

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 14.357 ACRES COMMONLY KNOWN AS 815 DORSETT STREET, HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF HMR GROUP PROPERTY HOLDINGS, LLC; 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 March 26, 2018, **HMR Group Holdings, LLC** ("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 815 Dorsett Street (14.357 acres), Houston, Harris County, Texas 77029; and

WHEREAS, on November 8, 2018, the Director of Houston Public Works conducted a public meeting at the Houston Permitting Center, 1002 Washington Avenue, Houston, TX 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, 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.

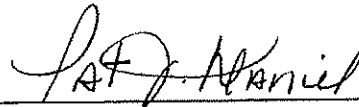
Section 13. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on that date and shall take effect immediately upon its passage and approval by the 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.



City Secretary

Assistant

(Prepared by Legal Department
(WC/gd 12/26/2019


Senior Assistant City Attorney

(Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)
(L.D. File No. 063-1800351-001)

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

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

EXHIBIT "A"

Survey of Designated Property
(4 pages)

City of Houston
14.357 Acres of Land Out of and
A Part of the John Brown Survey,
Abstract Number 8, Harris County, Texas
Parcel No. SY14-128

PROPERTY DESCRIPTION of 14.357 acres (approximately 625,371 square feet) of land out of and a part of the John Brown Survey, Abstract # 8, Harris County, Texas, also being out of and a part of a called 36.517 acre tract of land conveyed from the Estate of C. J. McCarty to Oilfield Salvage Co. by deed dated February 10, 1945, of record in Volume 1367, Page 75, Harris County Deed Records (H. C. D. R.), Harris County, Texas and also being the residue of a called 16.6450 acre parcel of land conveyed from Cactus Pipe & Supply Co., Inc. to the City of Houston by deed dated May 9, 1986, of record under Harris County Clerk's File Number (H. C. C. F. #) K583173, Film Code Number (F. C. #) 049-68-2182, Official Public Records of Real Property (O. P. R. R. P.), Harris County, Texas. Said parcel being more particularly described by metes and bounds as follows:

COMMENCING at a 1/4-inch iron pipe found marking the northwesterly corner of said called 36.517 acre parcel of land, said 1/4-inch iron pipe also being the northwesterly corner of said called 16.6450 acre tract and is at the intersection of the easterly right-of-way line of Dorsett (formerly Industrial) Street (60-foot wide) conveyed from J. M. McCarty to Harris County by deed dated June 1, 1908, of record in Volume 218, Page 392, H. C. D. R., Harris County, Texas and the southerly right-of-way line of Lyons Street (80 feet wide). Said 1/4-inch iron pipe also being the northwesterly corner of a called 1.7051 acre parcel of land conveyed from the City of Houston to Top Properties, Inc., by deed dated June 22, 1995, of record under H. C. C. F. # RS36175, F. C # 505-10-0510, O. P. R. R. P., Harris County, Texas. Said 1/4-inch iron pipe having grid coordinates of N = 13,848,645.30 and E = 3,146,054.13;

THENCE South 02° 54' 59" East with the easterly right-of-way line of said Dorsett Street, a distance of 328.43 feet to a point for the northwesterly corner of a called 1.082 acre easement conveyed by deed dated September 28, 1949, from Oilfield Salvage Co., Inc. to Houston Lighting and Power Company, of record in Volume 2032, Page 329, H. C. D. R., Harris County, Texas, the southwesterly corner of said called 1.7051 acre parcel, the northwesterly corner of the herein described parcel and the **POINT OF BEGINNING**, said point having grid coordinates of N = 13,848,317.33 and E = 3,146,070.83.

THENCE North 87° 03' 33" East with the southerly boundary line of said called 1.7051 acre tract, passing at a distance of 0.33 feet a 1-inch iron pipe found on line and passing at a distance of 226.56 feet (called 226.77 feet) a 3/4-inch iron pipe found marking the southeasterly corner of said 1.7501 acre parcel and also marking the southwesterly corner of a called 74,368 square foot parcel of land conveyed by deed dated February 26, 1982 from Geo International Corporation to Cactus Pipe and Supply Co., of record under H. C. C. F. # H948556, O. P. R. R. P., Harris County, Texas and continuing for a total distance of 465.03 feet to a 5/8 inch iron rod found marking the southeasterly corner of said called 74,368 square foot parcel, a northeasterly corner of said called 16.6450 acre parcel and a northeasterly corner of the herein described parcel, said 5/8-inch iron rod also being on the westerly boundary line of a called 5 acre tract conveyed by deed dated June 28, 1948, from Oilfield Salvage Company to G. W. Hunt and recorded in Volume 1791, Page 319, H. C. D. R., Harris County, Texas;

PARCEL NO.	514-128
JOB NO.	
DWG NO.	52356

City of Houston
14.357 Acres of Land Out of and
A Part of the John Brown Survey,
Abstract Number 8, Harris County, Texas
Parcel No. SY14-128

THENCE South 2° 50' 30" East with the westerly boundary line of the said called 5 acre parcel, passing the southwesterly corner of same at a distance of 71.16 feet, said southwesterly corner also being the northwesterly corner of a called 0.364 acre parcel of land conveyed by deed dated September 28, 1949 from Oil Field Salvage Company to Houston Lighting and Power Company, of record in Volume 2032, Page 329 of the H. C. D. R., Harris County, Texas and continuing for a total distance of 100.02 feet to a 5/8-inch iron rod found marking the southwesterly corner of said called 0.364 acre parcel, said 5/8-inch iron rod also being an interior northeasterly corner of said called 16.6450 acre parcel and the herein described parcel;

THENCE North 86° 56' 32" East with the southerly boundary line of said called 0.364 acre tract and the herein described parcel a distance of 87.87 feet to a 5/8-inch iron rod found marking a northeasterly corner of said called 16.645 acre parcel and a northeasterly corner of the herein described parcel;

THENCE South 2° 50' 34" East with the easterly boundary line of said called 16.6450 acre parcel, passing the northwesterly corner of a parcel of land conveyed by deed dated September 25, 1946, from Oilfield Salvage Co. to M. A. Rufis, of record in Volume 1506, Page 006, H. C. D. R., Harris County, Texas, from which a 5/8-inch iron rod bears South 87° 09' 26" West, 0.36 feet and continuing for a total distance of 1,134.58 feet to a 5/8-inch iron rod with cap set marking the southeasterly corner of the herein described parcel, from which a 1/2-inch galvanized iron pipe bears South 2° 50' 34" East, 10.12 feet, said iron rod w/cap being at a perpendicular distance of 10.00 feet from the existing northeasterly right-of-way line of Market Street (60.00 feet width);

THENCE North 84° 06' 32" West parallel to and 10.00 feet from the existing northeasterly right-of-way line of Market Street for a distance of 403.24 feet to a 5/8-inch iron rod with cap set marking the southernmost southwesterly corner of the herein described parcel;

THENCE North 4° 28' 40" East, parallel to and one (1) foot easterly of an existing chain link fence a distance of 158.56 feet to a 5/8-inch iron rod with cap set marking an interior corner of the herein described parcel;

THENCE South 86° 49' 05" West, parallel to and one (1) foot northerly of an existing chain link fence passing a found two (2)-inch iron pipe on line at a distance of 172.65 feet and continuing for a total distance of 173.23 feet to a 5/8-inch iron rod with cap set on the easterly right-of-way line of the aforementioned Dorsett Street and marking the westernmost southwesterly corner of the herein describe parcel;

THENCE North 2° 54' 59" West with the easterly right-of-way line of said Dorsett Street a distance of 1,015.98 feet to the POINT OF BEGINNING, containing 14.357 acres (approximately 625,371 square feet) of land.

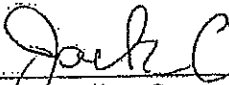
NOTES:

Page 2 of 3

PARCEL NO.	5719-128
JOB NO.	
DWG NO.	53256


City of Houston
14.357 Acres of Land Out of and
A Part of the John Brown Survey,
Abstract Number 8, Harris County, Texas
Parcel No. SY14-128

1. All coordinates listed herein are expressed in units of U. S. Survey feet. All coordinates listed herein are grid coordinates. All distances shown herein are "surface" distances. All bearings shown herein are referenced to the Grid North that is employed by the Texas Coordinate System of 1983, South Central Zone. All coordinates listed herein were derived through GPS observations conducted during the month of April, 2014. The operating NSRS metadata for these observations includes the following: NAD '83 (2011), CORS 96, Epoch 2010.00. To convert coordinates from grid to "surface", apply a scale factor of 0.999894931091. All coordinates listed herein are expressed in units of U. S. Survey feet.
2. Square footage totals shown herein are based on mathematical closures and do not necessarily represent the positional accuracy of the existing boundary monumentation.
3. A corresponding drawing of this parcel was prepared with this set of metes and bounds, which same may be located in the City of Houston Survey Section Files.


Jack R. Chiles, Sr.
R. P. L. S. # 4778



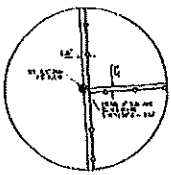
PARCEL NO.	SY14-128
JOB NO.	
DWG NO.	52356

Compiled by  _____

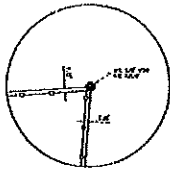
Date 6/16/14

Checked by  _____

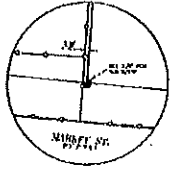
Approved  _____



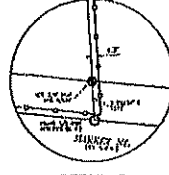
DETAIL 5



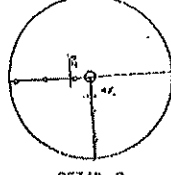
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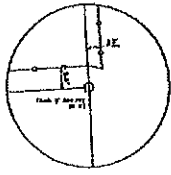
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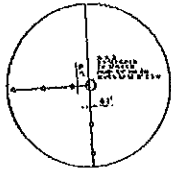
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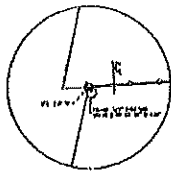
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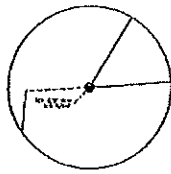
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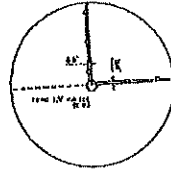
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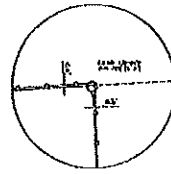
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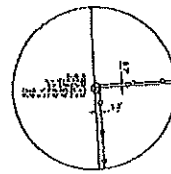
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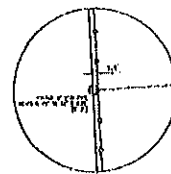
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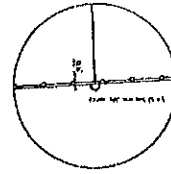
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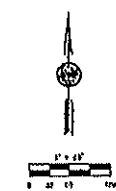
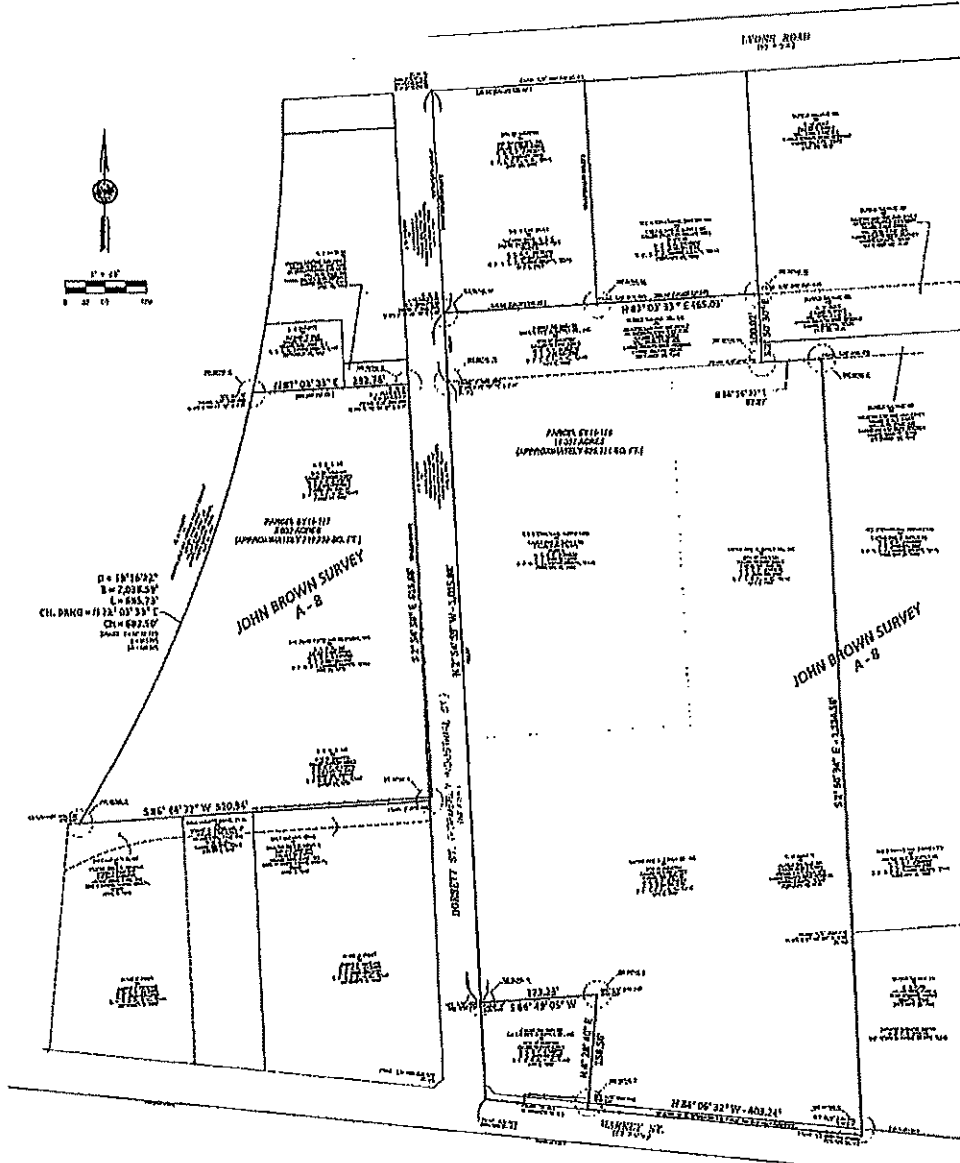
DETAIL 12



DETAIL 13



DETAIL 14



LEGEND.
 W. C. & F. F. BOUNDARY SURVEY THE VARIOUS
 C. C. C. NEW BOUNDARY
 G. P. A. & P. ORIGINAL PUBLIC SURVEY OF NEW PROPERTY
 S. E. & N. A. BOUNDARY SURVEY
 S. E. & S. A. BOUNDARY SURVEY
 (S. W.) CANTON, WASHINGTON
 S. O. S. POINT OF VIEW
 ———— BOUNDARY SURVEY

NOTES.
 1. ALL DISTANCES GIVEN HEREIN ARE UNLESS OTHERWISE STATED IN FEET AND INCHES.
 2. ALL DISTANCES GIVEN HEREIN ARE UNLESS OTHERWISE STATED IN FEET AND INCHES.
 3. ALL DISTANCES GIVEN HEREIN ARE UNLESS OTHERWISE STATED IN FEET AND INCHES.
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 19. ALL DISTANCES GIVEN HEREIN ARE UNLESS OTHERWISE STATED IN FEET AND INCHES.
 20. ALL DISTANCES GIVEN HEREIN ARE UNLESS OTHERWISE STATED IN FEET AND INCHES.

I, J. A. BROWN, DO hereby certify that the above is a true and correct copy of the original survey as shown to me by the surveyor, and that I am a duly qualified surveyor in the State of Texas.
 J. A. BROWN
 Surveyor
 10/15/1911

CITY OF HOUSTON
 DEPARTMENT OF PUBLIC
 WORKS AND ENGINEERING
 PLANS (200) 104-1114

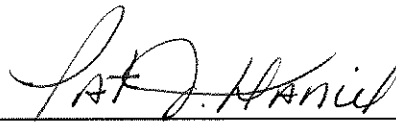
BOUNDARY SURVEY OF 2 PARCELS OF
 LAND BEING A PART OF THE
 JOHN BROWN SURVEY, PARCELS 11
 AND 12, COUNTY OF HOUSTON,
 TEXAS

APPROVED FOR THE CITY OF HOUSTON
 BY THE CITY ENGINEER
 J. A. BROWN
 10/15/1911

APPROVED FOR THE CITY OF HOUSTON
 BY THE CITY ENGINEER
 J. A. BROWN
 10/15/1911

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 2019-53 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