Texas, for the northwest corner of the herein described tract, said point being in the easterly right-of-way line of F. M. Highway 521 (100-foot wide);

Thence North 87 degrees 05 minutes 19 seconds East along the north line of the herein described tract and said called 469.08 acre tract, same being the south line of said adjoining called 2.97 acre tract, and the south line of an adjoining called 96.50 acre tract recorded under County Clerk's File Number 00-016352, Official Public Records, Brazoria County, Texas, at 284.23 feet pass the southeast corner of said adjoining called 2.97 acre tract, being the southwest corner of said adjoining called 96.50 acre tract, and continuing for a total distance of 2,947.41 feet to an angle point, said point being the southeast corner of said adjoining called 96.50 acre tract, same being the southwest corner of the adjoining residue of a called 36.97 acre tract recorded under County Clerk's File Number 94-019052, Official Public Records, Brazoria County, Texas;

Thence North 86 degrees 57 minutes 34 seconds East along the north line of the herein described tract and said called 469.08 acre tract, same being the south line of said adjoining called 36.97 acre tract, 861.64 feet to the upper northeast corner of the herein described tract, same being the northwest corner of the adjoining residue of a called 43.308 acre tract recorded under County Clerk's File Number 2017048421, Official Public Records, Brazoria County, Texas, and described as a called 28.23 acre tract under County Clerk's File Number 02-063838, Official Public Records, Brazoria County, Texas;

Thence South 03 degrees 24 minutes 10 seconds East along the common line of the herein described tract and said adjoining called 28.23 acre tract, 1,822.24 feet to the southwest corner of said adjoining called 28.23 acre tract, and being in the north line of the residue of said called 60 acre tract;

Thence North 86 degrees 26 minutes 35 seconds East along the common line of said adjoining called 28.23 acre tract and said residue of a called 60 acre tract, 825.98 feet to the southeast corner of said adjoining called 28.23 acre tract, same being the northwest corner of said residue of a called 60 acre tract, and being in the west right-of-way line of State Highway 288 (width varies);

Brazoria County M.U.D. No. 82A
512.50 Acres

Shubael Marsh Surveys, Abstract 82

Thence South 08 degrees 10 minutes 09 seconds East along the common line of said residue of a called 60 acre tract and said right-of-way line of State Highway 288, 1,184.70 feet to a point at the beginning of a curve to the right;

Thence along said common line and curve to the right, having a central angle of 01 degree 53 minute 42 seconds, a radius of 11,249.16 feet, an arc length of 372.03 feet, and a chord bearing South 07 degrees 13 minutes 18 seconds East, 372.02 feet to the end of said curve, being the southeast corner of said residue of a called 60 acre tract, same being the northeast corner of an adjoining called 4.90 acre tract recorded under County Clerk's File Number 2022001518, Official Public Records, Brazoria County, Texas;

Thence South 86 degrees 48 minutes 29 seconds West along the common line of said residue of a called 60 acre tract and said adjoining 4.90 acre tract, 271.50 feet to the northwest corner of said adjoining 4.90 acre tract;

Thence South 02 degrees 18 minutes 50 seconds East along the common line of the herein described tract and said adjoining called 4.90 acre tract, 735.89 feet to the southwest corner of said adjoining 4.90 acre tract;

Thence North 87 degrees 40 minutes 53 seconds East along the common line of the herein described tract and said adjoining called 4.90 acre tract, 298.27 feet to the southeast corner of said adjoining 4.90 acre tract, and being in the west right-of-way line of said State Highway 288, said point being the beginning of a non-tangent curve to the right;

Thence along said non-tangent curve to the right, being the west right-of-way line of State Highway 288, having a central angle of 02 degrees 15 minute 21 seconds, a radius of 11,249.16 feet, an arc length of 442.89 feet, and a chord bearing South 01 degrees 22 minutes 27 seconds East, 442.87 feet to the end of said curve;

Thence South 00 degrees 14 minutes 46 seconds East along the west right-of-way line of State Highway 288, 73.62 feet to the southeast corner of the herein described tract, being the southeast corner of said called 469.08 acre tract, same being the northeast corner of an adjoining called 1.73 acre tract (Tract 4) recorded under County Clerk's File Number 2022002351, Official Public Records, Brazoria County, Texas;

Thence South 87 degrees 09 minutes 33 seconds West along the south line of the herein described tract, at 276.33 feet pass the northwest corner of said adjoining called 1.73 acre tract, same being the upper northeast corner of an adjoining called 165.94 acre tract (Tract 2) recorded under County Clerk's File Number 2022002351, Official Public Records, Brazoria County, Texas, and continuing for a total distance of 5,566.94 feet to a reentry corner to the herein described tract, being the upper northwest corner of said adjoining called 165.94 acre tract, and being in the east line of said called 8.35 acre tract;

Thence South 00 degrees 30 minutes 00 seconds West along the common line of the herein described tract and said adjoining called 165.94 acre tract, 175.40 feet to the southeast corner of said called 8.35 acre tract, being a reentry corner to said adjoining called 165.94 acre tract;

Brazoria County M.U.D. No. 82A
512.50 Acres

Shubael Marsh Surveys, Abstract 82

Thence North 89 degrees 31 minutes 26 seconds West continuing along said common line, 600.44 feet to the southwest corner of the herein described tract, being the southwest corner of said called 8.35 acre tract, same being the lower northwest corner of said adjoining called 165.94 acre tract, and being in the easterly right-of-way line of F. M. Highway 521;

Thence North 14 degrees 05 minutes 31 seconds East along the westerly line of the herein described tract, same being the easterly right-of-way line of F. M. Highway 521, 146.72 feet to an angle point;

Thence North 14 degrees 02 minutes 37 seconds East along the westerly line of the herein described tract, same being the easterly right-of-way line of F. M. Highway 521, 4,611.00 feet to the **Place of Beginning** and containing 512.50 acres of land, more or less.

This document prepared under 22 Texas Administrative Code § 138.95, does not reflect the results of an on the ground survey and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

For reference and further description see Drawing No. 18900 prepared by the undersigned on same date.

July 14, 2023

Job Number 16759-0010-00

Quiddity Engineering, LLC
1229 Corporate Drive, Suite 100
Rosenberg, TX 77471
(281) 342-2033
Texas Board of Professional Land
Surveying Registration No. 10046100

Preliminary, this document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document

Acting By/Through Chris D. Kalkomey
Registered Professional Land Surveyor
No. 5869
CDKalkomey@quiddity.com

EXHIBIT "B"

MAP OF DITCH AND LEVEE

