

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 7.864 ACRES COMMONLY KNOWN AS 1500 WEST LOOP NORTH (9000 HEMPSTEAD ROAD), HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF ZEBRA TECHNOLOGIES CORPORATION; 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(c) 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 April 6, 2018, **Zebra Technologies Corporation** ("Applicant") applied to the Director of Houston Public Works, requesting that the City Council support a municipal setting designation ordinance for property that is located generally

at 1500 North Loop (9000 Hempstead Road) (7.864 acres), Houston, Harris County, Texas 77008; and

WHEREAS, on November 14, 2018, the Director of Houston Public Works conducted a public meeting at the Trini Mendenhall Community Center, 1414 Wirt Road, 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 City Council Committee on Transportation, Technology and Infrastructure, designated by the Mayor, conducted a public hearing on November 26, 2018; 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 concentrations of contaminants of concern exceed 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 Houston Public Works 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 City Council Committee on Transportation, Technology and Infrastructure 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:

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 Houston Public Works 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 Houston Public Works shall send a certified copy of this ordinance to the Applicant, the TCEQ, and the EPA.

Section 10. That the Applicant shall provide the Director of Houston Public Works 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 Houston Public Works 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 23rd day of January, 2019.

APPROVED this _____ day of _____, 2019.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JAN 29 2019.

Patricia Daniel
City Secretary **Assistant**

(Prepared by Legal Department *Wynne F. Collier*)
(WC/gd 12/26/2019 Senior Assistant City Attorney)
(Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)
(L.D. File No. 0631800352001)

AYE	NO	
✓		MAYOR TURNER
••••	••••	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
ABSENT		BOYKINS
✓		MARTIN
✓		LE
✓		TRAVIS
✓		CISNEROS
ABSENT-CITY BUSINESS		GALLEGOS
✓		LASTER
✓		CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		EDWARDS
✓		CHRISTIE
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT
REVIEW DATE: **JAN 29 2019**

EXHIBIT "A"

Survey of Designated Property
(3 pages)

SKA Consulting, L.P.
7.864 Acres
Municipal Setting Designation Application

John Reinerman Survey
Abstract No. 642

STATE OF TEXAS §

COUNTY OF HARRIS §

METES AND BOUNDS DESCRIPTION of a 7.864-acre tract of land in the John Reinerman Survey, Abstract No. 642 in Harris County, Texas. Said 7.864-acre tract is in Block 1 of Wynnwood Park Subdivision as recorded in Volume 129, Page 69 in the Harris County Map Records and is further described as being is all of "Tract 1" described in a deed to Southwest Business Properties, Inc. as recorded in Clerk's File No. D429207 in the Harris County Clerk's Office and is a portion of the right-of-ways of Wynnwood Lane, Fawnhope Drive and Wynnwood Drive of said Subdivision. Said 7.864-acre tract is more particularly described by metes and bounds as follows:

BEGINNING at an "X" cut in concrete at the point of intersection of the northerly right-of-way line of Hempstead Road, (based on a width of 100-feet) with the easterly right-of-way line of West 610 Loop North (width varies), said point is the most westerly southwest corner of said Tract 1, said point having a Texas State Plane coordinate of N 13,863,476.71, E 3,094,242.03;

THENCE, North 10°50'46" East, along the easterly line of said West 610 Loop North, same being the westerly line of said Tract 1 for a distance of 173.17 feet to a 5/8-inch iron rod found for the northwest corner of said Tract 1, same being the southwesterly corner of a 40-foot wide Houston Lighting and Power Company Fee Strip as recorded in Volume 890, Page 133 in the Harris County Deed Records;

THENCE, North 87°53'46" East, along the north line of said Tract 1, same being the south line of said Houston Lighting and Power Company Fee Strip, for a distance of 727.57 feet to a 5/8-inch iron rod found for the northeast corner of said Tract 1, said point is the northwest corner of a 2.0661-acre tract called "Tract 2" in a deed described to CH Realty VIII Texas Industrial Portfolio, L.P. as recorded in Clerk's File No. 20150185289 in the Harris County Clerk's Office;

THENCE, South 02°06'14" East, along the east line of said Tract 1, same being the west line of said Tract 2 and is the projected east right-of-way line of the aforementioned Fawnhope Drive (based on a width of 60-feet), at a distance of 180.00 feet pass the north right-of-way line of Wynnpark Drive (based on a width of 60-feet) and continue along the said projected right-of-way line for a total distance of 560.00 feet to a 5/8-inch iron rod set in the south right-of-way line of the aforementioned Wynnwood Lane (based on a width of 60-feet), said point is in the north line of a 1.204-acre tract described in a deed to Williams Development and Construction, Inc. as recorded in Clerk's File No. R103116 in the Harris County Clerk's Office;

THENCE, South 87°53'46" West, along the south line of said Wynnwood Lane, same being the north line of said 1.204-acre tract, for a distance of 70.02 feet to a 5/8-inch iron rod found for the point of curvature of a curve to the left;

THENCE, continuing along the south line of said Wynnwood Lane, same being the north line of said 1.204-acre tract, and with said curve to the left having a radius of 180.69 feet, a central angle of $49^{\circ}38'58''$, (chord bears South $63^{\circ}04'09''$ West, 151.72 feet) for an arc length of 156.58 feet to a 5/8-inch iron rod set for the point of tangency;

THENCE, South $38^{\circ}14'46''$ West, continuing along the south line of said Wynnwood Lane, same being the north line of said 1.204-acre tract, for a distance of 5.00 feet to a 5/8-inch iron rod set for the southerly cut-back corner at the intersection of said Wynnwood Lane and aforementioned Hempstead Road;

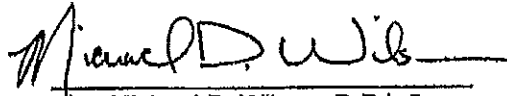
THENCE, South $06^{\circ}45'14''$ East, along said cut-back corner for a distance of 14.13 feet to a 5/8-inch iron rod set in the northerly line of said Hempstead Road;

THENCE, North $51^{\circ}45'14''$ West, along the northerly line of said Hempstead Road, at a distance of 80.00 feet pass the northerly cut-back corner of said intersection of Wynnwood Lane and Hempstead Road and continue for a total distance of 730.30 feet to the POINT OF BEGINNING, containing a computed area of 7.864-acres (342,541 square feet).

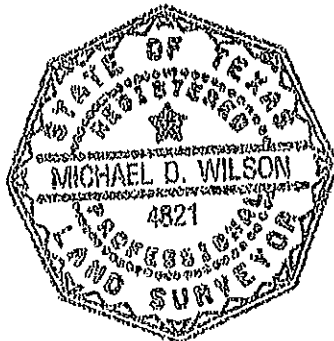
NOTE:

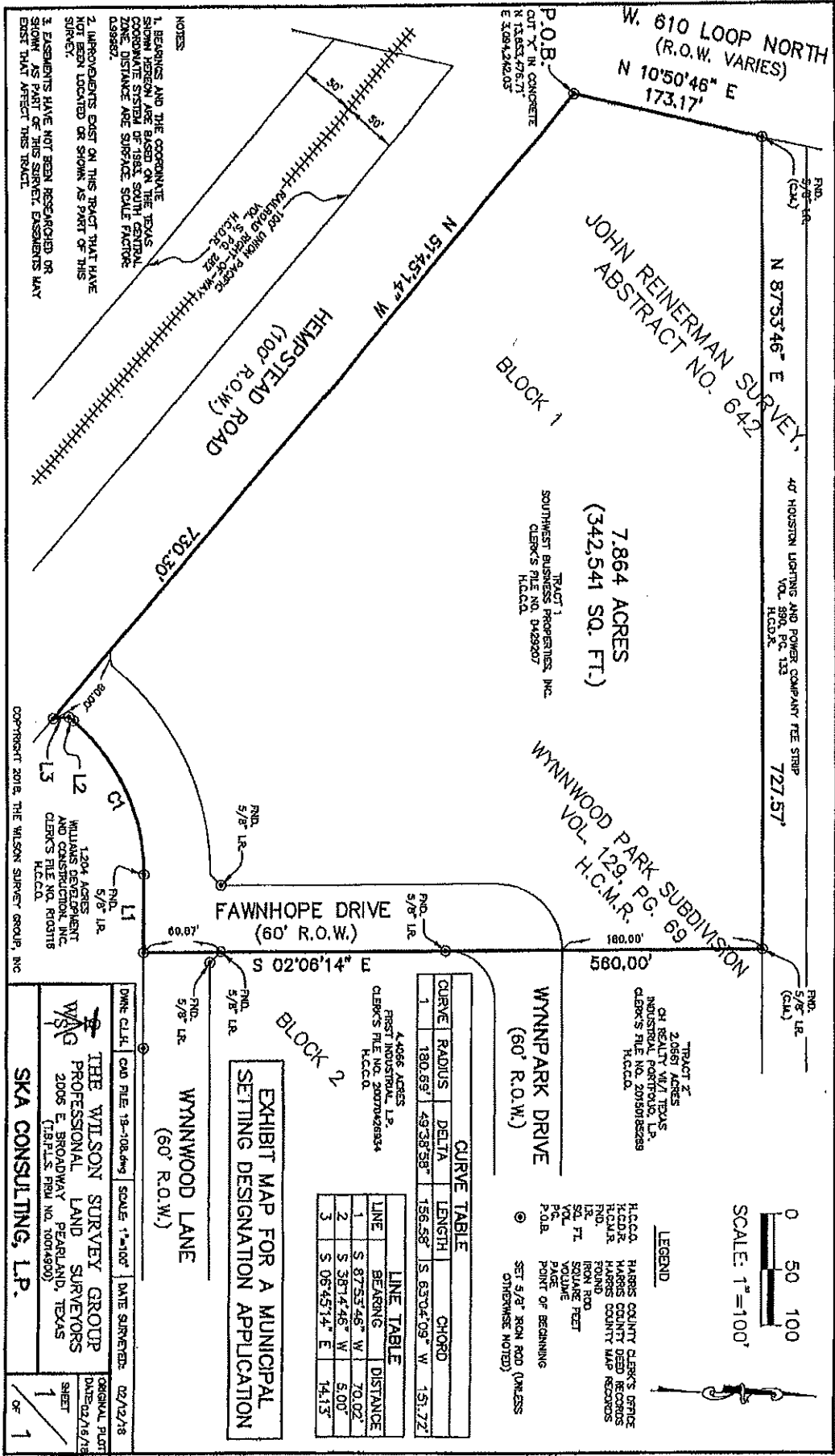
1. The bearings and coordinate shown hereon are based on the Texas Coordinate System of 1983, South Central Zone. Distances are surface. Scale factor: 0.99987.
2. A separate Exhibit Map has been prepared in conjunction with this metes and bounds description.
3. All set rods have a survey cap stamped "Wilson Survey Group".

The Wilson Survey Group, Inc.
2006 East Broadway, Suite 103
Pearland, Texas 77581
281-485-3991
T.B.P.L.S. Firm No. 10014900
Job No. 18-108


Michael D. Wilson, R.P.L.S.
Registration No 4821

02/16/18





NOTES

1. BEARINGS AND THE COORDINATE SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983 SOUTH CENTRAL ZONE. DISTANCE ARE SURFACE SCALE FACTOR CORRECTED.
2. IMPROVEMENTS EXIST ON THIS TRACT THAT HAVE NOT BEEN LOCATED OR SHOWN AS PART OF THIS SURVEY.
3. EASEMENTS HAVE NOT BEEN RESEARCHED OR SHOWN AS PART OF THIS SURVEY. EASEMENTS MAY EXIST THAT AFFECT THIS TRACT.

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P.O.B.
 CUT "X" IN CONCRETE
 N 13.6531476171
 E 3.0842426205

JOHN REINERMAN SURVEY
 ABSTRACT NO. 642

7.864 ACRES
 (342,541 SQ. FT.)

TRACT 1
 SOUTHWEST BUSINESS PROPERTIES, INC.
 CLERK'S FILE NO. 0482907
 H.C.C.O.

WYNNWOOD PARK SUBDIVISION
 VOL. 129, P.G. 69
 H.C.M.R.

TRACT 2
 2.0567 ACRES
 CH REALTY W/7 TEXAS
 INDUSTRIAL PORTFOLIO, L.P.
 CLERK'S FILE NO. 20180185289
 H.C.C.O.

WYNNPARK DRIVE
 (60' R.O.W.)

FAWNHOPE DRIVE
 (60' R.O.W.)

WYNNWOOD LANE
 (60' R.O.W.)

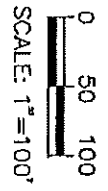
EXHIBIT MAP FOR A MUNICIPAL SETTING DESIGNATION APPLICATION

CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHORD
1	180.58'	49°38'58"	156.58'	S. 63°04'09" W. 151.72'

LINE TABLE

LINE	BEARING	DISTANCE
1	S. 87°53'46" W.	70.02'
2	S. 38°14'46" W.	5.00'
3	S. 08°45'14" E.	14.13'



LEGEND

- H.C.C.O. HARRIS COUNTY CLERK'S OFFICE
- H.C.O.R. HARRIS COUNTY DEED RECORDS
- H.C.M.R. HARRIS COUNTY MAP RECORDS
- H.C.D.R. HARRIS COUNTY DEED RECORDS
- H.C.P.L. HARRIS COUNTY PLAT RECORDS
- H.C.F.L. HARRIS COUNTY FLOOD RECORDS
- H.C.V.F. HARRIS COUNTY VOLUME RECORDS
- H.C.P.G. HARRIS COUNTY PAGE RECORDS
- H.C.P.O.B. HARRIS COUNTY POINT OF BEGINNING RECORDS
- SET 5/8" R.O.W. (UNLESS OTHERWISE NOTED)

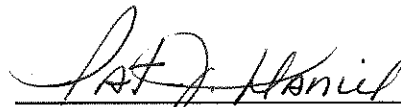
THE WILSON SURVEY GROUP
 PROFESSIONAL LAND SURVEYORS
 2005 E. BROADWAY PEARLAND, TEXAS
 (409) 861-1900

SKA CONSULTING, L.P.

DRAWN BY: [Signature]
 DATE: 02/12/18
 SCALE: 1"=100'
 SHEET 1 OF 1

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 2019-39 with attachments, passed and adopted by the City Council of said City on the 23rd day of January, 2019, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 1st day of February, 2019.

A handwritten signature in cursive script, appearing to read "Pat J. Daniel", written over a horizontal line.

Pat J. Daniel
Assistant City Secretary