

City of Houston, Texas, Ordinance No. 2020 - 836

AN ORDINANCE CONSENTING TO THE ADDITION OF 1.37 ACRES OF LAND TO SPRING CREEK UTILITY DISTRICT, FOR INCLUSION IN THE DISTRICT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, Spring Creek Utility District (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 now codified under Chapter 8407, Texas Special District Local Laws Code; and

WHEREAS, the District is located in Montgomery County, and one or more drainage plans for grading, fill, construction of buildings or infrastructure within the proposed area to be annexed into an existing district, will be required to be submitted and approved by Montgomery 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, National Retail Properties, LP, a Delaware limited partnership, has petitioned the City of Houston, Texas ("City") to add 1.37 acres of land, consisting of one (1) tract, 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 1.37 acres of land,

consisting of one (1) tract, 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 30th 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 OCT 06 2020.

Art J. Hanley
City Secretary

Prepared by Legal Dept.
 AH/sec 9/1/20
 Requested by Carol Ellinger Haddock, P.E.
 Director – Houston Public Works Department
 (L.D. File No. 0910000014011)

DocuSigned by:
Arwa L. Howard
 Senior Assistant City Attorney

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

PETITION FOR CONSENT TO INCLUDE ADDITIONAL LAND IN
SPRING CREEK UTILITY DISTRICT

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

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

National Retail Properties, LP ("Landowner"), being the holder of title to all of, and therefore, a majority in value of the land hereinafter described, as such values are indicated by the tax rolls of the central appraisal district of Montgomery County, Texas, and Spring Creek Utility District ("District") (Landowner and District herein referred to collectively as "Petitioner"), acting pursuant to the provisions of Section 54.016, Texas Water Code, as amended, respectfully petition for consent to include additional land in a municipal utility district. In support of this petition, Petitioner shows 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 Commission, predecessor to the Texas Commission on Environmental Quality, dated June 4, 1971. Landowner is the sole owner and holder of fee simple title to the land sought to be annexed to the District, as indicated by the tax rolls of the central appraisal district of Montgomery County, Texas. Landowner represents and warrants that there are no holders of liens against the land.

II.

The land sought to be added to the District contains approximately 1.37 acres of land, more or less, and lies wholly within Montgomery County, Texas. No part of the land is within the limits of any incorporated city or town. Under the provisions of Vernon's Texas Civil Statutes, Local Government Code, Section 42.001 *et seq.*, as amended, the land 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.

III.

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.

IV.

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;
- (3) gather, conduct, divert and control local storm water or other harmful excesses of water in the area;
- (4) finance, develop and maintain recreational facilities for the people of the District if and as allowed by applicable law; and
- (5) provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District was created and permitted under state law.

V.

The area of the District is urban in nature, is within the growing environs of the City of Houston, and is in close proximity to populous and developed sections of Montgomery County. The District's area will, within the immediate future, experience a substantial and sustained residential and commercial growth. Therefore, there is a necessity for the improvements described above for the following reasons:

The land sought to be added to the District is not supplied with adequate water and sanitary sewer facilities and services, or with adequate drainage facilities nor is it presently economically feasible for such facilities to be added 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 adequate water, sanitary sewer, and drainage facilities for and within the land sought to be added to the District.

A public necessity exists for the addition of said lands to the District to promote and protect the purity and sanitary condition of the State's waters and the public health and welfare of the community, by and through the purchase, construction, extension, improvement, maintenance and operation of a water supply and sanitary sewer system, drainage facilities.

VI.

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

VII.

It is now estimated by the Petitioner from such information as is available at this time, that the amount of bonds necessary to be issued to finance development costs contemplated within the area proposed to be annexed will be approximately \$0.00.

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

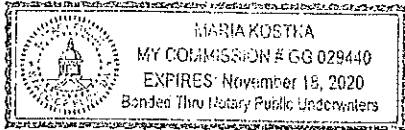
NATIONAL RETAIL PROPERTIES, LP, *Just P&S*
a Delaware limited partnership *AK*

By: NNN GP Corp., a Delaware corporation,
as general partner

By: *Paul E. Bayer*
Name: Paul E. Bayer
Title: Executive Vice President

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 16th day of _____, 2020 by Paul E. Bayer as Executive Vice President of NNN GP Corp., a Delaware corporation, as general partner of NATIONAL RETAIL PROPERTIES, LP, a Delaware limited partnership, on behalf of the partnership. He is personally known to me.



Maria Kostka
Notary Public - State of Florida
Print Name: Maria Kostka
Commission Number: _____
Commission Expires: _____

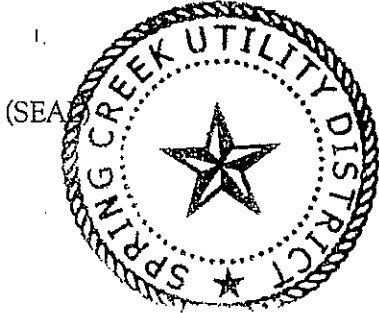
(NOTARY SEAL)

SPRING CREEK UTILITY DISTRICT

By: *Claude Humbert*

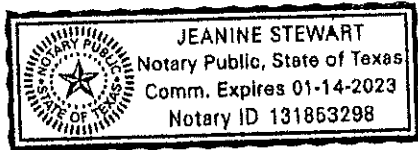
Name: CLAUDE HUMBERT

Title: Vice President



THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on this 26th day of March, 2020, by Claude Humbert, Vice President of SPRING CREEK UTILITY DISTRICT, on behalf of said District.



Jeanine Stewart
Notary Public in and for the
State of Texas

(SEAL)

Exhibit "A"

Being a 1.37 acre (59,852 square feet) parcel situated in the Montgomery County School Land Survey No. 2, Abstract 351, Montgomery County, Texas, out of Reserve "A", Block 1 of Spring Forest Section 2, Partial Replat No. 1 according to the map or plat thereof recorded under Cabinet Z, Sheet 4324 of the Map Records of Montgomery County, Texas, said 1.37 acre parcel more particularly described by metes and bounds as follows with all bearings based on Texas State Plane Coordinate System, Central Zone, North American Datum 1983;

BEGINNING, at a 5/8-inch iron rod in the north line of Greenglade Lane (called 60 feet wide, for the southeast corner of Lot 153, Block 10 of Spring Forest Section 2 according to the map or plat thereof recorded under Volume 8, Page 45 of the Map Records of Montgomery County, Texas, for a southeasterly corner of said Reserve "A" and the herein described parcel;

THENCE departing the north right-of-way line of said Greenglade Lane, North 04°17'41" West 200.00 feet along the east line of said Lot 153 and a westerly line of said Reserve "A" to a 1/2-inch Iron rod found for the northeast corner of said Lot 153 and an interior corner of said Reserve "A" and the herein described parcel;

THENCE South 85°42'19" West, along the north line of said Lot 153, the north line of Lot 154 of said Block 10, and a southerly line of said Reserve "A", passing at a distance of 100.46 feet a 1/2-Inch iron rod found with yellow cap (stamped "RPLS 1982") for the northwest corner of said Lot 153, and the northeast corner of said Lot 154 continuing for a total distance of 200.00 feet to a point for the southeast corner of Lot 148 of said Block 10, the northeast corner of Lot 155 of said Block 10, the northwest corner of said Lot 154, and the southwest corner of said Reserve "A" and the herein described parcel, from which a 1/2-inch Iron rod bears North 11°17'51" West 0.76 feet;

THENCE, North 04°17'41" West, along the east line of said Lot 148, and the west line of said Reserve "A", passing at a distance of 0.71 feet a 5/8-inch Iron rod found with yellow cap (stamped "RPLS 1982"), continuing for a total distance of 208.52 feet to a 5/8-inch iron rod set with cap (stamped "LANDPOINT 10194172") in the south right-of-way line of Rayford Road (width varies), for the northwest corner of said Reserve "A", and the herein described parcel;

THENCE, departing the east line of said Lot 148, North 84°24'41" East, 159.63 feet along the south right-of-way line of said Rayford Road, and the north line of said Reserve "A" to a 5/8-inch iron rod set with orange cap (stamped "LANDPOINT 10194172") at the northerly cut-back corner at the intersection of the south right-of-way line of said Rayford Road, with the west line of the Future Wild Rose Drive, for the northerly most northeast corner of the herein described parcel;

THENCE, departing the south right-of-way line of said Rayford Road, South 55°09'25" East, 33.63 feet along said cut-back line to an "X" set in concrete for the southerly most cutback corner at said intersection for a northeast corner of the herein described parcel, beginning a non-tangent curve to the left, from which an "X" in concrete bears South 64°25'26" West 1.43';

THENCE, continuing along the west right-of-way line of said proposed Wild Rose Drive, along the arc of said curve to the left with a radius of 931.70 feet, an arc length of 138.69 feet, through a delta of 08°31'44", and a chord bearing South 19°10'18" East, 138.56 feet to a 5/8-inch Iron rod set with orange cap (stamped "LANDPOINT 10194172"), beginning a compound curve to the left;

THENCE, continuing along the west right-of-way line of said proposed Wild Rose Drive, along the arc of said curve to the left with a radius of 526.98 feet, an arc length of 64.47 feet, through a delta of 07°00'36", and a chord bearing South 26°55'57" East, 64.43 feet to a 5/8-inch iron rod set with cap (stamped "LANDPOINT 10194172") for a point of tangency;

THENCE, continuing along the west right-of-way line of said proposed Wild Rose Drive, South 31°07'52" East, 12.31 feet to a 5/8-inch iron rod set with cap (stamped "LANDPOINT 10194172"), beginning a curve to the right;

THENCE, continuing along the west right-of-way line of said proposed Wild Rose Drive, along the arc of said curve to the right with a radius of 472.99 feet, an arc length of 161.25 feet, through a delta of 19°31'58", and a chord bearing South 21°50'54" East, 160.47 feet to a 5/8-inch iron rod set with orange cap (stamped "LANDPOINT 10194172") in the west right-of-way line of said Wild Rose Drive, in the east line of said Reserve "A" for a southeasterly corner of herein described parcel;

THENCE, South 04°17'41" East, 18.83 feet along the west right-of-way line of said Wild Rose Drive, and the east line of said Reserve "A" to a 5/8-inch iron rod set with orange cap (stamped "LANDPOINT 10194172") for the northerly cut-back corner at the intersection of the north line of said Greenglade Lane with the west right-of-way line of said Wild Rose Drive, for a southeasterly corner of said Reserve "A" and the herein described parcel, from which a 5/8-inch iron rod bears South 04°17'41" East 14.71 feet;

THENCE, South 41°20'22" West 21.04 feet along said cut-back line to a 5/8-inch iron rod found with yellow cap (stamped "RPLS 1982") for a southeasterly corner of said Reserve "A" and the herein described parcel, from which a 5/8-inch iron rod found bears North 85°42'19" East 15.04 feet;

THENCE South 85°42'19" West 84.96 feet along the north right-of-way line of said Greenglade Lane and the south line of said Reserve "A" to the POINT OF BEGINNING, containing 1.37 acre (59,852 square feet) of land in Montgomery County, Texas.



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.