

City of Houston, Texas, Ordinance No. 2020 - 625

**AN ORDINANCE CONSENTING TO THE ADDITION OF 2.199 ACRES OF LAND TO FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 58, FOR INCLUSION IN ITS DISTRICT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, the City of Houston, Texas (the "City") consented to the creation of Fort Bend County Municipal Utility District (the "District") No. 58 by Ordinance No. 84-815, passed and adopted by the City Council on November 21, 1984, and the District is operating pursuant to Chapters 49 and 54 of the Texas Water Code, as amended; and

**WHEREAS**, the District was also created by order of the Texas Water Commission, on November 21, 1984; and

**WHEREAS**, The District, Jeremy Brandon Seay, and James Stanka, owners of the land hereunder described, has petitioned the City to add 2.199 acres of land for inclusion into the District; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings and recitals contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** That attached to this ordinance and made a part hereof is a petition ("Petition") requesting for the consent of the City to the annexation of 2.199 acres of land, described in Exhibit A to the Petition and within the extraterritorial jurisdiction of the City, into the District. The Petition is hereby granted, subject to the terms and conditions set forth in Exhibit B to the Petition.

**Section 3.** That the City Council further hereby notifies the referenced District, its residents and property owners of the provisions of applicable law allowing the City to annex any portion of the district located within the City's extraterritorial jurisdiction, including without limitation, the land authorized to be included in the District hereby. The City requires that the District include a statement in its form required under Section 49.455, Texas Water Code, reflecting the possibility of such annexation by the City.

**Section 4.** That a public emergency exists requiring that this ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this ordinance shall take effect immediately upon its passage and approval by the Mayor; provided, however, that if 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 15<sup>th</sup> day of July, 2020.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JUL 21 2020.

Pat J. Maniel  
City Secretary

Prepared by Legal Dept.  
AH/sec 4/21/20

Anna L. Howard  
Senior Assistant City Attorney

Requested by Carol Ellinger Haddock, P.E.  
Director – Houston Public Works Department  
(L.D. File No. 0910500006007  
Z:\REALESTATE\ARVA\MUDS\FORT BEND COUNTY MUD NO.58\ORD\_2.199AC.DOC

CAPTION PUBLISHED IN DAILY COURT  
REVIEW  
DATE: **JUL 21 2020**

| AYE                            | NO      |                        |
|--------------------------------|---------|------------------------|
| ✓                              |         | <b>MAYOR TURNER</b>    |
| ....                           | ....    | <b>COUNCIL MEMBERS</b> |
| ✓                              |         | PECK                   |
| ABSENT-ON<br>PERSONAL BUSINESS |         | DAVIS                  |
| ✓                              |         | KAMIN                  |
| ✓                              |         | EVANS-SHABAZZ          |
| ✓                              |         | MARTIN                 |
| ✓                              |         | THOMAS                 |
| ✓                              |         | TRAVIS                 |
| ✓                              |         | CISNEROS               |
| ✓                              |         | GALLEGOS               |
| ✓                              |         | POLLARD                |
| ✓                              |         | MARTHA CASTEX-TATUM    |
| ✓                              |         | KNOX                   |
| ✓                              |         | ROBINSON               |
| ✓                              |         | KUBOSH                 |
| ✓                              |         | PLUMMER                |
| ✓                              |         | ALCORN                 |
| CAPTION                        | ADOPTED |                        |

PETITION FOR CONSENT TO ANNEX LAND INTO  
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 58

THE STATE OF TEXAS                   §  
  §  
COUNTY OF FORT BEND               §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF HOUSTON,  
TEXAS:

The undersigned, Fort Bend County Municipal Utility District No. 58 (the "District"), and JEREMY BRANDON SEAY AND JAMES STANKA (collectively, the "Petitioners"), acting pursuant to the provisions of Chapter 49, Texas Water Code, particularly Section 49.301 of that Code, together with all amendments and additions thereto, respectfully petition the City Council of the City of Houston, Texas (the "City"), for its written consent to the annexation by the District of the 2.199-acre tract of land described by metes and bounds in **Exhibit A** (the "Land"), which is attached hereto and incorporated herein for all purposes. In support of this petition, the undersigned would show the following:

I.

The District is a municipal utility district duly created under the laws of the State of Texas on November 21, 1984. The District was created and organized under the terms and provisions of Article XVI, Section 59, of the Constitution of Texas, and is governed by the provisions of Chapters 49 and 54, Texas Water Code.

II.

The Petitioner holds fee simple title to the Land, as indicated by the certificate of ownership provided by the Fort Bend Central Appraisal District. The Petitioner represents that there are no lienholders on the Land except Prosperity Bank.

III.

The Land is situated wholly within Fort Bend County, Texas. No part of the Land is within the limits of any incorporated city, town or village, and no part of the Land is within the extraterritorial jurisdiction (as such term is defined in Local Government Code Section 42.001 *et seq.*, as amended) of any city, town or village except the City. All of the Land may properly be annexed into the District.

IV.

The general nature of the work to be done within the Land is the construction, acquisition, maintenance and operation of a waterworks and sanitary sewer system, and a drainage and storm sewer system, road facilities, and parks and recreational facilities.

V.

There is, for the following reasons, a necessity for the above-described work. The Land, which will be developed for commercial and/or residential purposes, is urban in nature, is within the growing environs of the City, is in close proximity to populous and developed sections of Fort Bend County, and within the immediate future will experience a substantial and sustained residential and commercial growth. There is not now available within the Land an adequate waterworks and sanitary sewer system nor an adequate drainage system, nor road facilities, nor parks or recreational facilities, and it is not presently economically feasible for the Land to provide for such systems and facilities itself. Because the health and welfare of the present and future inhabitants of the Land and of lands adjacent thereto require the construction, acquisition, maintenance and operation of an adequate waterworks and sanitary sewer system and a drainage and storm sewer system, road facilities, and parks and recreational facilities, a public necessity exists for the annexation of the Land into the District, to provide for the purchase, construction, extension, improvement, maintenance and operation of such waterworks and sanitary sewer system and such drainage and storm sewer system, such road facilities, and such parks and recreational facilities, so as to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VI.

The undersigned estimate, from such information as they have at this time, that the cost of extending the District's facilities to serve the Land is \$3,520,000.

VII.

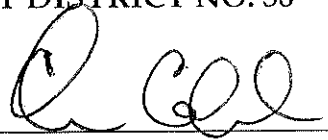
The Petitioner and the District agree and hereby covenant that if the requested consent to the annexation of the Land to the District is given, the Petitioner and the District will adopt and abide by the conditions set forth in **Exhibit B**, attached hereto and incorporated herein for all purposes.

WHEREFORE, the undersigned respectfully pray that this petition be heard and granted in all respects and that the City give its written consent to the annexation of the Land into the District.

[EXECUTION PAGES FOLLOW]

RESPECTFULLY SUBMITTED on JANUARY 14, 2020.


FORT BEND COUNTY MUNICIPAL  
UTILITY DISTRICT NO. 58

By: 

Name: CHRIS COLIHAN

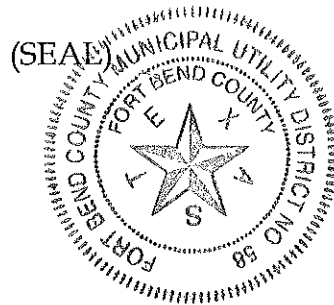
Title: PRESIDENT

ATTEST:

By: 

Name: GINA CUMMINGS

Title: SECRETARY



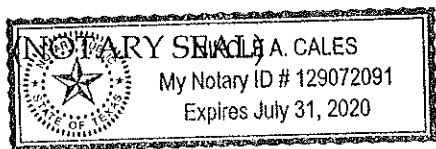
THE STATE OF TEXAS §

§

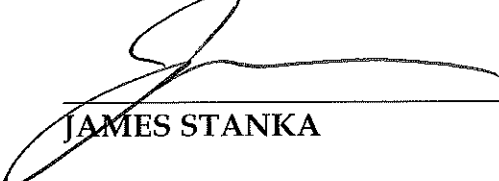
COUNTY OF FORT BEND §

This instrument was acknowledged before me on January 14, 2020, by Chris Colihan, as President, and Gina Cummings as Secretary, of the Board of Directors of FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 58, a political subdivision of the State of Texas, on behalf of said political subdivision.

  
Notary Public, State of Texas



  
\_\_\_\_\_  
JEREMY BRANDON SEAY

  
\_\_\_\_\_  
JAMES STANKA

THE STATE OF TEXAS           §  
  §  
COUNTY OF Ft Bend       §

— This instrument was acknowledged before me on this 14 day of January, 2020, by JEREMY BRANDON SEAY.

(NOTARY SEAL)

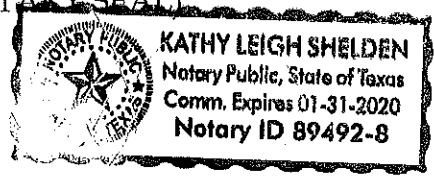



  
\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS           §  
  §  
COUNTY OF Ft Bend       §

— This instrument was acknowledged before me on this 14<sup>th</sup> day of January, 2020, by JAMES STANKA.

(NOTARY SEAL)



  
\_\_\_\_\_  
Notary Public, State of Texas

- Attachments:**  
**Exhibit A:** Description of the Land  
**Exhibit B:** Conditions of the City

EXHIBIT A

F.B.C.M.U.D. NO. 58  
2.199 ACRES  
EIGHTH ANNEX TRACT

JANUARY 21, 2020  
JOB NO. 7243-00

DESCRIPTION OF A 2.199 ACRE TRACT OF LAND SITUATED  
IN THE G.W. CARTWRIGHT SURVEY, ABSTRACT NO. 149  
FORT BEND COUNTY, TEXAS

BEING a 2.199 acre (95,790 square foot) tract of land situated in the G.W. Cartwright Survey, Abstract No. 149 of Fort Bend County, Texas and being all of the remainder of a called 2.00 acre tract of land as described in an instrument to Tony and Chatsey L. Henny, recorded under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 9426681, all of the remainder of a called 0.4188 acre tract of land as described in an instrument to Tony and Chatsey L. Henny, recorded under F.B.C.C.F. No. 9876727 and all of a called 0.4199 acre tract of land as described in an instrument to Albertano R. Orduna, recorded under F.B.C.C.F. No. 2009044429, said 2.199 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone 4204 and referenced to the north line of the Alex Philips Survey, Abstract No. 300 as recorded under Volume 1587, Page 416 of the Fort Bend County Deed Records.

**COMMENCING** at a 5/8-inch iron rod with cap stamped "JNS ENG RPLS 4417" found for the westerly corner of MONTERREY AT WILLOW BEND SEC 3, a subdivision plat recorded under Plat No. 20140057 of the Fort Bend County Plat Records, lying on the northerly right-of-way line of Katy-Gaston Road (width varies);

THENCE, N 45°05'33" W, along and with said northerly right-of-way line, a distance of 900.60 feet to a 1/2-inch iron rod found for the south corner of the remainder of said 2.00 acre tract and the **POINT OF BEGINNING** of the herein described tract, same being the westerly intersection of said Katy-Gaston Road and Hunter Lane (60 feet wide);

THENCE, N 45°10'13" W, continuing along and with said northerly right-of-way line of Katy-Gaston Road, a distance of 391.76 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG" found for the west corner of said remainder of 0.4188 acre tract and the herein described tract, same being the easterly intersection of said Katy-Gaston Road and Tina Lane (60 feet wide);

THENCE, N 44°27'55" E, along and with the easterly right-of-way line of said Tina Lane, a distance of 243.28 feet to the north corner of said 0.4199 acre tract and the herein described tract;

THENCE, S 45°32'03" E, along and with the northerly lines of said 0.4199 acre tract and said remainder of 2.00 acre tract, a distance of 391.75 feet to a 1-inch iron pipe found for the east corner of said remainder of 2.00 acre tract and the herein described tract, said point lying on the westerly right-of-way line of said Hunter Lane;

THENCE, S 44°27'57" W, along and with the westerly right-of-way line of said Hunter Lane, a distance of 245.76 feet to the **POINT OF BEGINNING** and containing 2.199 acres (95,790 square feet) of land.

F.B.C.M.U.D. NO. 58  
2.199 ACRES  
EIGHTH ANNEX TRACT

JANUARY 21, 2020  
JOB NO. 7243-00

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



Alan C. Bentley RPLS No. 2055  
BGE, Inc.  
10777 Westheimer Road, Suite 400  
Houston, Texas 77042  
Telephone: (281) 558-8700  
TBPLS Licensed Surveying Firm No. 10106500



## EXHIBIT "B"

(a) To the extent authorized by law, the District will issue bonds only for the purpose of purchasing and constructing, or purchasing, or constructing under contract with the City of Houston, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, drainage facilities, recreational facilities, road facilities, or facilities for fire-fighting services, or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor, and to operate and maintain same, and to sell water, sanitary sewer, and other services within or without the boundaries of the District. Such bonds will expressly provide that the District reserves the right to redeem the bonds on any interest-payment date subsequent to the fifteenth (15th) anniversary of the date of issuance without premium and will be sold only after the taking of public bids therefor, and none of such bonds, other than refunding bonds, will be sold for less than 95% of par; provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given. The resolution authorizing the issuance of the District's bonds will contain a provision that any pledge of the revenues from the operation of the District's water and sewer and/or drainage system to the payment of the District's bonds will terminate when and if the City of Houston, Texas, annexes the District, takes over the assets of the District and assumes all of the obligations of the District. No land located within the extraterritorial jurisdiction of the City of Houston will be added or annexed to the District until the City of Houston has given its written consent by resolution or ordinance of the City Council to such addition or annexation.

(b) (1) Before the commencement of any construction within the District, its directors, officers, or developers and landowners will submit to the Director of the Department of Public Works and Engineering of the City of Houston, or to his designated representative, all plans and specifications for the construction of water, sanitary sewer, drainage, and road facilities and related improvements to serve the District and obtain the approval of such plans and specifications therefrom. All water wells, water meters, flushing valves, valves, pipes, and appurtenances thereto, installed or used within the District, will conform exactly to the specifications of the City of Houston. All water service lines and sewer service lines, lift stations, sewage treatment facilities, and road facilities, and appurtenances thereto, installed or used within the District will comply with the City of Houston's standard plans and specifications as amended from time to time. Prior to the construction of any water, sanitary sewer, drainage or road facilities within or by the District, the District or its engineer will give written notice by registered or certified mail to the Director of Public Works and Engineering, stating the date that such construction will be commenced. The construction of the District's water, sanitary sewer, drainage and road facilities will be in accordance with the approved plans and specifications, and with applicable standards and specifications of the City of Houston; and during the progress of the construction and installation of such facilities, the Director of Public Works and

Engineering of the City of Houston, or an employee thereof, may make periodic on-the-ground inspections.

(2) Before the expenditure by the District of bond proceeds for the acquisition, construction or development of recreational facilities, the District shall obtain and maintain on file, from a registered landscape architect, registered professional engineer or a design professional allowed by law to engage in architecture, a certification that the recreational facilities, as constructed, conform to the applicable recreational facilities design standards and specifications of the City of Houston's Department of Parks and Recreation and shall submit a copy of the certification and the "as built" plans and specifications for such recreational facilities to the Director of the City of Houston Parks and Recreation Department.

(3) Before the expenditure by the District of bond proceeds for the acquisition, construction or development of facilities for fire-fighting services, the District shall obtain and maintain on file, from a registered architect, registered professional engineer or a design professional allowed by law to engage in facility design and construction, a certification that the facilities for fire-fighting services, as constructed, conform to the applicable fire-fighting facilities design standards and specifications of the City of Houston's Fire Department and shall submit a copy of the certification and the "as built" plans and specifications for such facilities for fire-fighting services to the Chief of the City of Houston Fire Department.

(c) The District will agree to engage a sewage plant operator holding a valid certificate of competency issued under the direction of the Texas Commission on Environmental Quality, or such successor agency as the legislature may establish ("TCEQ"), as required by Section 26.0301, Texas Water Code, as may be amended from time to time. The District will agree to make periodic analyses of its discharge pursuant to the provisions of Order No. 69-1219-1 of the Texas Water Quality Board (predecessor agency to the TCEQ) and further to send copies of all such effluent data to the Department of Public Works and Engineering, City of Houston, as well as to the TCEQ. The District will agree that representatives of the City of Houston may supervise the continued operations of the sewage treatment facility by making periodic inspections thereof.

(d) The District, its board of directors, officers, developers, and/or landowners will not permit the construction, or commit to any development within, the District that will result in a wastewater flow to the serving treatment facility which exceeds that facility's legally permitted average daily flow limitations or the District's allocated capacity therein.

(e) Prior to the sale of any lot or parcel of land, the owner or the developer of the land included within the limits of the District will obtain the approval of the Planning Commission of the City of Houston of a plat which will be duly recorded in the Real Property Records of Harris County, Texas, and otherwise comply with the rules and regulations of the Department of Planning and Development and the Department of Public Works and Engineering of the City of Houston.



CERTIFICATE OF LIENHOLDER'S CONSENT

Prosperity Bank, a Texas banking association, being a lienholder on all or part of the land proposed to be annexed into Fort Bend County Municipal Utility District No. 58, the boundaries of which land are more particularly described in **Exhibit A** attached hereto, hereby consents to the annexation of said land by Fort Bend County Municipal Utility District No. 58.

WITNESS MY HAND on January 14<sup>th</sup>, 2020.

**PROSPERITY BANK, a Texas banking association**

By: Kathy L. Sheldon

Name: Kathy L. Sheldon

Title: Banking Center President #107

THE STATE OF TEXAS

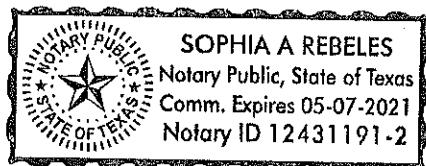
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COUNTY OF Fort Bend

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This instrument was acknowledged before me on January 14<sup>th</sup>, 2020, by Kathy L. Sheldon, as BCM #107, of PROSPERITY BANK, a Texas banking association, on behalf of said banking association.



(NOTARY SEAL)

[Signature]  
Notary Public, State of Texas

Attachment: Exhibit A - Description of Land to be Annexed

CERTIFICATE OF AUTHORITY OF LIENHOLDER

I, the undersigned officer of PROSPERITY BANK, a Texas banking association (the "Bank"), hereby certify that:

1. Kathryn Sheldon is the BCP #107 of the the Bank;  
(Name of Officer who signed Consent) (Officer's Title)
2. in such capacity, he/she executed the Certificate of Lienholder's Consent, and is authorized to execute any and all such documents in connection with the annexation of land into FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 58, including, but not limited to, said certificate, and;
3. such execution of the Certificate was duly authorized in accordance with the Bank's charter.

WITNESS MY HAND on January 14<sup>th</sup>, 2020.

PROSPERITY BANK, a Texas banking association

By: [Signature]  
(Signature of officer OTHER THAN officer stated in no. 1 above)

Name: Sophia H. Rebeles

Title: Assistant Vice President

STATE OF TEXAS §

COUNTY OF §

This instrument was acknowledged before me on 1-14-, 2020, by Sophia Rebeles of PROSPERITY BANK, a Texas banking association, on behalf of said banking association.

[Signature]

Notary Public, State of Texas

(NOTARY SEAL)

