

City of Houston, Texas, Ordinance No. 2013-318

**A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING AN AGGREGATE OF 2.2587 ACRES COMMONLY KNOWN AS 1600 / 1714 / 1716 / 1720 MEMORIAL DRIVE AND 1708 STATE 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 October 9, 2012, **HOUSTON POLICE FEDERAL CREDIT UNION**, a federal financial institution ("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 1600 / 1714 / 1716 / 1720 Memorial Drive and 1708 State Street, Houston, Texas 77007; and

**WHEREAS**, on February 7, 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 March 21, 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 Applicants shall provide the director of 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 Applicants, TCEQ and EPA.

**Section 10.** That the Applicants 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 10th day of April, 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 APR 16 2013.



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

Prepared by Legal Depart.   
CP/lks 3/29/2013 Senior Assistant City Attorney  
Requested by Daniel W. Krueger, P.E., Director,  
Public Works and Engineering Department

L.D. File No. 063-1300 67-001  
G:\REAL ESTATE\CEIL PRICE\MSDs 2013\HOUSTON-POLICE-FC

AYE	NO	
✓		<b>MAYOR PARKER</b>
....	....	<b>COUNCIL MEMBERS</b>
	✓	BROWN
✓		DAVIS
✓		COHEN
✓		ADAMS
✓		MARTIN
✓		HOANG
✓		PENNINGTON
✓		GONZALEZ
✓		RODRIGUEZ
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		BURKS
✓		NORIEGA
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

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

**FIELD NOTES OF TRACT - 1**

**2.1435 ACRES  
LOCATED IN THE  
THE JOHN AUSTIN SURVEY, A-1  
HARRIS COUNTY, TEXAS**

Being a tract or parcel of land containing 2.1435 acre of land or 93,372 square feet, located in the John Austin Survey, Abstract 1, Harris County, Texas, Said 2.1435 acre tract being all of Reserve "A" of Houston Police Federal Credit Union, a subdivision duly of record in Film Code Number 647111 in the Map Records of Harris County, Texas (bearing based on the Texas State Plane Coordinate System South Central Zone):

**BEGINNING** at a 5/8 inch iron rod found for the northwest corner of the of aforesaid Reserve "A", being at the intersection of the east Right-of-Way (R.O.W.) line of Sabin Street (50 feet wide) and the south R.O.W. line of State Street (70 feet wide);

**THENCE**, coincident the south R.O.W. line of aforesaid State Street, North 87 Degrees 25 Minutes 18 Seconds East, a distance of 465.00 feet to an "x" found in concrete for the northeast corner of aforesaid Reserve "A", being at the intersection of the said south R.O.W. line and the west R.O.W. line of Trinity Street (50 feet wide);

**THENCE**, coincident the west R.O.W. line of aforesaid Trinity Street, South 02 Degrees 26 Minutes 42 Seconds East, a distance of 200.80 feet to an "x" found in concrete for the southeast corner of aforesaid Reserve "A", being at the intersection of said west R.O.W. line and the north R.O.W. line of North Memorial Way (70 feet wide);

**THENCE**, coincident the north R.O.W. line of aforesaid North Memorial Way, South 87 Degrees 25 Minutes 18 Seconds West, a distance of 465.00 feet to a 5/8 inch iron rod found for the southwest corner of aforesaid Reserve "A", being at the intersection of said north R.O.W. line and the east R.O.W. line of aforesaid Sabine Street;

**THENCE**, coincident the east R.O.W. line of aforesaid Sabin Street, North 02 Degrees 26 Minutes 42 Seconds West, a distance of 200.80 feet to the **POINT OF BEGINNING** and containing 2.1435 acres of land.

**FIELD NOTES OF TRACT – 2**

**0.1152 ACRES  
LOCATED IN THE  
THE JOHN AUSTIN SURVEY, A-1  
HARRIS COUNTY, TEXAS**

Being a tract or parcel of land containing 0.1152 acre of land or 5,020 square feet, located in the John Austin Survey, Abstract 1, Harris County, Texas, Said 0.1152 acre tract being all of Lot 4, Block 454 of the W.R. Baker Subdivision North Side Buffalo Bayou of record in Volume 22, Page 44 in the Deed Records of Harris County, Texas (bearings based on the Texas State Plane Coordinate Systems South Central Zone):

**BEGINNING** at a 3/8 inch iron rod found for the common south corner of aforesaid Lot 4 and Lot 3 of aforesaid subdivision, being on the north Right-of-Way (R.O.W.) line of State Street (70 feet wide);

**THENCE**, coincident the common line of aforesaid Lots 3 and 4, North 02 Degrees 26 Minutes 42 Seconds West, a distance of 100.40 feet to a 5/8 inch iron rod found for the common northerly corner of said Lots and the common southerly corner of lots 16 and 15;

**THENCE**, coincident the southerly line of aforesaid Lot 15, North 87 Degrees 52 Minutes 00 Seconds East, a distance of 50.00 feet to a 5/8 inch iron rod found for the common southerly corner of said Lot 15 and Lot 14, being the most southerly northwest corner of Reserve "A" of Sixteen Hundred State Street Addition, a subdivision duly of record in Film Code Number 491077 in the Map Records of Harris County, Texas;

**THENCE**, coincident the west line of aforesaid Reserve "A", South 02 Degrees 26 Minutes 42 Seconds East, a distance of 100.40 feet to a 1/2 inch iron rod found for the common south corner of aforesaid Lot 4 and said Reserve "A", being on the north R.O.W. line of aforesaid State Street;

**THENCE**, coincident the north R.O.W. line of aforesaid State Street, South 87 Degrees 52 Minutes 18 Seconds West, a distance of 50.00 feet to the POINT OF BEGINNING and containing 0.1152 acres of land.