

City of Houston, Texas, Ordinance No. 2020 - 806

AN ORDINANCE CONSENTING TO THE ADDITION OF 8.5 ACRES OF LAND TO WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5, FOR INCLUSION IN ITS DISTRICT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, the District, to which the land hereinafter described is sought to be annexed, exists under the terms and provision of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, as amended, and was created by order of the Texas Water Rights Commission dated January 4, 1978; and

WHEREAS, the City of Houston, Texas (the "City") consented to the creation of West Harris County Municipal Utility District No. 5 (the "District") by Ordinance No. 76-1959, passed and adopted by the City Council on November 10, 1976; and

WHEREAS, the District is located in Harris County, and one or more drainage plans for grading, fill, construction of building or infrastructure within the proposed area to be annexed into an existing district, will be required to be submitted and approved by Harris County; and

WHEREAS, components of the drainage plan may include a variety of engineering solutions to manage and mitigate flooding based on the County's floodplain management rules and regulations;

WHEREAS, 6 Bar Corporation, owner of the land hereunder described, has petitioned the City to add 8.5 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 8.5 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 23rd day of September, 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 SEP 29 2020.

[Signature]

City Secretary

Prepared by Legal Dept. [Signature]
AH/sec 8/4/20 Senior Assistant City Attorney

Requested by Carol Ellinger Haddock, P.E.
Director – Houston Public Works Department
(L.D. File No. 0912000006001,)
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AYE	NO	
✓		MAYOR TURNER
....	COUNCIL MEMBERS
✓		PECK
✓		DAVIS
✓		KAMIN
✓		EVANS-SHABAZZ
✓		MARTIN
✓		THOMAS
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		POLLARD
✓		MARTHA CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		PLUMMER
✓		ALCORN
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT
REVIEW
DATE: SEP 29 2020

**WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5
PETITION FOR CONSENT TO ANNEX LAND**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

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

WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5 (the "District"), and 6 BAR CORPORATION, a Texas corporation ("Landowner") (Landowner and District hereinafter called "Petitioners"), acting pursuant to the provisions of Section 54.016, Texas Water Code, respectfully petition for consent to include additional land in a municipal utility district. In support of this petition, Petitioners would show as follows:

I.

The District, to which the land hereinafter described is sought to be annexed, exists under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, as amended, and was created by order of the Texas Water Rights Commission dated January 4, 1978.

II.

Landowner is the sole owner and holder of fee simple title to the land sought to be annexed to the District. Landowner represents and warrants that there are no outstanding liens of record affecting the land sought to be added.

III.

The land sought to be added to the District contains approximately 8.500 acres of land, more or less, and lies wholly within Harris County, Texas. No part of said area is within the limits of any incorporated city or town. Under the provisions of the Texas Local Government Code, Section 42.001 et seq., as amended, said area is within the extraterritorial jurisdiction of the City of Houston and is not within such jurisdiction of any other city. All of the territory to be annexed may properly be annexed to the District.

IV.

The land sought to be added to the area of the District is described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes.

V.

The general nature of the work proposed to be done in the area sought to be annexed shall

be the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

- (1) provide a water supply for municipal, domestic and commercial purposes;
- (2) collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state; and
- (3) gather, conduct, divert and control local storm water or other harmful excesses of water in the area.

VI.

There is a necessity for the improvements described above. The area of the District is urban in nature, is within the growing environs of Houston, Texas, and is in close proximity to a populous and developed section of Harris County. The land sought to be added to the District is not supplied with adequate water, sanitary sewer and drainage facilities and services, nor is it presently economically feasible for such facilities to be provided to the land. The health and welfare of the present and future inhabitants of the District, the land sought to be added to the District and of territories adjacent thereto, require the installation and acquisition of an adequate water supply and sewage disposal system and an adequate drainage system for and within the land sought to be added to the District. A public necessity exists for the addition of the aforesaid lands to the District in order to provide for the purchase, construction, extension, improvement, maintenance and operation of such waterworks and sanitary sewer system and such drainage facilities, so as to promote and protect the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VII.

Petitioners agree and covenant to abide by the conditions set forth in Exhibit "B", attached hereto and made a part hereof for all purposes, until such time as said conditions may be changed by City ordinance or resolution, either specific or general.

VIII.

It is estimated by the Petitioners from such information as is available at this time, that the cost of extending the District's facilities to serve the area sought to be annexed will be approximately \$159,438.00.

WHEREFORE, Petitioners respectfully pray that this petition be granted in all respects and that the City of Houston give its consent to the annexation of the aforesaid land in said District.

Dated this the 8th day of August, 2019.

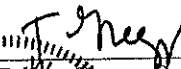
"Petitioners"


WEST HARRIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 5 (the "District")



Robert Olson, President
Board of Directors

ATTEST:



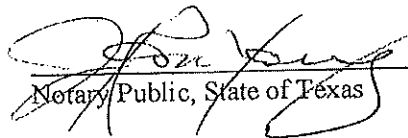
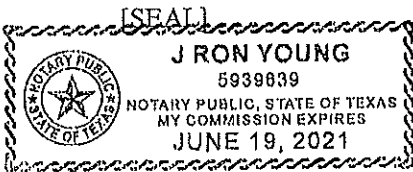
Margaret Talley Gregg, Secretary
Board of Directors


THE STATE OF TEXAS

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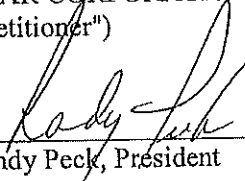
COUNTY OF HARRIS

This instrument was acknowledged before me on this 8th day of August, 2019, Robert Olson and Margaret Talley Gregg, in their capacity as President and Secretary of WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5, on behalf of said District.



Notary Public, State of Texas

6 BAR CORPORATION
("Petitioner")



Randy Peck, President

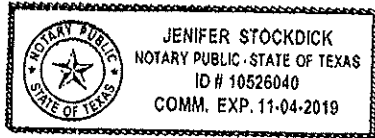
THE STATE OF TEXAS

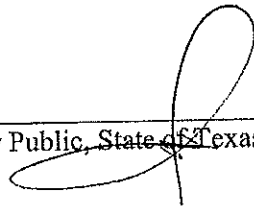
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COUNTY OF HARRIS

This instrument was acknowledged before me on this the 30th day of July, 2019, by Randy Peck, in his capacity as President of 6 BAR CORPORATION, a Texas corporation, on behalf of said corporation.

[SEAL]





Notary Public, State of Texas

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION
8.500 ACRES
WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NUMBER 5
IN THE A.R. CONNELL SURVEY, ABSTRACT NO. 1333 AND
THE W.C. FEATHERSTONE SURVEY, ABSTRACT NO. 1524,
HARRIS COUNTY, TEXAS

8.500 ACRES OF LAND SITUATED IN THE A.R. CONNELL SURVEY, ABSTRACT NO. 1333 AND THE W.C. FEATHERSTONE SURVEY, ABSTRACT NO. 1524 BEING OUT OF A CALLED 8.78 ACRE TRACT DESCRIBED IN DEED RECORDED IN HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) M726886; SAID 8.500 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at the point of intersection of the northerly line of a called 10.844 acre tract described in deed recorded in H.C.C.F. No. P019477 and the easterly line of Katy-Fort Bend Road (width varies), being the southwest corner of the residue of a called 143.0721 acre tract described in deed recorded in H.C.C.F. No. U111461;

THENCE, North 00°16'42" West, along the easterly right-of-way line of said Katy-Fort Bend Road, at a distance of 60.00 feet pass a 5/8-inch iron rod with cap found at the northwest corner of said 143.0721 residue tract and the southwest corner of the residue of a called 138.9291 acre tract described in deed recorded in H.C.C.F. No. Y267805, continue a total distance of 526.11 feet to a point in the southerly line of a called 3.00 acre tract described in deed recorded in H.C.C.F. No. L640694 and the northwest corner of said 138.9291 acre residue tract;

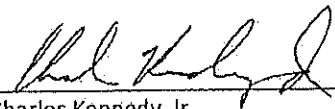
THENCE, North 00°09'39" West, continuing along the easterly right-of-way line of said Katy-Fort Bend Road, a distance of 161.70 feet to the POINT OF BEGINNING, being in the northerly line of said called 3.00 acre tract;

- 1) THENCE, North 00°09'35" West, continuing along the easterly right-of-way line of said Katy-Fort Bend Road, a distance of 108.32 feet to a point of curvature to the right;
- 2) THENCE, continuing along the easterly right-of-way line of said Katy-Fort Bend Road and said curve to the right having a radius of 1,950.00 feet, a central angle of 04°37'15", an arc length of 157.26 feet and a chord bearing North 02°09'03" East, a distance of 157.22 feet to a point of reverse curvature;
- 3) THENCE, continuing along the easterly right-of-way line of said Katy-Fort Bend Road and said reserve curve to the left having a radius of 2,050.00 feet, a central angle of 04°37'14", an arc length of 165.32 feet and a chord bearing North 02°09'03" East, a distance of 165.28 feet to a point of tangency;
- 4) THENCE, North 00°09'35" West, continuing along the easterly right-of-way line of said Katy-Fort Bend Road, a distance of 42.38 feet to the southwest corner of a called 14.386 acre tract described in deed recorded in H.C.C.F. No. RP-2016-577070;

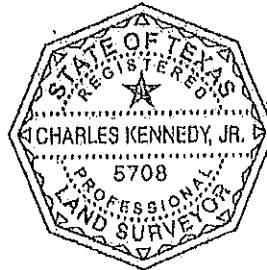
- 5) THENCE, North 89°47'10" East, along the southerly line of said called 14.386 acre tract, a distance of 775.30 feet to a 1/2-inch iron rod found in the westerly line of Lot 17, Block 1, Stone Crest Sec 6, a subdivision of record in Film Code Number 662088 of the Harris County Map Records;
- 6) THENCE, South 00°12'50" East, along the westerly line of said Stone Crest Sec 6, a distance of 472.93 feet to the northeast corner of said called 3.00 acre tract;
- 7) THENCE, South 89°47'10" West, along the northerly line of said called 3.00 acre tract, a distance of 788.75 feet to the POINT OF BEGINNING and containing 8.500 acres of land. This description accompanies an Exhibit, prepared by Edminster, Hinshaw, Russ and Associates, Inc. and dated July 9, 2018.

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.

EDMINSTER, HINSHAW, RUSS & ASSOCIATES, INC. d/b/a EHRA



Charles Kennedy, Jr.
Registered Professional Land Surveyor
Texas Registration Number: 5708
10555 Westoffice Drive
Houston, Texas 77042
713-977-2575
TBPLS No. 10092300



Date: 07/09/2018
Job No: 76040-20
File No: \\Client\RS\1976\76040-20\8.50ac.doc



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 CORPORATE RESOLUTION AND AUTHORITY

THE STATE OF TEXAS

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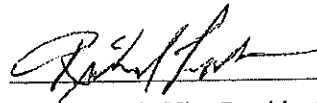
COUNTY OF HARRIS

I, the undersigned officer 6 BAR CORPORATION, a Texas corporation, hereby certify that Randy Peck serves as President of 6 BAR CORPORATION, and that in such capacity he executed the Petition to which this certificate is attached, praying for the addition to West Harris County Municipal Utility District No. 5 of those certain tracts or parcels of land situated in Harris County, Texas, and more particularly described in said Petition, reference to which is hereby made for all purposes, and that the execution of said Petition has been duly authorized, approved, ratified, and confirmed as the act and deed of said corporation by all necessary action of the Board of Directors of said corporation in conformity with the Articles of Incorporation and Bylaws of said corporation.

I do further certify that Randy Peck has the power to execute in the name of said corporation such contracts, agreements, and instruments as may be required or permitted by law to be executed by said corporation which are necessary and appropriate, related or appurtenant to the requested addition of the aforesaid lands.

Witness my hand this 1st day of August, 2019.

6 BAR CORPORATION, a Texas corporation
("Petitioner")



Richard Peck, Vice President


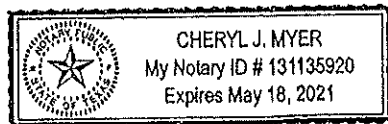
THE STATE OF TEXAS

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COUNTY OF HARRIS

This instrument was acknowledged before me on this the 1st day of August, 2019, by Richard Peck, in his capacity as Vice President of 6 BAR CORPORATION, a Texas corporation, on behalf of said corporation.

[SEAL]



Notary Public, State of Texas