

City of Houston, Texas, Ordinance No. 2013- 500

**A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 10.520 ACRES COMMONLY KNOWN AS 801 GILLETTE STREET, 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 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 February 12, 2013, the **COASTAL WATER AUTHORITY**, a conservation and reclamation district created pursuant to the Constitution and laws of the State of Texas ("Applicant"), applied to the Director of the Public Works and Engineering Department, requesting that the City Council support a municipal setting

designation ordinance for its property that is located generally at 801 Gillette Street, Houston, Texas 77019; and

**WHEREAS**, on April 23, 2013, the Director of the Public Works and Engineering Department conducted a public meeting at the Houston Permit Center, 1002 Washington Avenue, Houston, Texas 77002 as required by section 47-764 of the Code of Ordinances, and notified the community when the City Council public hearing would occur; and

**WHEREAS**, a City Council committee, designated by the Mayor, conducted a public hearing on May 14, 2013; 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 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 Technology, Transportation and Infrastructure 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 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 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 5.** 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 6.** 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 7.** 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 8.** 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 9.** 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, to TCEQ and to EPA.

**Section 10.** 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 11.** 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 12.** 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 application 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 13.** That 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 that 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.

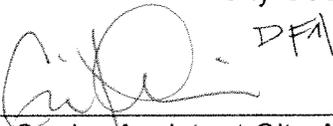
PASSED AND ADOPTED this 29<sup>th</sup> day of May, 2013.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JUN 0 4 2013.

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

Prepared by Legal Depart.   
CP/lks 5/21/2013 Senior Assistant City Attorney  
Requested by Daniel W. Krueger, P.E., Director,  
Public Works and Engineering Department

L.D. File No. 063-1200062-002  
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AYE	NO	
✓		<b>MAYOR PARKER</b>
••••	••••	<b>COUNCIL MEMBERS</b>
	✓	BROWN
✓		DAVIS
✓		COHEN
	<b>ABSENT</b>	ADAMS
✓		MARTIN
✓		HOANG
✓		PENNINGTON
<b>ABSENT-OUT OF CITY</b>	<b>CITY BUSINESS</b>	GONZALEZ
	<b>ABSENT</b>	RODRIGUEZ
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		BURKS
✓		NORIEGA
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

**METES AND BOUNDS DESCRIPTION  
EXHIBIT "A"**

City of Houston  
Parcel #SY10-021  
10.520 Acres (458,270 Square Feet)  
John Austin Survey, Abstract 1  
Harris County, Texas  
Drawing No. 46328

**Property description** of 10.520 acres (458,270 square feet) of land out of and a part of the John Austin Survey, Abstract 1, Harris County, Texas, being comprised of the following tracts of land: **1)** the residue of a called 48.78 acre tract conveyed to the City of Houston by deed of record in Volume 372, Page 235, Harris County Deed Records (H.C.D.R.O, Harris County, Texas, dated November 20, 1916, **2)** the residue of a called 36,181 sq. ft. tract and all of a called 4,663 sq. ft. tract of land conveyed to the City of Houston, (Parcels 7135 and 7135E, City Drawing numbers 26014 & 8291) by deed of record under Harris County Clerks File No. (H.C. C. F #) B656927, Film Code No. (F.C. #) 085-17-0349, Official Public Records of Real Property (O. P. R. R. P.), Harris County, Texas, dated March 15, 1963, **3)** part of Lots 1, 2 and 3, of Block 4 of the Hardcastle Addition, a subdivision of record in Volume 15, Page 22, of the Harris County Map Records (H. C. M. R.) **4)** all of a called 2,375 sq. ft. tract, a 10,055 sq. ft. tract and Lots 1 and 2 of the aforesaid Hardcastle Addition conveyed to the City of Houston, (Parcels O80-5, O80-5A and O82-1, City Drawing #26014), by deed of record under H. C. C. F. # K919720, F. C. #070-61-0795, O. P. R. R. P., Harris County, Texas, dated January 12, 1987, **5)** all of a called 10,273 sq. ft. tract of land conveyed to the City of Houston, (Parcel #O80-3, City drawing #26014) by deed of record under H.C.C.F. # H287413, F.C. # 004-88-2116, O.P.R.R.P., Harris County, Texas, dated January 8, 1982, **6)** all of a called 3,845 sq. ft. tract of land conveyed to the City of Houston (Parcel #O80-4, City drawing #26014) by deed of record under H.C.C.F. #H148328, F.C. # 195-95-1403, O.P.R.R.P., Harris County, Texas, dated September 18, 1981, **7)** all of a called 3,991 sq. ft. out of the aforesaid Lot 3, Block 4, Hardcastle Addition conveyed to the City of Houston, (Parcel #O82-2, City drawing #26014) by deed of record under H.C.C.F. #H148328, F.C. # 195-95-1403, O.P.R.R.P., Harris County, Texas, dated September 15, 1983, **8)** all of a called 1,222 sq. ft. portion of aforesaid Lot 3A, Block 4, Hardcastle Addition conveyed to the City of Houston, (Parcel #O82-3, City drawing #26014) by deed of record under H.C.C.F. # J145056, F.C. # 059-83-0883, O.P.R.R.P., Harris County, Texas, dated September 15, 1983, **9)** all of Hopson Street, said street right-of-way being abandoned by City of Houston Ordinance #2009-1091, dated November 16, 2009, **10)** all of Bailey Street, said street right-of-way being abandoned by City of Houston Ordinance #2009-1091, dated September 21, 2010, **11)** all of that certain parcel of land sometimes known as San Felipe Parks, closed by City of Houston Ordinance #2010-728, dated September 21, 2012; said 10.520 acres (458,720 square feet) being more particularly described by metes and bounds as follows (Note: All bearings and coordinates are referenced to the Texas Coordinate System, South Central Zone, N.A.D. 83. All coordinates listed herein are true grid coordinates. All distances listed herein are surface distances and may be converted to grid distances by multiplying them by combined scale factor of 0.999890843);

**COMMENCING** at City of Houston Monument #5357-1111, located near the northerly right-of-way line of Allen Parkway (195 feet wide, City Drawing #6064) and its intersection with Gillette Street (60 feet wide, City of Houston Drawing #35332): said monument having coordinate values of X = 3,115,872.64, and Y = 13,842,120.01;

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**THENCE**, South  $13^{\circ}05'31''$  East, 151.83 feet to an "X" cut in concrete found marking the intersection of the southerly right-of-way line of Allen Parkway and the easterly right-of-way line of Gillette Street, said "X" being perpendicular to and 30.00 feet easterly from the Reference Centerline of Gillette Street (referenced in City Drawing #8094) and also being the **POINT OF BEGINNING** and the northwesterly corner of the herein described tract of land (said "X" having coordinate values of  $X = 3,115,907.03$ , and  $Y = 13,841,972.15$ );

**THENCE**, North  $87^{\circ}35'58''$  East, 387.79 feet, with the southerly right-of-way line of Allen Parkway to a point for the northeasterly corner of the herein described tract, from which a found 60D nail bears North  $02^{\circ}43'09''$  East, 0.59 feet, said point also being the northwesterly corner of the Allen Parkway Village, a called 38.84 acre tract, of record under H.C.C.F. #428006, O.P.R.R.P., Harris County, Texas, dated the 20<sup>th</sup> of October, 1999;

**THENCE**, South  $2^{\circ}19'25''$  East, with the easterly line of the herein described tract of land and with the westerly line of said Allen Parkway Village, passing at a distance of 524.88 feet the northeasterly corner of Parcel DY10-023 a proposed sanitary sewer easement and passing at 549.88 feet the southeasterly corner of the aforesaid sanitary sewer easement and continuing a total distance of 998.25 feet to a point for an interior corner of the herein described tract, from which a found 5/8 inch iron rod bears south  $2^{\circ}19'25''$  East, 0.31 feet;

**THENCE**, North  $87^{\circ}40'55''$  East, 150.00 feet, with the southerly line of Allen Parkway Village to a Mag Nail found marking the northwesterly corner of Timpson Street, (40 feet wide), per plat of the aforesaid Hardcastle Addition, and marking the most easterly northeast corner of the herein described tract;

**THENCE**, South  $02^{\circ}18'40''$  East, 82.75 feet, with the westerly right-of-way line of Timpson Street, to a Mag Nail found marking the beginning of a cut back corner of the westerly right-of-way line of Timpson Street, and being the eastern-most southeasterly corner of the herein described tract;

**THENCE** South  $42^{\circ}37'23''$  West, 14.14 feet to Mag Nail found marking the intersection of the southerly end of said cut back corner and the northerly right-of-way line of West Dallas Street (60 feet wide, per City drawing #8644), said Mag Nail being the southern-most southeasterly corner of the herein described tract;

**THENCE** South  $87^{\circ}37'23''$  West, 9.45 feet with the northerly right-of-way of West Dallas Street, to a Mag Nail found marking a point of curvature to the left;

**THENCE**, in a southwesterly direction with the northerly right-of-way line of West Dallas Street and with the arc of said curve to the left, said curve having a central angle of  $19^{\circ}47'53''$ , a radius of 648.88 feet, and an arc length of 224.21 feet subtended by a long chord which bears

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South  $77^{\circ}43'32''$  West, 223.10 feet, to an "X" cut in concrete found marking a point of reverse curve to the right;

**THENCE**, in a southwesterly direction with the northerly right-of-way line of West Dallas Street in said curve to the right, said curve having a central angle of  $18^{\circ}55'53''$ , a radius of 528.88 feet, an arc length of 174.75 feet subtended by a chord which bears South  $77^{\circ}17'32''$  West, 173.96 feet, to a 5/8-inch iron rod with cap found marking the point of tangency, said 5/8-inch iron rod with cap being perpendicular to and 30.00 feet north of the City Reference Line of West Dallas Street;

**THENCE**, South  $86^{\circ}45'28''$  West, with the northerly right-of-way line of West Dallas Street, being 30.00 feet north of and parallel to the City Reference Line of West Dallas Street, passing at a distance of 7.38 feet a found 1/2-inch iron rod, said 1/2-inch iron rod being 0.18 feet south of the northerly right-of-way line of West Dallas Street, said 5/8-inch iron rod with cap being the southern-most southwesterly corner of the herein described tract;

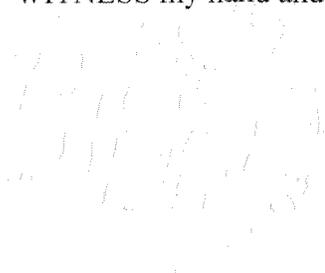
**THENCE** North  $47^{\circ}47'52''$  West, 21.05 feet to a 5/8-inch iron rod with cap found marking the intersection of the aforesaid cut back corner and the easterly right-of-way line of the aforesaid Gillette Street, said 5/8-inch iron rod with cap being 30.00 feet east of and perpendicular to the City Reference Centerline of Gillette Street and also being the western-most southwesterly corner of the herein described tract;

**THENCE** North  $02^{\circ}21'51''$  West, with the easterly right-of-way of Gillette Street, said easterly right-of-way being 30.00 feet east of and parallel to the City Reference Line, passing at a distance of 627.38 feet the southwesterly corner of the aforesaid proposed sanitary sewer easement, passing at 652.38 feet the northwesterly corner of the aforesaid proposed sanitary sewer easement and continuing for a total distance of 1147.79 feet to the **POINT OF BEGINNING** and containing 10.520 acres (458,270 square feet) of land.

Notes: This metes and bounds description was prepared in conjunction with a drawing of this property of same date, which same can be found in the City of Houston File Room, Drawing# 46328. Square footage totals shown herein are based on mathematical closures and do not necessary represent the positional accuracy of the existing boundary monumentation.

I, ANNA RUSSELL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy Ordinance No. 2013-500, passed and adopted, by the City Council of said City on the 29th day of May, 2013, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 6th day of June, 2013.



A handwritten signature in cursive script, which reads "Anna Russell", is written over the printed name.

Anna Russell  
City Secretary of the City of Houston