

City of Houston, Texas, Ordinance No. 2020 - 866

AN ORDINANCE CONSENTING TO THE ADDITION OF 9.530 ACRES OF LAND TO HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 368, FOR INCLUSION IN THE DISTRICT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, the District was organized, created and established on December 13, 1973, pursuant to Article XVI, Section 49 of the Constitution of the State of Texas and operating under the provisions of Chapter 49 and 54, Texas Water Code, as amended; and

WHEREAS, the City of Houston, Texas (the "City") consented to the creation of Harris County Municipal Utility District No. 368 (the "District") by Ordinance No. 73-1063, passed and adopted by the City Council on June 06, 1973; and

WHEREAS, Ordinance No. 2006-160, passed and adopted by the City Council on February 21, 2006, sets forth certain conditions for the creation or inclusion of land within a conservation and reclamation district in the ETJ, and permitting such district to issue bonds for certain recreational, road, and fire-fighting facilities; and

WHEREAS, the District is located in Harris 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 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, the District and Boudreaux 11715 Properties, LLC, owner of the land hereunder described, have petitioned the City to add 9.530 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 9.530 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 7th day of October, 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 13 2020.

Pat J. Kamin

City Secretary

Alvin L. Howard

Prepared by Legal Dept.

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.00919900020016)

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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:

OCT 13 2020

**PETITION FOR CONSENT TO ANNEX LAND TO
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 368**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

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

The undersigned, HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 368 a municipal utility district located in Harris County, Texas (the "District"), and Boudreaux 11715 Properties, LLC a Texas limited liability company ("Petitioner"), acting pursuant to the provisions of Chapter 49, Title 4, Texas Water Code, respectfully petition the City Council of the City of Houston, Texas (the "City"), for its written consent to the annexation by the District of one (1) tract composed of 9.530 acres of land described by metes and bounds in Exhibit "A" attached hereto for all purposes (the "Property"). In support of this Petition, the undersigned would show the following:

I.

The District was organized, created and established on December 13, 1973, pursuant to Article XVI, Section 49 of the Constitution of the State of Texas and operating under the provisions of Chapters 49 and 54, Texas Water Code, as amended.

II.

The Property is described by metes and bounds on Exhibit "A" which is attached hereto and incorporated herein for all purposes.

III.

The Petitioner is the current owner of title to the Property which consists of one (1) tract of land totaling 9.530 acres as shown by the tax rolls of Harris County, Texas. There are no lien holders on the property.

IV.

The Petitioner hereby certifies that there are no persons or qualified voters residing within the boundaries of the Property.

V.

The Property sought to be annexed to the District is situated wholly within Harris County, Texas. No part of the Property is within the extraterritorial jurisdiction (as such term is defined in Texas Local Government Code Section 42.001 et. seq., as amended) of any city, town

or village except the City of Houston, Texas. All of the Property may properly be annexed into the District.

VI.

The general nature of the work to be done in the area sought to be annexed to the District is the construction, acquisition, maintenance and operation of a waterworks and sanitary sewer system, for domestic and commercial purposes, and the construction, acquisition, maintenance and operation of a drainage system to gather, conduct, divert, and control local storm water or other local harmful excesses or water in the area.

VII.

There is, for the following reasons, a necessity for the above-described work. The area proposed to be annexed to the District, which will be developed as commercial development, is urban in nature, is within the growing environs of the City of Houston is in close proximity to a populous and developed section of Harris County, and within the immediate future, will experience substantial and sustained residential growth. There is not now available within the area sought to be annexed to the District an adequate waterworks and sanitary sewer system, nor an adequate drainage system, and it is not presently economically feasible for the area sought to be annexed to provide for such systems. Since the health and welfare of the present and future inhabitants or tenants of the area and of the territories adjacent thereto require the construction, acquisition, maintenance and operation of an adequate waterworks and sanitary sewer system and a drainage system, a public necessity exists for the annexation of the aforementioned Property to the District to provide for the purchase, construction, extension, improvement, maintenance and operation of such waterworks and sanitary sewer system and such drainage system, so as to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VIII.

This Petition shall constitute an election on the part of the Petitioner, its successors and assigns, for the aforesaid Property and any improvements which are now or may hereafter be constructed thereon to become liable for all present and future debts of the District in the same manner and to the same extent as other Property and improvements in the District are liable for the District's debts.

IX.

Without limiting the generality of the above, the Petitioner is aware that the District has heretofore issued \$69,290,000 of its total bond authority approved by voters, and the Petitioner hereby agree that the Property and all improvements thereon, presently existing or to be constructed, shall assume its share of all bonds or other obligations of the District and must be taxed equally with all other property within the District. The Petitioner acknowledges, consents to, and affirmatively requests the assumption by the Property to be annexed of a pro rata share of

all obligations of the District, and of the taxes to be levied or hereafter to be levied by the District.

X.

The Petitioner, his successors and assigns, hereby agree that the Property and any improvements existing or to be constructed thereon, shall be liable for their pro rata share of all voted unissued bonds of the District which were authorized or may hereafter be authorized at an election or elections held or to be held within the District, and which may hereafter be issued and sold by the District. This Petition constitutes authorization by the Petitioner, his successors and assigns, for the Board of the District to issue and sell the remaining authorized, unissued bonds for the purposes and upon the terms and conditions such bonds were voted, in one or more issues or series, at a future date or dates when in the Board's judgment such amounts are required for the authorized purposes.

XI.

This Petition shall further be considered the consent and authorization of the Petitioner, its successors and assigns, for all the taxable land described in Exhibit "A", and all improvements now existing or to be constructed thereon, to be taxed uniformly and equally on an ad valorem basis with all other taxable property within the District for: (1) the payment of principal and interest on the District's outstanding bonds; (2) the payment of principal and interest on the District's voted, but unissued bonds; and (3) all other purposes for which the District may lawfully levy taxes, including the maintenance taxes authorized by the voters of the District on April 7, 1979.

XII.

The District and Petitioner agree and hereby covenant that if the requested consent to the annexation of the aforesaid Property to the District is given, the District and Petitioner will abide by the conditions set forth in Exhibit "B" to this Petition.

XIII.

A preliminary investigation has been instituted to determine the cost of the project and it is now estimated by the undersigned, from such information as they have at this time, that the ultimate cost of extending the District's facilities to serve the property sought to be annexed will be approximately \$101,100.

XIV.

The undersigned District and Petitioner request consent to the annexation of the aforesaid Property into the District under the conditions set forth in Exhibit "B," which is attached hereto and incorporated herein for all purposes, until such time as said conditions may be changed by City Ordinance or resolution, either specific or general.

XV.


In the alternative, if the City Council of the City of Houston fails or refuses to grant permission for the inclusion of the Property to the District within 90 days after receipt of this Petition, the Petitioner may petition the City Council to make available to the Property the water or sanitary sewer service contemplated to be provided by the District. If the City Council and the Petitioner fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within 120 days of receipt of this Petition, the failure shall constitute authorization for the inclusion of the Property in the District under the provisions of Chapter 54, Texas Water Code.

WHEREFORE, the undersigned respectfully prays that this Petition be heard and granted in all respects and that the City of Houston give its written consent to the District's annexation of the aforesaid Property located in Harris County, Texas; and that the property described in Exhibit "A" be thereafter a component part of Harris County Municipal Utility District No. 368 of Harris County, Texas.

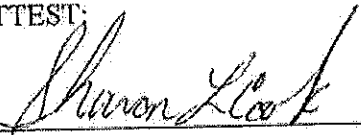
(EXECUTION PAGES FOLLOW)

EXECUTED this 5th day of September, 2019.

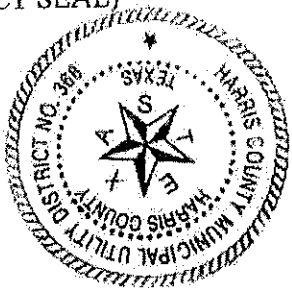
HARRIS COUNTY
MUNICIPAL UTILITY DISTRICT NO. 368

By: 
Roy P. Lackey
President, Board of Directors

ATTEST:


Sharon Cook
Secretary, Board of Directors

(DISTRICT SEAL)

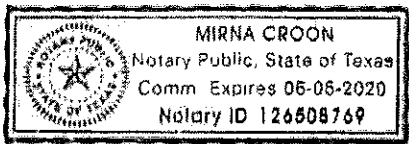


THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 5th day of September, 2019 by Roy P. Lackey, President of the Board of Directors of Harris County Municipal Utility District No. 368 and Sharon Cook, Secretary of the Board of Directors of Harris County Municipal Utility District No. 368.

Mirna Croon
Notary Public in and for the State of Texas

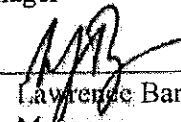
(NOTARY SEAL)



IN WITNESS WHEREOF, the Petitioner has executed this Petition as of the 4th day of September, 2019.

Boudreaux 11715 Properties, LLC
a Texas Limited Liability Company

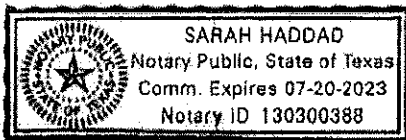
By: Gadyan Management, LLC,
a Texas limited liability company,
its Manager

By: 
Lawrence Barris
Manager

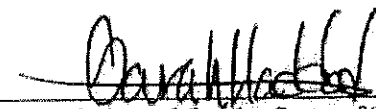
STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me on this day, personally appeared Lawrence Barris who proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the instrument was the act of Boudreaux 11715 Properties, LLC, and that he executed the instrument as the act of said limited liability company for the purposes and consideration expressed therein, by proper authority, and in the capacity stated in the instrument.

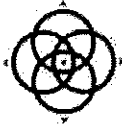
Given under my hand and seal of office this 4th day of September, 2019.



(SEAL)


Notary Public in and for the State of Texas

After recording, return to:
Harris County Municipal Utility District No .368
c/o Johnson Petrov LLP
2929 Allen Parkway, Suite 3150
Houston, Texas 77019
Attention: Mirna Croon
713.489.8977



WINDROSE

LAND SURVEYING | PLATTING

DESCRIPTION OF 9.530 ACRES OR 415,129 SQ. FT.

A TRACT OR PARCEL CONTAINING 9.530 ACRES OR 415,129 SQUARE FEET OF LAND SITUATED IN THE J. LENZE SURVEY, ABSTRACT NO. 1406, HARRIS COUNTY, TEXAS, BEING OUT A CALLED 9.6079 ACRE TRACT DESCRIBED IN DEED TO POLYFOAM PROPERTIES, L.P., RECORDED IN HARRIS COUNTY CLERK'S FILE (H.C.C.F.) NO. X404525, WITH SAID 9.530 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD 83):

BEGINNING AT A 5/8 INCH IRON ROD FOUND ON THE SOUTH RIGHT-OF-WAY LINE OF BOUDREAU ROAD, RECORDED IN VOLUME (VOL.) 648, PAGE (PG) 509, HARRIS COUNTY DEED RECORDS (H.C.D.R.), MARKING THE NORTHWEST CORNER OF A CALLED 9.6058 ACRE TRACT DESCRIBED IN DEED TO CLETX INDUSTRIES, INC., RECORDED IN H.C.C.F. NO. Y192452, AND THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

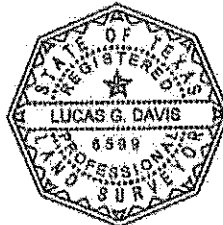
THENCE, SOUTH 02 DEG. 32 MIN. 32 SEC. EAST, ALONG THE COMMON LINE OF SAID CALLED 9.6079 ACRE TRACT AND SAID CALLED 9.6058 ACRE TRACT, A DISTANCE OF 1,113.31 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "RODS" FOUND ON THE NORTH R.O.W. LINE OF STATE HIGHWAY (SH) 99 (GRAND PARKWAY) (R.O.W. VARIES), MARKING THE SOUTHWEST CORNER OF SAID CALLED 9.6058 ACRE TRACT AND THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 89 DEG. 27 MIN. 17 SEC. WEST, ALONG THE NORTH R.O.W. LINE OF SAID SH 99 (GRAND PARKWAY), A DISTANCE OF 376.27 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "TXDOT", MARKING THE SOUTHWEST CORNER OF RESTRICTED RESERVE "A", BLOCK 1 OF POLYFOAM ADDITION, RECORDED IN FILM CODE (F.C.) NO. 489080, HARRIS COUNTY MAP RECORDS (H.C.M.R.), DESCRIBED IN DEED TO HURRICANE ACQUISITION CORP., RECORDED IN H.C.C.F. NO. RP-2016-45251, AND THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 02 DEG. 33 MIN. 30 SEC. WEST, ALONG THE COMMON LINE OF SAID RESTRICTED RESERVE "A" AND SAID CALLED 9.6079 ACRE TRACT, A DISTANCE OF 1,095.54 FEET TO A POINT ON THE SOUTH R.O.W. LINE OF SAID BOUDREAU ROAD, THE SAME BEING THE NORTHEAST CORNER OF SAID RESTRICTED RESERVE "A", THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 1/2 INCH IRON ROD FOUND BEARS FOR REFERENCE NORTH 01 DEG. 54 MIN. 26 SEC. WEST - 0.32 FEET;

THENCE, NORTH 87 DEG. 50 MIN. 16 SEC. EAST, ALONG THE SOUTH R.O.W. LINE OF SAID BOUDREAU ROAD, A DISTANCE OF 376.04 FEET TO **THE POINT OF BEGINNING** AND CONTAINING 9.530 ACRES OR 415,129 SQUARE FEET OF LAND, AS SHOWN ON JOB NO. 55029, PREPARED BY WINDROSE LAND SERVICES.

LUCAS G. DAVIS
R.P.L.S. NO. 6599
STATE OF TEXAS
FIRM REGISTRATION NO. 10108800



05-14-2019
DATE:

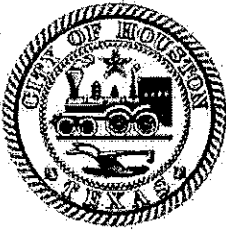


EXHIBIT "B"

(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.