

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 2.50 ACRES COMMONLY KNOWN AS 3001 ENGELKE STREET, HOUSTON, HARRIS COUNTY, TEXAS; AND SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; CONTAINING OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; 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, in November 2013, **Dixie Electro Plating Company** ("Applicant") applied to the Director of the Public Works and Engineering Department, requesting that the City Council support a municipal setting designation ordinance for property that is located generally at 3001 Engelke Street in Houston, Texas 77003; and

WHEREAS, on December 18, 2014, the Director of the Public Works and Engineering Department conducted a public meeting at the Flores Neighborhood Library, 110 North Milby Street, Houston, TX 77003 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, the Transportation, Technology, and Infrastructure City Council committee, designated by the Mayor, conducted a public hearing on February 10, 2015; 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 property as 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 25th day of March, 2015.

APPROVED this _____ day of _____, 2015.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is MAR 3 ↑ 2015.



City Secretary

(Prepared by Legal Department Philip M. Gal - GMD)
(PMG/ng/03/19/2015 Assistant City Attorney)
(Requested by Dale A. Rudick, P.E., Director, Public Works and Engineering Department)
(L.D. File No. 066-1400007-001)

AYE	NO	
✓		MAYOR PARKER
••••	••••	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
✓		NGUYEN
✓		PENNINGTON
✓		GONZALEZ
✓		GALLEGO
✓		LASTER
✓		GREEN
	ABSENT ON PERSONAL BUSINESS	COSTELLO
	ABSENT	ROBINSON
✓		KUBOSH
✓		BRADFORD
	ABSENT	CHRISTIE
CAPTION	ADOPTED	

EXHIBIT "A"

Survey of Designated Property

County: Harris
Project: Engelke St.
Job No. 135536
MBS No. 13-099

FIELD NOTES FOR 2.50 ACRES

Being a tract of land containing 2.50 acres located in the S.M. Williams Survey, Abstract No. 87, City of Houston, Harris County, Texas; Said 2.50 acres of land being comprised of those call 0.03 acre and 1.478 acre tracts of land recorded in the name of Dixie Electro Plating Company, Inc., in Volume 1116, Page 674, of the Harris County Deed Records (H.C.D.R.), and a call 0.9880 acre tract of land recorded in the name of Dixie Electro Plating Company, a Texas corporation, under Harris County Clerk's File Number (H.C.C.F. No.) S219389; and said 2.50 acres of land being more particularly described by metes and bounds as follows (grid bearings and coordinates are referenced to the Texas Plane Coordinate System, South Central Zone, NAD83, US Survey Feet):

BEGINNING at the intersection for the Northeast line of Engelke Street, a variable width right-of-way, and the Southeast line of North Ennis Street, a call 30 foot wide right-of-way as shown on map of Dukes Addition recorded in Volume 326, Page 91, H.C.D.R., for the West corner of said 1.478 acres, and said point having coordinate values N: 13840801.68, E: 3129674.26;

THENCE, with said Southeast line, North 32 degrees 53 minutes 18 seconds East, a distance of 230.00 feet to the East corner of said Dukes Addition, same being a point at the Southwest line of said 0.9880 acre tract;

THENCE, with said Southwest line, North 57 degrees 06 minutes 42 seconds West, passing the North corner of said Dukes Addition, and continuing for a total distance of 193.00 feet to the North corner of a tract of land recorded in the name of Anna Maria Perez under H.C.C.F. No. M909577;

THENCE, with the Northwest line of said Perez tract, South 32 degrees 53 minutes 18 seconds West, a distance of 16.68 feet to the Southwest line of Decker Place, a subdivision of record in Volume 208, Page 1, H.C.D.R.;

THENCE, with said Southwest line, North 57 degrees 47 minutes 50 seconds West, a distance of 44.98 feet to the West corner of Lot 6, Block 2, of said Decker Place;

THENCE, with the Northwest line of said Lot 6, North 32 degrees 15 minutes 17 seconds East, a distance of 114.00 feet to the Southwest line of Cary Street (formerly Bering Street);

THENCE, with said Southwest line, South 57 degrees 47 minutes 50 seconds East, a distance of 29.92 feet;

THENCE, with centerline of a gully, North 35 degrees 44 minutes 52 seconds East, a distance of 67.84 feet to the West corner of a call 3.0134 acre tract of land recorded in the name of Texas Coast Broadcasters, Inc., a Texas corporation, in Volume 4710, Page 608, H.C.D.R.;

THENCE, with the common line for said 3.0134 acres and said 0.9880 acre, the following three (3) courses:

1. South 54 degrees 29 minutes 50 seconds East, a distance of 196.45 feet;
2. South 21 degrees 14 minutes 44 seconds East, a distance of 154.85 feet;
3. South 32 degrees 49 minutes 52 seconds West, a distance of 10.20 feet to the Northeast line of the aforementioned 1.478 acres;

THENCE, with the Southwesterly line of said 3.0134 acres, South 57 degrees 06 minutes 42 seconds East, a distance of 120.70 feet to the Westerly terminus of Bering Street for the East corner of said 0.03 acre;

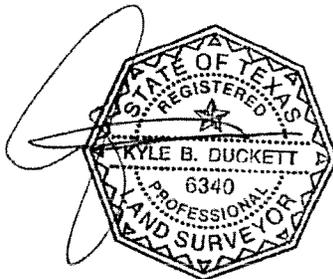
THENCE, with the Southeast line of said 0.03 acre, the following three (3) courses:

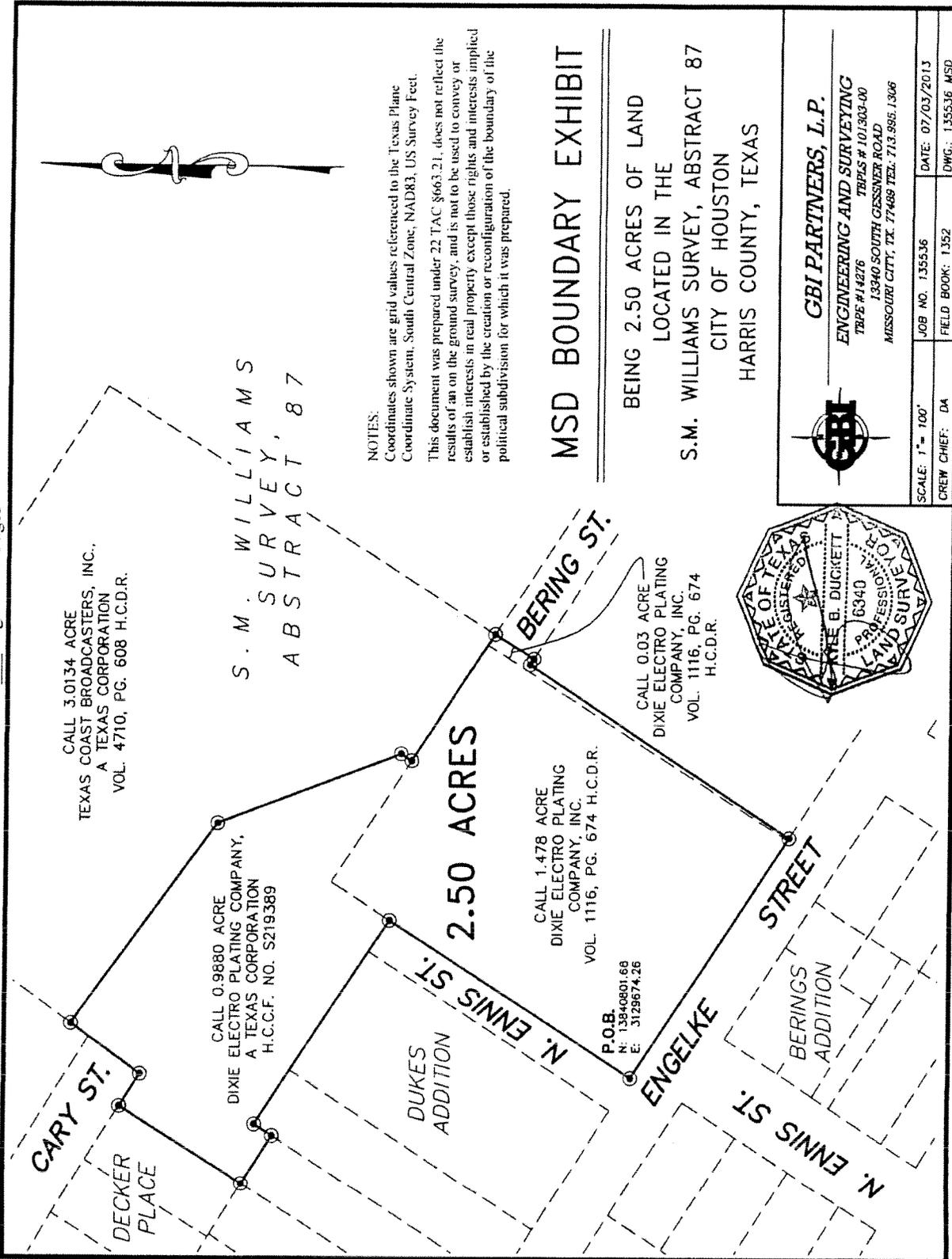
1. South 32 degrees 53 minutes 18 seconds West, a distance of 36.62 feet;
2. North 57 degrees 06 minutes 42 seconds West, a distance of 5.50 feet;
3. South 33 degrees 35 minutes 13 seconds West, a distance of 248.40 feet to an iron pipe in the aforementioned Northeast line of Engelke Street for the South corner of said 0.03 acre;

THENCE, with said Northeast line, North 57 degrees 06 minutes 42 seconds West, a distance of 227.98 feet to the **POINT OF BEGINNING** and containing 2.50 acres of land.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

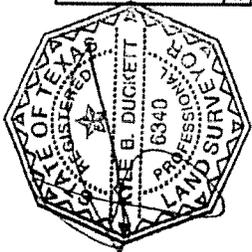
GBI Partners, L.P.
Ph: 713.995.1306
July 03, 2013





NOTES:
Coordinates shown are grid values referenced to the Texas Plane Coordinate System, South Central Zone, NAD83, US Survey Feet. This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

GBI PARTNERS, L.P.
ENGINEERING AND SURVEYING
TYPE #14276
13340 SOUTH GESSNER ROAD
MISSOURI CITY, TX. 77468 TEL: 713.986.1306



SCALE: 1" = 100'	JOB NO. 135536	DATE: 07/03/2013
CREW CHIEF: DA	FIELD BOOK: 1352	DWG.: 135536 MSD

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 of Ordinance No. 2015-225, passed and adopted by the City Council of said City on the 25th day of March, 2015, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 8th day of April, 2015.

A handwritten signature in black ink, appearing to read "Anna Russell", written in a cursive style.

City Secretary of the City of Houston
Anna Russell

A faint, circular seal or stamp, likely the official seal of the City of Houston, located in the lower right quadrant of the page. The text within the seal is illegible due to fading.