

**A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 152.86 ACRES COMMONLY KNOWN AS 4100 CLINTON DRIVE, AND PORTIONS OF THE RIGHTS-OF-WAY OF JENSEN DRIVE, FOOTE STREET, MCCALL STREET, AND ROANOKE DRIVE, HOUSTON, HARRIS COUNTY, TEXAS; AND SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**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

**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 December 22, 2009, KBR Technical Services, Inc. ("Applicant") applied to the Director of the Public Works and Engineering Department, requesting that the City Council support a municipal setting designation ordinance for 4100 Clinton Drive located in Houston, Texas 77020; and

**WHEREAS**, on April 6, 2010, the Director of the Public Works and Engineering Department conducted a public meeting as required by section 47-764 at Ripley House, 4410 Navigation, Houston, Texas 77011, and notified the community when the City Council public hearing would occur; and

**WHEREAS**, City Council conducted a public hearing on May 19, 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, 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:**

**Section 1.** That for purposes of this Municipal Setting Designation Ordinance, the "designated property" means the multiple 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; however in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 2nd day of June, 2010.

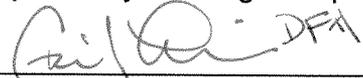
APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2010.

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

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JUN 08 2010.

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

Prepared by the Legal Department

  
\_\_\_\_\_  
Ceil Price, Senior Assistant City Attorney  
26 May, 2010

Requested by Michael Marcotte, P.E., D.WRE, BCEE, Director,  
Public Works and Engineering Department  
L. D. File No. 0800900066001

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**CAPTION PUBLISHED IN DAILY COURT  
REVIEW  
DATE**

JUN 08 2010

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

## EXHIBIT A

### DESCRIPTION OF A TRACT OF LAND CONTAINING 152.86 ACRES LOCATED IN THE SM HARRIS SURVEY, A-327, DARIUS GREGG SURVEY, A-283 AND THE HARRIS & WILSON SURVEY, A-32, HARRIS COUNTY, TEXAS

Being a tract of land containing 152.86 acres (6,658,618 square feet) located in the S.M. Harris Survey, A-327, the Darius Gregg Survey, A-283 and the Harris & Wilson Survey, A-32 in Harris County, Texas, and being comprised of the following tracts: 1) all of a 104.25-acre tract and a 24.92-acre tract as conveyed unto Brown & Root Corporate Services, Inc., by deed recorded under the County Clerk's File No. M938947, Film Code No. 195-72-0132 of the Official Public Records of Real Property of Harris County, Texas, 2) all of a 2.736-acre tract as conveyed unto Halliburton Energy Services, Inc. by deed recorded under County Clerk's File No.V608680, Film Code No. 548-98-0163 of the Official Public Records of Real Property of Harris County, Texas, 3) all of Lots 1 through 13 of Block 4 of the William Wilson Company Subdivision, a subdivision plat recorded in Volume 317, Page 298 of the Deed Records of Harris County, Texas, 4) all of Blocks 41, 42, 49, 52 and 59 of the L.B. Swiney's Addition, a subdivision plat recorded in Volume 6, Page 610 of the Deed Records of Harris County, Texas, 5) all of Block 4 of Cage Addition, a subdivision plat recorded in Volume 43, Page 385 of the Deed Records of Harris County, Texas, 6) all of Clinton Drive from Jensen Drive to Hirsch Street, 7) all of Hirsch Street from Clinton Drive to Buffalo Bayou, 8) all of Jensen Drive from Roanoke Street to Buffalo Bayou and 9) all of Foote Street from McCall Street to Jensen Drive. Said 152.86-acre tract being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at a found 3/4-inch iron rod located at the southerly end of a cutback for the intersection of the south right-of-way line of Clinton Drive (80 feet wide) and the west right-of-way line of Hirsch Street (100 feet wide);

THENCE North 87° 08' 30 East in an easterly direction crossing the existing right-of-way of said Hirsch Street, a distance of 100.00 feet to a point located on the east right-of-way line of said Hirsch Street for the POINT OF BEGINNING of said tract herein described;

THENCE South 02° 51' 30" East with the east right-of-way line of said Hirsch Street, a distance of 1,740.82 feet to a point located on the north line of Buffalo Bayou;

THENCE in a southerly and westerly direction with the meanders of the north line of said Buffalo Bayou as described by deed, the following courses and distances:

- South 44° 32' 19" West, a distance of 156.5 feet to a point;
- South 77° 00' West, a distance of 161.3 feet to a point ;
- South 83° 21' West, a distance of 236.9 feet to a point;
- North 80° 57' West, a distance of 314.4 feet to a point;
- South 85° 57' West, a distance of 44.7 feet to a point;
- South 74° 06' West, a distance of 76.0 feet to a point;
- South 61° 49' West, a distance of 115.0 feet to a point;

South 54° 02' West, a distance of 112.0 feet to a point;  
South 42° 08' West, a distance of 443.9 feet to a point;  
South 87° 34' West, a distance of 315.2 feet to a point;  
North 53° 01' West, a distance of 97.8 feet to a point;  
North 31° 26' West, a distance of 78.1 feet to a point;  
North 19° 53' West, a distance of 92.2 feet to a point;  
North 06° 19' West, a distance of 135.4 feet to a point;  
North 02° 42' East, a distance of 414.0 feet to a point;  
North 21° 01' West, a distance of 93.1 feet to a point;  
North 30° 48' West, a distance of 87.0 feet to a point;  
North 50° 05' West, a distance of 75.9 feet to a point;  
North 56° 48' West, a distance of 79.1 feet to a point;  
North 71° 56' West, a distance of 79.1 feet to a point;  
North 82° 25' West, a distance of 245.1 feet to a point;  
North 87° 41' West, a distance of 230.1 feet to a point;  
North 87° 04' West, a distance of 114.7 feet to a point;  
North 83° 09' West, a distance of 73.5 feet to a point;  
North 78° 35' West, a distance of 94.1 feet to a point;  
North 73° 06' West, a distance of 393.3 feet to a point;  
North 85° 47' West, a distance of 142.2 feet to a point;  
South 87° 24' West, a distance of 189.6 feet to a point;  
South 61° 29' West, a distance of 181.0 feet to a point;  
South 52° 27' West, a distance of 135.4 feet to a point;  
South 56° 38' West, a distance of 142.2 feet to a point;  
South 60° 21' West, a distance of 90.0 feet to a point;  
South 74° 16' West, a distance of 102.6 feet to a point;  
South 85° 28' West, a distance of 44.5 feet to a point;

South 89° 59' 30" West, a distance of 117.7 feet to a point for the southwest corner of said 24.92-acre tract and for the southeast corner of a 11.6122-acre tract as conveyed unto CG 7600 LP, by deed recorded under County Clerk's File No. Y192051, Film Code No. 598-64-0374 of the Official Public Records of Real Property of Harris County, Texas;

THENCE in a northerly direction with the west line of said 24.92-acre tract and the east line of said 11.6122-acre tract, the following courses and distances:

North 06° 48' West, a distance of 265.2 feet to a found 5/8-inch rod;  
North 12° 48' West, a distance of 185.4 feet to a point;  
North 23° 00' West, a distance of 192.6 feet to a point;  
North 15° 44' West, a distance of 131.2 feet to a point;  
North 05° 56' West, a distance of 286.2 feet to a point;  
North 02° 41' 22" East, a distance of 29.8 feet to a found 5/8-inch iron rod located in the south right-of-way line of line of said Clinton Drive;

THENCE South 87° 37' 34" West with the south right-of-way line of said Clinton Drive, a distance of 434.30 feet to a point located at the intersection of the south right-of-way line of said Clinton Drive and the east right-of-way line of Jensen Drive (width varies);

THENCE in a southerly direction with the east right-of-way line of said Jensen Drive the following courses and distances:

South 02° 25' 17" East, a distance of 729.00 feet to a point;  
South 87° 05' 43" West, a distance of 30.00 feet to a point;  
North 02° 14' 17" West, a distance of 58.00 feet to a point;  
South 20° 17' 43" East, a distance of 124.00 feet to a point;  
South 02° 25' 17" East, a distance of 17.80 feet to a point located in the north line of said Buffalo Bayou;

THENCE North 41° 41' 19" West with the north line of said Buffalo Bayou, a distance of 115.79 feet to a point located in the west right-of-way line of said Jensen Drive;

THENCE North 16° 19' 28" East with the west right-of-way line of said Jensen Drive, a distance of 152.84 feet to a point;

THENCE North 05° 32' 28" East continuing with the west right-of-way line of said Jensen Drive, a distance of 64.29 feet to a point for the intersection of the west right-of-way line of Jensen Drive and the south right-of-way line of Foote Street (40 feet wide);

THENCE South 87° 03' 44" West with the south right-of-way line of said Foote Street, a distance of 350.00 feet to a point for the intersection of the south right-of-way line of said Foote Street and the east right-of-way line of said McCall Street (40 feet wide);

THENCE North 02° 52' 16" West, a distance of 40.00 feet to a point for the intersection of the north right-of-way line of said Foote Street and the east right-of-way line of said McCall Street;

THENCE North 87° 03' 44" East with the north right-of-way line of said Foote Street, a distance of 350.00 feet to a point for the intersection of the north right-of-way line of said Foote Street and the west right-of-way line of said Jensen Drive;

THENCE North 03° 12' 11" West with the west right-of-way line of said Roanoke Drive, a distance of 720.00 feet to a point for the intersection of the west right-of-way line of said Jensen Drive and the north right-of-way line of Roanoke Drive (40 feet wide);

THENCE North 87° 03' 43" East with a projection of the north right-of-way line of said Roanoke Drive, a distance of 85.8 feet to a point located in the east right-of-way line of said Jensen Drive;

THENCE South 02° 56' 17" East with the east right-of-way line of said Jensen Drive, a distance of 190.6 feet to a point for the intersection of the east right-of-way line of said Jensen Drive and the north right-of-way line of said Clinton Drive;

THENCE North 87° 07' 34" East with the north right-of-way line of said Clinton Drive, a distance of 2,848.6 feet to a point;

THENCE North 74° 45' 40" East continuing with the north right-of-way line of said Clinton Drive, a distance of 51.2 feet to a point for the beginning of a non-tangent curve to the left;

THENCE in a northeasterly direction continuing with the north right-of-way line of said Clinton Drive and with said curve to the left whose central angle is 33° 50' 03" and whose radius is 287.18 feet (chord bears North of 59° 28' 28" East, a distance of 167.1 feet) for an arc length of 169.6 feet to a point;

THENCE North 41° 49' 15" East continuing with the north right-of-way line of said Clinton Drive, a distance of 31.0 feet to a point for the beginning of a non-tangent curve to the right;

THENCE in a northeasterly direction continuing with the north right-of-way line of said Clinton Drive and with said curve to the right whose central angle is 31° 48' 36" and whose radius is 347.90 feet (chord bears North 57° 43' 34" East, a distance of 190.7 feet) for an arc length of 193.2 feet to a point;

THENCE North 87° 33' 31" East continuing with the north right-of-way line of said Clinton Drive, at 1,569.6 feet passing the intersection of the north right-of-way line said Clinton Drive and the west right-of-way line of said Hirsch Street, continuing with the projection of the north right-of-way line of said Clinton Drive for a total distance of 1,696.1 feet to a point located in the east right-of-way line of said Hirsch Street;

THENCE South 02° 51' 30" East with the east right-of-way line of said Hirsch Street, a distance of 83.98 feet to the POINT OF BEGINNING of said tract herein described and containing 152.86 acres (6,658,618 square feet) of land, more or less.