

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH ONE TRACT OF LAND CONTAINING 28.04 ACRES COMMONLY KNOWN AS 7030 ARDMORE STREET, HOUSTON, TEXAS AND PORTIONS OF YELLOWSTONE BOULEVARD, ALICE STREET, FALL AVENUE, GRAND BOULEVARD AND CHARLINE AVENUE RIGHTS OF WAY, 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 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 27, 2010, Schlumberger Technology Corporation ("Applicant") applied to the Director of the Public Works and Engineering Department, requesting that the City Council support a municipal setting designation ordinance for 7030 Ardmore Street located in Houston, Texas 77054;

**WHEREAS**, on July 20, 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**, a City Council committee, designated by the mayor, conducted a public hearing on August 19, 2010; and

**WHEREAS**, on September 27, 2010, Applicant submitted to the Director of Public Works and Engineering Department an amendment to its application; and

**WHEREAS**, due to the amendment filed by Applicant, on December 6, 2010, the Director of the Public Works and Engineering Department conducted a second public meeting at the City of Refuge Church, 3150 Yellowstone Boulevard, Houston, Texas 77054; 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 one tract 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 12<sup>th</sup> day of January, 2011.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JAN 18 2011.

  
City Secretary

CAPTION PUBLISHED IN DAILY COURIER  
REVISION  
DATE: JAN 18 2011

Prepared by the Legal Department

*[Handwritten Signature]* DFM

January 4, 2011, Ceil Price, Senior Assistant City Attorney  
Requested by Daniel Krueger, P.E., Director,  
Public Works and Engineering Department  
L.D. File No. 0910700011002

AYE	NO	
✓		<b>MAYOR PARKER</b>
••••	••••	<b>COUNCIL MEMBERS</b>
✓		STARDIG
✓		JOHNSON
✓		CLUTTERBUCK
✓		ADAMS
✓		SULLIVAN
		<del>ABSENT</del> on City Bus. HOANG
✓		PENNINGTON
✓		GONZALEZ
✓		RODRIGUEZ
✓		COSTELLO
✓		LOVELL
✓		NORIEGA
		<del>ABSENT</del> out of City BRADFORD
✓		JONES
CAPTION	ADOPTED	

## EXHIBIT A

### LEGAL DESCRIPTION

28.04 ACRES OF LAND, BEING A PART OF BLOCK 11, OLD TOWN OF CLINTON SUBDIVISION, ACCORDING TO THE MAP RECORD IN VOLUME X, PAGE 167, HARRIS COUNTY DEED RECORDS (HCDR), AND A PART OF PARKSIDE SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN VOLUME 725, PAGE 261, HCDR, SITUATED IN THE D.W.C. HARRIS SURVEY, ABSTRACT 325, HARRIS COUNTY, TEXAS, AND BEING THAT SAME CERTAIN TRACT SHOWN AS SCHLUMBERGER TECHNOLOGY CORPORATION SUBDIVISION RECORDED IN HARRIS COUNTY MAP RECORDS (HCMR) FILE NO. 20070517801, ALL THAT CERTAIN 8.0636 ACRE TRACT DESCRIBED IN A DEED TO SCHLUMBERGER TECHNOLOGY CORPORATION RECORDED IN HARRIS COUNTY CLERK'S FILE (HCCF) Y175598, ALL THAT CERTAIN 2.69 ACRE TRACT DESCRIBED AS TRACT I AND ALL THAT CERTAIN 1.69 ACRE TRACT DESCRIBED AS TRACT II IN A DEED TO THE CITY OF HOUSTON RECORDED IN HARRIS COUNTY CLERK'S FILE J590262, A 60.0 FOOT RIGHT-OF-WAY (NOT OPEN) DESCRIBED IN VOLUME 528, PAGE 621, HCDR, AND A PORTION OF YELLOWSTONE BOULEVARD, SAID 28.04 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a 3/8 inch iron rod in concrete found for the Southeast corner of the herein described tract at the Southeast corner of Schlumberger Technology Corporation Subdivision, said point being at the intersection of the North right-of-way line of Alice Street (called 80.0 feet wide) with the West right-of-way line of Ardmore Street (called 80.0 feet wide), said point having State Plane Coordinate Values of X=3,177,874.34 and Y=13,818,045.31, according to the Schlumberger Technology Corporation Subdivision, from which point a 1/2 inch iron rod found bears South 38 deg. 10 min. 10 sec. East – 4.15 feet;

THENCE North 72 deg. 03 min. 21 sec. West (basis of Bearing), along the North right-of-way line of Alice Street, being the South line of Schlumberger Technology Corporation Subdivision, a distance of 990.34 feet to a 3/4 inch iron pipe found for the Southwest corner of the herein described tract at the Southeast corner of a 3.2237 acre tract described in a deed to Wholesale Furniture Distributors recorded in Clerk's File K145850, from which point a 1 inch iron bar found bears South 64 deg. 21 min. 29 sec. West – 2.57 feet;

THENCE North 14 deg. 38 min. 24 sec. East, along the East line of said 3.2237 acre tract and the East line of a 1.5794 acre tract described in a deed to Wholesale Furniture Distributors recorded in HCCF L292818, a distance of 659.91 feet to a point for corner in the South line of Lot 59, Block 3, Parkside Subdivision, being a corner of Schlumberger Technology Corporation Subdivision;

THENCE South 70 deg. 35 min. 32 sec. East, with the line of said Subdivision and the South line of Lot 59, Block 3, a distance of 4.67 feet to a 2 inch iron pipe found for corner;

THENCE North 14 deg. 42 min. 40 sec. East, with the line of said Subdivision and the East line of Lot 59, Block 3, a distance of 100.28 feet to a 5/8 inch iron rod found for corner in the South right-of-way line of Fall Avenue (60.0 feet wide);

THENCE South 72 deg. 00 min. 43 sec. East, with the line of said Subdivision and the South right-of-way line of Fall Avenue, a distance of 324.98 feet to a 3/4 inch iron pipe found for corner in the West line of the aforementioned Schlumberger Technology 8.0636 acre tract;

THENCE North 15 deg. 11 min. 10 sec. East, with the line of said 8.0636 acre tract, at 60.06 feet pass a 1/2 inch iron rod found at the Southeast corner of Lot 40, Block 2, Parkside Subdivision, and continue along the East line of Lot 40, Block 2, for a total distance of 170.17 feet to a 1/2 iron rod found at the Northeast corner of Lot 40, Block 2, being an ell corner of said Schlumberger Technology 8.0636 acre tract;

THENCE North 72 deg. 17 min. 33 sec. West, with the line of said 8.0636 acre track, being the North line of Lots 40 and 41, Block 2, the North line of the Plat of the Estate of Parkside in Old Clinton as shown in Film Code 527018, HCMR, and the North line of Lots 45-52, Block 2, a distance of 660.63 feet to a chain link corner post found at the Northwest corner of Lot 52, Block 2, Parkside Subdivision, and a corner of said Schlumberger Technology 8.0636 acre track, said point being in the East right-of-way line of Grand Boulevard (called 80.0 feet wide);

THENCE North 14 deg. 41 min. 41 sec. East, along the East right-of-way line of Grand Boulevard, with the line of said 8.0636 acre tract, a distance of 110.47 feet to a 1/2 inch iron rod set for corner in the South right-of-way line of Charline Avenue (60.0 feet wide);

THENCE South 72 deg. 03 min. 13 sec. East, along the South right-of-way line of Charline Avenue, with the line of said 8.0636 acre tract, a distance of 307.67 feet to a 1/2 inch iron rod found (bent) for a corner of said 8.0636 acre tract, being the Southwest corner of an abandonment of right-of-way described in HCCF M119778;

THENCE North 17 deg. 51 min. 27 sec. East, with the line of said 8.0636 acre tract, a distance of 59.78 feet to a 5/8 inch iron rod found for angle point at the Southeast corner of Lot 21, Block 1, Parkside Subdivision;

THENCE North 15 deg. 24 min. 30 sec. East, along the East line of Lot 21, Block 1, Parkside Subdivision, with the line of said 8.0636 acre tract, a distance of 110.03 feet to an "X" on concrete found for corner at the Northeast corner of Lot 21, Block 1;

THENCE North 72 deg. 03 min. 13 sec. West, along the North line of Lot 21, Block 1, with the line of said 8.0636 acre tract, a distance of 50.0 feet to an "X" on concrete found for corner at the Northwest corner of lot 21, the Northeast corner of Lot 22, and the Southeast corner of Lot 5, Block 1;

THENCE South 15 deg. 23 min. 33 sec. East, along the East line of Lot 5, Block 1, with the line of said 8.0636 acre tract, at 110.03 feet pass a PK nail found in the South right-of-way line of Yellowstone Boulevard, and continue for a total distance of 185.04 feet to

a point marking the Northwest corner of the herein described tract in the occupied North right-of-way line of Yellowstone Boulevard and the South line of Ramin Place Subdivision, according to the Plat recorded in Volume 1163, Page 570, HCDR;

THENCE South 72 deg. 11 min. 53 sec. East, along the occupied and monumented North right-of-way line of Yellowstone Boulevard (called 80.0 feet wide, however, width varies), and the South line of Block 1, Ramin Place Subdivision, a distance of 1055.88 feet to a point marking the Northeast corner of the herein described tract at the intersection of the North right-of-way line of Ardmore Street, from which point a 5/8 inch iron rod found bears North 26 deg. 39 min. East – 12.32 feet;

THENCE South 14 deg. 41 min. 41 sec. West, at 75.90 feet pass a 1/2 inch iron rod found at the Northeast corner of the City of Refuge Evangelical Presbyterian Church of Houston (Church) tract described in HCCF V098512, and continue along the East line of said tract and the west right-of-way line of Ardmore Street for a total distance of 221.10 feet to a point for corner at the Southeast corner of said Church tract, from which point a 1/2 inch iron rod bears North 26 deg. 06 min. East – 3.40 feet;

THENCE North 72 deg. 03 min. 13 sec. West, along the South line of said Church tract and the North line of the CMV Building Company tract recorded in HCCF H041857, a distance of 300.39 feet to a point for corner, from which point a 1/2 inch iron rod found bears North 58 deg. 35 min. East – 1.0 foot;

THENCE South 14 deg. 42 min. 22 sec. West, at 75.14 feet pass a 1/2 inch iron rod found in the South right-of-way line of Yellowstone Boulevard, said iron rod being at the Northwest corner of a 0.9986 acre tract described in a deed to City of Refuge Evangelical Presbyterian church of Houston recorded in HCCF V098512 and the Northeast corner of a 60.0 foot right-of-way described in Volume 528, Page 621, HCDR, and continue along the East line of said 60.0 foot right-of-way, the West line of said 0.9986 acre tract, the West line of a 0.9986 acre tract described in a deed to CMV Building Company recorded in HCCF H041857, and the West line of Restricted Reserve "A" as shown on the Plat of CMV Building Company recorded in Film Code 441113, HCMR, for a total distance of 510.081 feet to a 1/2 inch iron rod found at the Southwest corner of the aforementioned City of Houston 2.69 acre Tract I;

THENCE South 72 deg. 13 min. 21 sec. East, along the South line of Restricted Reserve "A" and the North line of the City of Houston Tract I, a distance of 300.42 feet to a 1/2 inch iron rod found at the Northeast corner of the City of Houston Tract I in the West right-of-way line of Ardmore Street, from which point a 1/2 inch iron rod found bears South 04 deg. 18 min. 16 sec. East – 0.95 feet;

THENCE South 14 deg. 41 min. 41 sec. West, along the West right-of-way line of Ardmore Street and the East line of the City of Houston Tract I, at 391.76 feet pass the Southeast corner of the City of Houston Tract I and a Northeast corner of Schlumberger Technology Corporation Subdivision, and continue along the East line of Schlumberger Technology Corporation Subdivision for a total distance of 884.82 feet to the PLACE OF BEGINNING and containing 29.56 acres of land.