

City of Houston, Texas, Ordinance No. 2010-1029

**A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH SIX TRACTS OF LAND CONTAINING 4.6178 ACRES COMMONLY KNOWN AS 7405 ALMEDA ROAD, HOUSTON, TEXAS, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

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**WHEREAS**, Subchapter W, "Municipal Setting Designations," of Chapter 361, "Solid Waste Disposal Act," of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality ("TCEQ") to create municipal setting designations; and

**WHEREAS**, on August 22, 2007, by Ordinance No. 2007-959, the City Council adopted Article XIII, of Chapter 47, Code of Ordinances, Houston, Texas, to provide a process for establishing municipal setting designation ordinances and recently amended that process on July 14, 2010, by Ordinance No. 2010-556; and

**WHEREAS**, Sections 47-765(f) and 47-767(a) of the Code of Ordinances, Houston, Texas, authorize municipal setting designation ordinances that prohibit the use of designated groundwater as potable water and thereby enable the TCEQ to certify a municipal setting designation for designated property; and

**WHEREAS**, on April 29, 2010, the Board of Regents of the University of Texas System ("Applicant") applied to the Director of the Public Works and Engineering Department, requesting that the City Council support a municipal

setting designation ordinance for 7405 Almeda Road, Houston, Texas 77054;  
and

**WHEREAS**, on August 24, 2010, the Director of the Public Works and Engineering Department conducted a public meeting as required by section 47-764, at the Judson Robinson Jr. Community Center, 2020 Hermann Drive, Houston, Texas 77004, and notified the community when the public hearing would occur; and

**WHEREAS**, the Development and Regulatory Affairs Committee of City Council conducted a public hearing on September 26, 2010; and

**WHEREAS**, the City Council finds that:

- (1) the application meets the eligibility criteria of Section 361.803 of the Texas Health and Safety Code;
- (2) the municipal setting designation will not have an adverse effect on the current or future water resource needs or obligations of the City of Houston;
- (3) there is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of the designated property; and
- (4) this Municipal Setting Designation Ordinance is necessary because the concentration of contaminants of concern exceeds human ingestion protective concentration levels, and the establishment of a municipal setting designation will allow the property to be brought back into productive use; and

**WHEREAS**, City Council finds that the Director of the Public Works and Engineering Department on behalf of City Council, in accordance with the Charter of the City of Houston, state law, and the ordinances of the City of Houston, has given the required notices, the Development and Regulatory Affairs Committee of City Council has held the required public hearing regarding this Municipal Setting Designation Ordinance and all procedural requirements have been satisfied; **NOW THEREFORE;**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That for purposes of this Municipal Setting Designation Ordinance, the "designated property" means the six tracts described in Exhibit A, attached to this Ordinance and incorporated by reference herein.

**Section 2.** That for purposes of this Municipal Setting Designation Ordinance, "designated groundwater" means groundwater beneath the designated property to a depth not to exceed 200 feet that is prohibited from use as potable water by this Ordinance.

**Section 3.** That use of the designated groundwater from beneath the designated property as potable water, as that term is defined in section 47-761 of the Code of Ordinances, Houston, Texas, is prohibited.

**Section 4.** That the use of the designated groundwater from beneath public rights-of-way immediately adjacent to the designated property as potable water, as that term is defined in section 47-761 of the Code of Ordinances, Houston, Texas, is prohibited.

**Section 5.** That the designated property must receive a certificate of completion or other analogous documentation issued by the TCEQ or the United States Environmental Protection Agency (“EPA”) showing that any site investigations and response actions required pursuant to Section 361.808 of the Texas Health and Safety Code have been completed to the satisfaction of the TCEQ or EPA within the time period required by them.

**Section 6.** That the City Council supports the application to the TCEQ for a municipal setting designation on the designated property, with the following comment:

(1) The TCEQ and the EPA, as agencies charged to protect human health and the environment, are requested to thoroughly review the conditions on the designated property and issue a certificate of completion only when all contaminants of concern, through the applicable routes of exposure, have been addressed.

**Section 7.** That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations and all ordinances, rules, and regulations of the City of Houston. The City Council’s approval of a municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

**Section 8.** That approval of this Municipal Setting Designation Ordinance shall not be construed to subject the City of Houston to any responsibility or

liability for any injury to persons or damages to property caused by any contaminant of concern.

**Section 9.** That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Applicant shall provide the Director of the Public Works and Engineering Department with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the City's geographic information system and its integrated land management system, and shall provide an electronic file showing the location of the designated property and the designated groundwater to the Harris County Appraisal District in a format compatible with its system.

**Section 10.** That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Director of the Public Works and Engineering Department shall send a certified copy of this ordinance to the Applicant, TCEQ and EPA.

**Section 11.** That the Applicant shall provide the Director of the Public Works and Engineering Department with a copy of the municipal setting designation certificate issued by the TCEQ pursuant to section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

**Section 12.** That within 30 days after receipt of the municipal setting designation certificate from the TCEQ, the Director of the Public Works and Engineering Department shall file a certified copy of this Municipal Setting Designation Ordinance in the deed records of Harris County.

**Section 13.** That if any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their applicability to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 14.** There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND ADOPTED this 15th day of December, 2010.

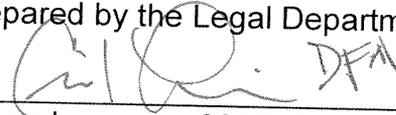
APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is DEC 21 2010.

  
\_\_\_\_\_  
City Secretary

Prepared by the Legal Department

  
\_\_\_\_\_  
December 1, 2010, Ceil Price, Senior Assistant City Attorney  
Requested by Daniel Krueger, P.E., Director,  
Public Works and Engineering Department

LD File No. 0910700011002

REVIEW  
DATE:

DEC 21 2010

AYE	NO	
✓		<b>MAYOR PARKER</b>
••••	••••	<b>COUNCIL MEMBERS</b>
✓		STARDIG
✓		JOHNSON
✓		CLUTTERBUCK
✓		ADAMS
✓		SULLIVAN
✓		HOANG
	<b>ABSENT</b>	PENNINGTON
✓		GONZALEZ
✓		RODRIGUEZ
✓		COSTELLO
✓		LOVELL
	<b>ABSENT-ON PERSONAL BUSINESS</b>	NORIEGA
✓		BRADFORD
✓		JONES
CAPTION	ADOPTED	

## EXHIBIT A

### LEGAL DESCRIPTION

1.295 ACRES (56,408 SQUARE FEET) OF LAND BEING ALL OF BLOCK 24 OF INSTITUTE PLACE, A SUBDIVISION OF HARRIS COUNTY, TEXAS AS RECORDED IN VOLUME 4, PAGE 32 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, SAID 1.295 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT FOR NORTHWEST CORNER OF SAID TRACT BEING AT THE SOUTHEAST INTERSECTION OF ALMEDA ROAD (160 FEET WIDE) AND MYRTLE STREET (60 FEET WIDE), FROM WHICH A 5/8 INCH IRON ROD FOUND BEARS NORTH 14 DEGREES 51 MINUTES EAST, 1.3 FEET;

THENCE SOUTH 72 DEGREES 36 MINUTES 37 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID MYRTLE STREET, A DISTANCE OF 277.10 FEET TO A 5/8 INCH IRON ROD SET FOR NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 21 DEGREES 57 MINUTES 14 SECONDS WEST, ALONG THE WEST LINE OF I&NRR CO RIGHT-OF-WAY (100 FEET WIDE), A DISTANCE OF 214.47 FEET TO A 5/8 INCH IRON ROD FOUND FOR SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 72 DEGREES 36 MINUTES 37 SECONDS WEST, ALONG THE NORTH LINE OF SAID HEPBURN STREET (60 FEET WIDE), A DISTANCE OF 250.59 FEET TO A 5/8 INCH IRON ROD SET FOR SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 14 DEGREES 51 MINUTES 41 SECONDS EAST, ALONG THE EAST LINE OF SAID ALMEDA ROAD, A DISTANCE OF 214.00 FEET TO THE POINT OF BEGINNING AND CONTAINING SAID 1.295 ACRES (56,408 SQUARE FEET) OF LAND.

1.125 ACRES (49,000 SQUARE FEET) OF LAND BEING ALL OF BLOCK 25 OF INSTITUTE PLACE, A SUBDIVISION OF HARRIS COUNTY, TEXAS, AS RECORDED IN VOLUME 4, PAGE 32 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, SAID 1.125 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT FOR NORTHWEST CORNER AND BEING THE SOUTHEAST INTERSECTION OF SAID HEPBURN STREET (60 FEET WIDE) AND ALMEDA ROAD (160 FEET WIDE), FROM WHICH A 1 INCH IRON PIPE FOUND BEARS NORTH 88 DEGREES 49 MINUTES EAST, 2.7 FEET;

THENCE SOUTH 72 DEGREES 36 MINUTES 37 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID HEPBURN STREET, A DISTANCE OF

243.10 FEET TO A 5/8 INCH IRON ROD SET FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 22 DEGREES 17 MINUTES 53 SECONDS WEST, ALONG THE WEST LINE OF SAID I&NRR CO RIGHT-OF-WAY (100 FEET WIDE), A DISTANCE OF 214.58 FEET TO A 5/8 INCH IRON ROD SET FOR SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 72 DEGREES 36 MINUTES 37 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID PAWNEE STREET (60 FEET WIDE), A DISTANCE OF 215.30 FEET TO A 3/4 INCH IRON PIPE FOUND FOR SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 14 DEGREES 51 MINUTES 41 SECONDS EAST, ALONG THE EAST LINE OF SAID ALMEDA ROAD, A DISTANCE OF 214.00 FEET TO THE POINT OF BEGINNING AND CONTAINING SAID 1.125 ACRES (49,000 SQUARE FEET) OF LAND.

TRACT I:

BEING A 0.5592 ACRE (24360 SQ. FEET) TRACT OF LAND BEING LOTS 3 THROUGH 7 IN BLOCK 23 OF INSTITUTE PLACE A SUBDIVISION IN HARRIS COUNTY, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 4, PAGE 32 OF THE HARRIS COUNTY MAP RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A SET 5/8 INCH IRON ROD IN THE SOUTH RIGHT-OF-WAY LINE OF MYRTLE STREET (60.00 FEET WIDE) AS PLATTED AND THE NORTH WEST CORNER OF LOT 7, BLOCK 23 OF SAID SUBDIVISION;

THENCE SOUTH 72 DEGREES 36 MINUTES 37 SECONDS EAST, ALONG THE SOUTHERLY LINE OF SAID MYRTLE STREET, A DISTANCE OF 239.41 FEET TO A SET 5/8 INCH IRON ROD FOR THE NORTH EAST CORNER OF LOT 3 AND THE NORTH EAST OF THE HEREIN DESCRIBED TRACT FOR CORNER;

THENCE, SOUTH 17 DEGREES 23 MINUTES 23 SECONDS WEST, ALONG THE EAST LINE OF LOT 3, A DISTANCE OF 100.00 FEET TO A SET 5/8 INCH IRON ROD FOR CORNER;

THENCE, NORTH 72 DEGREES 36 MINUTES 37 SECONDS WEST ALONG THE SOUTH LINE OF LOTS 3 THROUGH 7, A DISTANCE OF 247.64 FEET TO A SET 5/8 INCH IRON ROD FOR CORNER;

THENCE, ALONG THE WEST LINE OF LOT 7 BEING A CURVE HAVING A RADIUS OF 11434.47 FEET, AN ARC LENGTH OF 100.34 FEET, A CENTRAL ANGEL OF 0 DEGREES 30 MINUTES 10 SECONDS AND A CHORD BEARING

NORTH 22 DEGREES 05 MINUTES 31 SECONDS EAST, A CHORD DISTANCE OF 100.34 FEET TO THE POINT OF BEGINNING.

TRACT II:

BEING A 0.5794 ACRE (25240 SQ. FEET) TRACT OF LAND BEING LOTS 8 THROUGH 12 IN BLOCK 23 OF INSTITUTE PLACE A SUBDIVISION IN HARRIS COUNTY, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 4, PAGE 32 OF THE HARRIS COUNTY MAP RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT BEING THE NORTH WEST CORNER OF LOT 8, BLOCK 23 OF SAID SUBDIVISION FROM SAID POINT A FOUND  $\frac{3}{4}$  INCH IRON PIPE BEARS NORTH 22 DEGREES 43 MINUTES EAST 0.53 FEET;

THENCE, SOUTH 72 DEGREES 36 MINUTES 37 SECONDS EAST, ALONG THE SOUTHERLY LINE OF A 14 FOOT ALLEY, A DISTANCE OF 248.72 FEET TO A SET  $\frac{5}{8}$  INCH IRON ROD FOR THE NORTH EAST CORNER OF LOT 12 AND THE NORTH EAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTH 17 DEGREES 23 MINUTES 23 SECONDS WEST, ALONG THE EAST OF LOT 12, A DISTANCE OF 100.00 FEET TO A FOUND  $\frac{5}{8}$  INCH IRON ROD FOR CORNER;

THENCE, NORTH 72 DEGREES 36 MINUTES 37 SECONDS WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF HEPBURN STREET, A DISTANCE OF 255.94 FEET TO A POINT, FROM WHICH A FOUND  $\frac{5}{8}$  INCH IRON ROD BEARS SOUTH 72 DEGREES 35 MINUTES EAST 0.55 FEET;

THENCE, ALONG THE WEST LINE OF LOT 8 BEING A CURVE HAVING A RADIUS OF 11434.47 FEET, AN ARC LENGTH OF 100.26 FEET, A CENTRAL ANGLE OF 0 DEGREES 30 MINUTES 09 SECONDS AND A CHORD BEARING NORTH 21 DEGREES 31 MINUTES 09 SECONDS EAST A CHORD DISTANCE OF 100.26 FEET TO THE POINT OF BEGINNING.

TRACT III:

BEING A 0.2124 ACRE (9250 SQ. FEET) TRACT OF LAND BEING PART OF LOT 1 AND 2 IN BLOCK 26 OF INSTITUTE PLACE A SUBDIVISION IN HARRIS COUNTY, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 4, PAGE 32 OF THE HARRIS COUNTY MAP RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH RIGHT-OF-WAY LINE OF HEPBURN STREET (60.00 FEET WIDE) AS PLATTED AND THE NORTH EAST CORNER OF LOT 1, BLOCK 26 OF SAID SUBDIVISION FROM WHICH A FOUND 1 INCH IRON PIPE BEARS NORTH 49 DEGREES 03 MINUTES EAST 1.99 FEET;

THENCE, SOUTH 17 DEGREES 23 MINUTES 23 SECONDS WEST, ALONG THE WESTERLY LINE OF HOWARD STREET, A DISTANCE OF 100.00 FEET TO A SET 5/8 INCH IRON ROD FOR THE SOUTH EAST CORNER OF LOT 1 AND THE SOUTH EAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 72 DEGREES 36 MINUTES 37 SECONDS WEST, ALONG THE SOUTH LINE OF LOTS 1 AND 2, A DISTANCE OF 90.00 FEET TO A FOUND 5/8 INCH IRON ROD FOR THE MOST SOUTHERLY SOUTHWEST CORNER;

THENCE, NORTH 17 DEGREES 23 MINUTES 23 SECONDS EAST ACROSS LOT 2, A DISTANCE OF 75.00 FEET TO A FOUND 5/8 INCH IRON ROD FOR CORNER;

THENCE, NORTH 72 DEGREES 36 MINUTES 37 SECONDS WEST, ACROSS LOT 2 A DISTANCE OF 10.00 FEET TO A FOUND 5/8 INCH IRON ROD FOR CORNER;

THENCE, ALONG THE WEST LINE OF LOT 2 NORTH 17 DEGREES 23 MINUTES 23 SECONDS EAST A DISTANCE OF 25.00 FEET TO A POINT FOR THE NORTHWEST CORNER OF LOT 2 AND THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT FROM WHICH A FOUND 5/8 INCH IRON ROD BEARS NORTH 48 DEGREES 16 MINUTES EAST 0.32 FEET.

THENCE, SOUTH 72 DEGREES 36 MINUTES 37 SECONDS EAST ALONG THE NORTH LINE OF LOTS 1 AND 2 A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING.

TRACT IV:

BEING A 0.8468 ACRE (36,888 SQ. FEET) TRACT OF LAND BEING LOTS 8 THROUGH 14 IN BLOCK 26 OF INSTITUTE PLACE A SUBDIVISION IN HARRIS COUNTY, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 4, PAGE 32 OF THE HARRIS COUNTY MAP RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A SET 5/8 INCH IRON ROD IN AT THE NORTH WEST CORNER OF LOT 8, BLOCK 26 OF SAID SUBDIVISION;

THENCE, SOUTH 72 DEGREES 36 MINUTES 37 SECONDS EAST, ALONG THE SOUTHERLY LINE OF A 14 FOOT ALLEY, A DISTANCE OF 366.40 FEET TO A SET 5/8 INCH IRON ROD FOR THE NORTHEAST CORNER OF LOT 14 AND THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTH 17 DEGREES 23 MINUTES 23 SECONDS WEST, ALONG THE EAST LINE OF LOT 14, A DISTANCE OF 100.00 FEET TO A SET 5/8 INCH IRON ROD FOR CORNER;

THENCE, NORTH 72 DEGREES 36 MINUTES 37 SECONDS WEST ALONG THE NORTHERLY LINE THE RIGHT-OF-WAY OF PAWNEE STREET, A DISTANCE OF 371.21 FEET TO A SET 5/8 INCH IRON ROD FOR CORNER;

THENCE, ALONG THE WEST LINE OF LOT 8 BEING A CURVE HAVING A RADIUS OF 11434.47 FEET, AN ARC LENGTH OF 100.12 FEET, A CENTRAL ANGLE OF 0 DEGREES 30 MINUTES 06 SECONDS AND A CHORD BEARING NORTH 20 DEGREES 08 MINUTES 37 SECONDS EAST A CHORD DISTANCE OF 100.12 FEET TO THE POINT OF BEGINNING.