

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 2.57 ACRES COMMONLY KNOWN AS 2538A/2530 BRIAR RIDGE, 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 January 26, 2015, **Isabella Enterprises Liquidating Trust** ("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 2538A/2530 Briar Ridge in Houston, Texas 77057; and

**WHEREAS**, on November 24, 2015, the Director of the Public Works and Engineering Department conducted a public meeting at the Looscan Neighborhood Library, 2510 Willowick, Houston, TX 77027 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 14, 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.

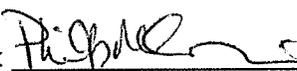
PASSED AND ADOPTED this 13<sup>th</sup> day of January, 2016.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JAN 19 2016.

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

(Prepared by Legal Department ) MFB for GWD  
(PMG/ng/12/28/2015 Assistant City Attorney )  
(Requested by Dale A. Rudick, P.E., Director, Public Works and Engineering Department)  
(L.D. File No. 066-1400007-001)

CAPTION PUBLISHED IN DAILY COURT  
REVIEW  
DATE: JAN 19 2016

AYE	NO	
✓		<b>MAYOR TURNER</b>
....	....	<b>COUNCIL MEMBERS</b>
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
✓		LE
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		LASTER
✓		GREEN
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		EDWARDS
✓		CHRISTIE
CAPTION	ADOPTED	

# EXHIBIT "A"

## Surveys of Designated Property

501-62-3089

PRECISION LAND SURVEYING, INC.  
8996 IMOGENE STREET  
HOUSTON, TEXAS 77036  
(713) 271-4659

METES AND BOUNDS DESCRIPTION  
OF A TRACT OF LAND IN THE  
ROBERT VINCE SURVEY, ABSTRACT NO. 77,  
HARRIS COUNTY, TEXAS

Being a tract of land in the Robert Vince Survey, Abstract No. 77, Harris County, Texas, and being all of that tract of land sold by Mohammad Athari, et al, as described in deed recorded under Harris County Clerk's File No. L138008, and being all of Lots 2 and 3 and a portion of Lot 4 of Block 1 of the replat of Meadowcrest Addition as recorded in Volume 86, Page 50 of the Harris County Map Records and being more particularly described by metes and bounds as follows with all bearings based on said deed:

BEGINNING at a 3/4 inch iron rod found marking the northeast corner of Lot 1 of said Block 1 and a tract of land sold to Briargrove Shopping Center Joint Venture, as described in deed recorded under Harris County Clerk's File No. J640492, the southeast corner of said Lot 2 and the herein described tract and a point in the west right-of-way line of Briar Ridge Drive, 60.00 feet wide as per said replat; said point bears N 00° 07' 00" W, 280.00 feet from the intersection of the west right-of-way line of said Briar Ridge Drive with the north right-of-way line of Westheimer Road, 120.00 feet wide;

THENCE along the north line of said Lot 1 and said Briargrove Shopping Center Joint Venture tract and the south line of said Lot 2, S 89° 51' 00" W, 225.11 feet to the northwest corner of said Lot 1 and said Briargrove Shopping Center Joint Venture tract, the southwest corner of the herein described tract and a point in the east line of Briargrove, Section 1, as per plat recorded in Volume 42, Page 74 of the Harris County Deed Records, :

THENCE along the east line of said Briargrove Section 1, N 00° 17' 00" W, 255.00 feet to the southwest corner of a tract of land sold to Raymond E. DeBakey as described in deed recorded under Harris County Clerk's File No. C511077 and the northwest corner of the herein described tract; a found 1/2 inch iron rod bears S 11° 40' E, 0.4 feet;

THENCE along the south line of said DeBakey tract, N 89° 50' 53" E, 223.33 feet to a 1/2 inch iron rod found marking the southeast corner of said DeBakey tract, the northeast corner of the herein described tract and a point in the west right-of-way line of said Briar Ridge Drive;

EXHIBIT "A"

93-027 1.3126 Ac.

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501-62-3090

THENCE along the west right-of-way line of said Briar Ridge Drive, S 00° 07' 00" E, 255.00 feet to POINT OF BEGINNING and containing 1.3126 acres or 57,175 square feet of land.

Ricardo A. Vazquez  
Ricardo A. Vazquez  
R.P.L.S. No. 4902

Oct 19, 1994  
Date



ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW  
THE STATE OF TEXAS }  
COUNTY OF HARRIS }  
I hereby certify that this instrument was FILED in File Number \_\_\_\_\_  
Sequence on the date and at the time stamped hereon by me; and was  
duly RECORDED in the Official Public Records of Real Property of  
Harris County, Texas on

NOV 2 1994



Beaully B. Layman  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

RECORDER'S MEMORANDUM:  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

FILED  
94 NOV -2 PM 1:17  
Beaully B. Layman  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

EXHIBIT "A"

503-32-1887

FIELD NOTES  
The Westbriar Apartments  
2530 Briar Ridge Drive

54,435 Square feet of land out of Block 1, of the Replat of Meadowrest Addition in the City of Houston, Harris County, Texas, according to the replat of said addition recorded in Volume 86, Page 50, Harris County Map Records, and being all of Lots 5 and 6 and the north 45 feet of Lot 4 of said Block 1, and being the same land described in Deed dated June 2, 1967, from E. L. Crumpacker, Sr. and Jr., to Raymond E. DeBakey recorded in Volume 6787, Page 492, Harris County Deed Records, said 54,435 square feet of land being more particularly described as follows:

BEGINNING at 5/8" iron rod found for corner on the east line of Lot 4 and the west right-of-way line of Briar Ridge Drive, 60 feet wide, at the northeast corner of that certain 1.3126 acre tract in Lots 2, 3 and 4, described in Deed dated October 28, 1991, from Briar Ridge Center, L. P., to TWO MAD Investments Inc. recorded under Harris County Clerk's File No. R130124, from which a 5/8" iron rod found at the southeast corner of said 1.3126 acre tract and the southeast corner of Lot 2, bears South 0° 07' East 254.85 feet, and from which the intersection of said west right-of-way line with the north right-of-way line of Westheimer Road, 120 feet wide, bears South 0° 07' East 535.00 feet;

THENCE South 89° 53' West with the north line of said 1.3126 acre tract and along a line parallel with and located 45 feet south of the north line of Lot 4, in part generally along the south side of the brick wall of a carport, 223.04 feet to a 1" iron pipe set for corner at the northwest corner of said 1.3126 acre tract on the west line of Lot 4 and the east line of Block 3 of Briargrove Subdivision Section 1, and located on the southeast side of the corner post of a wood fence, from which a found 5/8" iron rod bears South 0.25 foot and West 0.25 foot;

EXHIBIT "A"

503-32-1888

Page 2  
Field Notes  
54,435 Square Feet  
The Westbriar Apartments

THENCE North 0° 17' East with the east line of said Block 3 and with the west line of said Lots 4, 5 and 6, in part along the east side of said wood fence, in part generally along said fence, and in part along its west side, at 45 feet pass the common west corner of Lots 4 and 5, at 145 feet pass the common west corner of Lots 5 and 6, and continue a total distance of 245.01 feet to a 5/8" iron rod found for corner at the northwest corner of Lot 6 and the southwest corner of Lot 7, and at the southwest corner of that certain 0.571 acre tract in Lots 7 and 8 described in Deed dated January 31, 1991, from First Bank to The Lisenby Co. recorded under Harris County Clerk's File No. N000504, and located on the northwest side of a corner post of said wood fence;

THENCE North 89° 53' East with the common line between Lots 6 and 7 and with the south line of said 0.571 acre tract, and in part generally along the north side of the brick wall of a carport, 221.33 feet to a point for corner at the common east corner of Lots 6 and 7, at the southeast corner of said 0.571 acre tract on the west right-of-way line of Briar Ridge Drive, said point being located on the north edge of a concrete curb and 0.25 foot south of the southeast corner of a brick column;

THENCE South 0° 07' East with the east line of Lots 6, 5 and 4, and said west right-of-way line, at 100.00 feet pass the common east corner of Lots 6 and 5, at 200.00 feet pass the common east corner of Lots 5 and 4, and continue a total distance of 245.00 feet to the PLACE OF BEGINNING.

FILED  
95 APR -3 PM 12:03  
*Beverly B. Hoffman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS,  
COUNTY OF HARRIS,  
I hereby certify that this instrument was FILED in File Number \_\_\_\_\_ Sequence on the date and at the time stamped hereon by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

APR 3 1995



*Beverly B. Hoffman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

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 2016-20 passed and adopted by the City Council of said City on the 13th day of January, 2016, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 4th day of February, 2016.



A handwritten signature in blue ink, which appears to read "Anna Russell". The signature is written in a cursive style and is positioned above a horizontal line.

Anna Russell  
City Secretary of the City of Houston