

# EXHIBIT A

## ORDINANCE NO. 7458

**AN ORDINANCE PROHIBITING THE USE OF AND CONTACT WITH DESIGNATED GROUNDWATER FROM BENEATH CERTAIN PROPERTY KNOWN AS 1901 NORTHWEST HIGHWAY WITHIN THE CITY OF GARLAND, TEXAS, TO FACILITATE CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION OF THE PROPERTY BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY PURSUANT TO THE TEXAS HEALTH AND SAFETY CODE; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, Texas Health and Safety Code Chapter 361 Subchapter W ("MSD Legislation") authorizes the Texas Commission on Environmental Quality ("TCEQ") to certify Municipal Setting Designations for properties upon receipt and approval of a properly submitted application to TCEQ;

**WHEREAS**, the Texas Legislature, in enacting the MSD Legislation, found that an action by a municipality to restrict access to or the use of groundwater in support of or to facilitate a Municipal Setting Designation ("MSD") advances a substantial and legitimate state interest where the quality of the groundwater subject to the designation is an actual or potential threat to human health;

**WHEREAS**, as a part of the application process for an MSD, the applicant has submitted a statement regarding the type of known contamination in the groundwater beneath the MSD property and has identified that groundwater to be restricted as any groundwater from the top of the water table at approximately seven (7) feet to a depth of fifty (50) feet;

**WHEREAS**, an MSD to restrict the access and use of groundwater beneath the property at 1901 Northwest Highway in the upper 50 feet below ground surface is necessary due to measurable concentrations of trichloroethylene and tetrachlorethylene above the respective protective concentration limits for potable water in the upper groundwater seepage zone;

**WHEREAS**, as a part of the application process for an MSD, the applicant is required to provide documentation that the property for which designation is sought is supported by an ordinance adopted by this City Council;

# EXHIBIT A

**WHEREAS**, 1901 W Northwest Highway, LLC ("Applicant") submitted an application for the City Council to adopt an Ordinance supporting the certification of an MSD for property at 1901 Northwest Highway and the City staff have reviewed and evaluated the subject MSD application;

**WHEREAS**, Applicant will submit an application to TCEQ for certification of an MSD for property within the city limits of the City, commonly known as 1901 Northwest Highway, the legal description of which is set forth in Exhibit "A", attached hereto and made a part hereof, the "MSD Property", provided that the ordinance being considered herein is passed;

**WHEREAS**, the Applicant has certified that:

- 1) the purpose of its application is to conduct environmental investigation, cleanup and restoration activities in a more efficient and cost-effective manner;
- 2) it will seek to obtain a determination from TCEQ that regulatory closure is attained at the MSD Property;
- 3) as part of such application, the Applicant has submitted a statement to TCEQ regarding the type of known contamination in the groundwater beneath the MSD Property; and
- 4) notice of the application for the certification of MSD Property has been provided to each owner of a registered private water well that is located not more than five miles from the boundary of the MSD Property;

**WHEREAS**, a public drinking water supply system exists that satisfies the requirements of Texas Health and Safety Code Chapter 341 for the MSD Property and property within one-half mile of the MSD Property; and

**WHEREAS**, after public hearing, the City Council believes that it is in the best interest of the public and the City to facilitate the efforts to secure an MSD and TCEQ closure documentation from the TCEQ by passage of this Ordinance;

# EXHIBIT A

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:**

## **Section 1**

That all of the declarations and findings contained in the recitals of this Ordinance are made a part hereof and shall be fully effective as a part of the ordained subject matter of this Ordinance.

## **Section 2**

That the City Council finds that it is in the best interest and welfare of the public to facilitate TCEQ 's certification of an MSD for the MSD Property, as well as TCEQ closure documentation.

## **Section 3**

That, upon and after the effective date of this Ordinance, the drilling of wells and the use of designated groundwater for any purpose, including but not limited to any potable purpose, excepting only: (i) wells used as monitoring wells for the collection of groundwater samples for chemical or biological laboratory analysis; and (ii) wells used for the purpose of remediation of soil or groundwater contamination, is hereby prohibited on or from any portion of the MSD Property.

## **Section 4**

That within sixty (60) days after receipt of the municipal setting designation certificate from the TCEQ, the City Manager, or his designee, shall file a certified copy of this Municipal Setting Designation Ordinance in the deed records of Dallas County.

## **Section 5**

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

## **Section 6**

That a violation of this Ordinance shall be a misdemeanor punishable in accordance with Section 10.05 of the Code of Ordinances, City of Garland, Texas.

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## Section 7

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

**PASSED AND APPROVED** this 15th day of August, 2023.

**CITY OF GARLAND, TEXAS**

  
\_\_\_\_\_  
Mayor

**ATTEST:**

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

**Published:** 09-01-23



# EXHIBIT A

MUNICIPAL SETTING DESIGNATION FILE NUMBER MSD 23-01

## EXHIBIT A

### LEGAL DESCRIPTION

#### **Municipal Setting Designation File MSD 23-01**

Lot 2R, Block 1 of TOWNGATE PLAZA, an Addition to the City of Garland, Texas, according to the plat thereof recorded in Volume 93134, Page 2812, Map Records, Dallas County, Texas

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IN S 78-34

PD 89-4

PD 08-30

PD 21-49

PD 86-71

PD 78-87

PD 07-02

PD 11-13

PD 69-54

PD 96-38

PD 99-39

PD 13-03

PD 88-27

PD 10-18

PD 69-31

PD 18-13

PD 06-37

STREETS: MILLAY BLVD, LEON RD, TOWNGATE BLVD, TOWN CT, COURT PL, COURT WY, GREENSBORO CIR, ROANOKE DR, GREENWAY DR, JACSON DR, MAYFIELD AVE, CLEAR POINT DR, MARKET PLACE DR, PENDLETON DR, LBJ FRWY, LBJ NORTHWEST ON N, LBJ NORTHWEST ON S, LBJ CENTERVILLE ON N, NORTHWEST HWY, DOUGLAS DR, LEXINGTON DR.

CITY OF DALLAS

0 270 540 Feet  
1 inch = 408 feet

# 1901 Northwest Highway



# EXHIBIT A



INDICATES AREA  
OF REQUEST



## ZONING MAP MSD 23-01

0 175 350 Feet 1 inch = 268 feet

1901 Northwest Highway