

City of Houston, Texas, Ordinance No. 2015- 94

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 2.2869 ACRES COMMONLY KNOWN AS 4310 DIRECTORS ROW, 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 February 2014, **Tideland Signal 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 property that is located generally at 4310 Directors Row in Houston, Texas 77055; and

WHEREAS, on October 30, 2014, the Director of the Public Works and Engineering Department conducted a public meeting at the Freed Community Center, 6818 Shadyvilla Lane, Houston, TX 77055 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 December 10, 2014; 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 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.

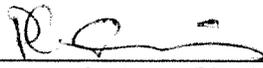
PASSED AND ADOPTED this 4th day of February, 2015.
 APPROVED this _____ day of _____, 2015.

 Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is FEB 10 2015.



 City Secretary

(Prepared by Legal Department )
 (PMG/pmg/01/07/2015 Assistant City Attorney)
 (Requested by Dale A. Rudick, P.E., Director, Public Works and
 (L.D. File No. 066-1400007-001)
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AYE	NO	
✓		MAYOR PARKER
....	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
✓		NGUYEN
✓		PENNINGTON
✓		GONZALEZ
✓		GALLEGOS
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		ROBINSON
✓		KUBOSH
✓		BRADFORD
✓		CHRISTIE

CAPTION PUBLISHED IN DAILY COURT
 REVIEW
 DATE: FEB 10 2015

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION

EXHIBIT A TO DEED OF TRUST

Exhibit A to DEED OF TRUST executed as of June 27, 2012, by Tideland Signal Corporation as "Grantor" to PRLAP, Inc., as "Trustee" for the benefit of Bank of America, N.A., a national banking association, as "Beneficiary."

Description of Property

4310 Directors Row, Houston, TX 77092

Being a tract or parcel containing 39,307 square feet out of Block 3, Section One, Brookhollow/Houston as recorded in Volume 144, Page 79, Harris County Map Records, Harris County, Texas and 60,312 square feet out of Block 3, Section Two, Brookhollow/Houston as recorded in Volume 149, Page 33, of said map records, for a total of 99,619 square feet of land. Said tract also being all of that certain tract of land described in the deed recorded in Volume 7567, Page 151 of the Harris County Deed Records, and being more particularly described by metes and bounds as follows with all bearings reference to the Texas Coordinate System, South Central Zone;

Commencing at an iron rod in the south line of Dacoma Street (80 feet wide) and in the east line of Governors Circle (60 feet wide) marking the northwest corner of Block 3, Tract 1, Section 1, of said Brookhollow/Houston;

Thence, South 12 degrees 41 minutes 03 seconds East, along the east line of said Governors Circle, 250.00 feet;

Thence, North 77 degrees 18 minutes 57 seconds East, a distance of 319.00 feet to a 1/2 inch iron rod found marking the northwest corner and point of beginning of the tract herein described;

Thence, continuing, North 77 degrees 18 minutes 57 seconds East, a distance of 192.21 feet to a 5/8 inch iron rod set marking the beginning of a tangent curve to the right;

Thence, 220.37 feet in a northeasterly direction along the arc of said curve (delta angle 09 degrees 12 minutes 58 seconds, radius 1370.00 feet, chord North 81 degrees 55 minutes 26 seconds East, 220.13 feet to a 5/8 inch iron rod set in said curve, marking the northeast corner of the tract herein described;

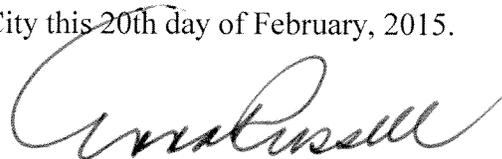
Thence, departing said curve, South 05 degrees 54 minutes 52 seconds East, at 100.10 feet pass the south line of Section One, Brookhollow/Houston and north line of Section Two, Brookhollow/Houston, for a total distance of 251.23 feet to an "X" set in the north right-of-way line of Directors Row (60 feet wide) for southeast corner, said "X" also being a point on a non-tangent curve to the left;

Thence, 304.19 feet in the southwesterly direction along the arc of said curve and the north line of said Directors Row (delta angle 36 degrees 18 minutes 37 seconds, radius 480.00 feet, chord South 65 degrees 55 minutes 47 seconds West, 299.13 feet to a 1/2 inch iron rod found in said curve for the southwest corner of the tract herein described;

Thence, North 27 degrees 54 minutes 26 seconds West at 234.44 feet pass the north line of Section Two, Brookhollow/Houston and south line of Section One, Brookhollow/Houston for a total distance of 338.08 feet to the point of beginning, containing 2.2869 acres (99,619 square feet) of land, more or less

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. 2015-94, passed and adopted by the City Council of said City on 4th day of February, 2015, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 20th day of February, 2015.



Anna Russell
City Secretary of the City of Houston

