

City of Houston, Texas, Ordinance No. 2014-978

**AN ORDINANCE CONSENTING TO THE CREATION OF HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 536; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

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

**Section 1.** That attached to this ordinance and made a part hereof is a petition requesting the consent of the City of Houston, Texas, to the creation of **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 536**, consisting of 386.04 acres of land within the extraterritorial jurisdiction of the City; such petition is hereby granted, subject to the terms and conditions set forth herein.

**Section 2.** 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 requests 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 3.** 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 5th day of November, 2014.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

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

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is NOV 11 2014.



City Secretary

 *6-11*

Assistant City Attorney

(Prepared by Legal Dept.

SOI/fg 10/14/14

Requested by Dale A. Rudick, P.E., DEE, Director, Public Works and Engineering Department

L.D. File No. 0911400017001 )

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AYE	NO	
✓		MAYOR PARKER
....	....	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
✓		NGUYEN
✓		PENNINGTON
✓		GONZALEZ
✓		GALLEGOS
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		ROBINSON
✓		KUBOSH
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT

REVIEW

DATE:

NOV 11 2014

PETITION FOR CONSENT TO CREATION  
OF A MUNICIPAL UTILITY DISTRICT

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

The undersigned, hereinafter called "Petitioner" (whether one or more), being the holder of title to all and, therefore, a majority in value of the lands hereinafter described, as such values are indicated by the tax rolls of the central appraisal district of Harris County, Texas, acting pursuant to the provisions of Section 54.016, Texas Water Code, as amended, respectfully petitions for consent to the creation of a municipal utility district, hereinafter called "District". In support of this petition for consent to creation of the District, Petitioner shows as follows:

I.

The name of the District will be HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 536.

II.

The area of the land to be included in the District contains 386.04 acres, more or less, and lies wholly within Harris County, Texas. All of said area is within the extraterritorial jurisdiction of the City of Houston and is not within the corporate limits or extraterritorial jurisdiction of any other city. Petitioner hereby certifies that the lienholders executing this petition below are the only holders of liens against the land to be included in the District.

III.

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

IV.

The District will be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapter 49 and Chapter 54 of the Texas Water Code, as amended. The purposes of and the general nature of the work proposed to be done by the District 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 uses, domestic uses 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 local harmful excesses of water in the District and the payment of organization expenses, operational expenses during construction and interest during construction;

(4) establish, finance, provide, operate and maintain a fire department and/or fire-fighting services ("firefighting facilities") within the District subject to approval of the Texas Commission on Environmental Quality pursuant to its rules and Chapter 49 of the Texas Water Code, as amended, as and if required;

(5) exercise road powers and authority ("Road Powers") pursuant to applicable law and Chapter 54 of the Texas Water Code, as amended;

(6) finance, develop and maintain recreational facilities for the people of the District if and as allowed by applicable law; and

(7) to provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is 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 Harris 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:

(1) The District's area is not supplied with adequate water and sanitary sewer facilities and services, or with adequate drainage facilities. The health and welfare of the future inhabitants of the area and of territories adjacent thereto require the installation and acquisition of adequate water, sanitary sewer, and drainage facilities for and within the area of the District.

(2) The future inhabitants of the area and of territories adjacent thereto require recreational facilities, as same are necessary and desirable for the health and well-being of such inhabitants. The District's area does not currently include adequate recreational facilities within its boundaries.

(3) The future inhabitants of the area and of territories adjacent thereto require adequate road facilities, as same are necessary and desirable for the health and welfare of such inhabitants, and for the orderly growth of residential and commercial development within the area and territories adjacent thereto. Road Powers are of necessity to the District and to the land within the District as such powers will allow the District to construct, acquire, improve, and provide financing for road facilities that may not otherwise be constructed in a manner that will proactively address safety, capacity, durability, economic feasibility, and regional mobility issues.

(4) The future inhabitants of the area and of territories adjacent thereto may require fire-fighting facilities in order to supplement or supplant fire-fighting services otherwise provided by governmental entities other than the District, as fire-fighting services are necessary and desirable for the health and welfare of such inhabitants.

A public necessity exists for the organization of such 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, recreational facilities (if allowed by applicable law), road facilities, and, subject to the laws of the State of Texas and the rules of the Texas Commission on Environmental Quality, fire-fighting facilities.

VI.

The Petitioner agrees and hereby covenants that if the requested consent to the creation of the District is given, the Petitioner will adopt and abide by, and will cause the District upon its final creation to 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 those filing this petition, from such information as they have at this time, that the ultimate cost of the development contemplated will be approximately \$64,500,000 for water, sewer and drainage facilities, \$31,000,000 for recreational facilities, and \$27,500,000 for road facilities.

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

Dated this 14th day of April, 2014.

PETITIONER:

BENCHMARK ACQUISITIONS, LLC

By: Jennie Trapolino

Name: Jennie Trapolino

Title: Manager

THE STATE OF TEXAS §

COUNTY OF Harris §

This instrument was acknowledged before me on this the 14 day of April, 2014 by Jennie Trapolino, Manager of Benchmark Acquisitions, LLC, a Texas limited liability company, on behalf of said limited liability company.

(SEAL)



Vanessa Smith

Notary Public in and for the State of TEXAS

My commission expires: 7-23-2017

The undersigned, being a lienholder on all or a portion of the property described in the foregoing Petition consents to the creation of Harris County Municipal Utility District No. 536 over the land which is more particularly described in said Petition, and to the filing of said Petition with the City of Houston, Texas.

**BANK OF AMERICA, N.A.,**  
a national banking association

By: *Jason Bell*  
Name: JASON BELL  
Title: VP

Attest

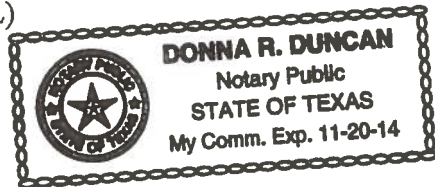
By: *Joan Oberius*  
Name: Joan Oberius  
Title: SVP

THE STATE OF TEXAS §  
  §  
COUNTY OF Harris §

This instrument was acknowledged before me on this the 4th day of JUNE, 2014 by JASON BELL, VP of Bank of America, N.A., a national banking association, on behalf of said national banking association.

*Donna R. Duncan*  
Notary Public in and for  
the State of TEXAS  
My commission expires: 11-20-14

(SEAL)



315628.2

**EXHIBIT A**

**METES AND BOUNDS DESCRIPTION**

(See attached)

**METES AND BOUNDS DESCRIPTION  
PROPOSED HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 536  
BEING 386.04 ACRES SITUATED IN THE  
M.L. SPENCER SURVEY, ABSTRACT NO. 1455 AND THE  
MRS. M.L. JONES SURVEY, ABSTRACT NO. 1339  
(H. & T.C. R.R. CO. SURVEY, SECTION 62)  
HARRIS COUNTY, TEXAS**

386.04 ACRES OF LAND SITUATED IN THE M.L. SPENCER SURVEY, ABSTRACT NO. 1455 AND THE MRS. M.L. JONES SURVEY, ABSTRACT NO. 1339 (H. & T.C. R.R. CO. SURVEY, SECTION NO. 62), HARRIS COUNTY, TEXAS, BEING THE COMBINATION OF THOSE TWO CERTAIN TRACTS OF LAND CALLED FOR AND DESCRIBED AS BEING 315.63 ACRES BY DEED RECORDED UNDER HARRIS COUNTY CLERK'S FILE (H.C.C.F.) NO. 20120550787 AND 70.41 ACRES BY DEED RECORDED UNDER H.C.C.F. NO. 20120593453, THE SAID 386.04 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, BASED ON THE CALLS WITHIN THE AFOREMENTIONED DEEDS (WITH BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS, AS STATED IN THE AFOREMENTIONED DEEDS):

- BEGINNING** at a point marking the northwesterly corner of the said H. & T.C.C. R.R. Co. Survey, Section 62, the northeasterly corner of the H. & T. C.C. R.R. Co. Survey, Abstract No. 452, southeasterly corner of the H. & T. C.C. R.R. Co. Survey, Abstract No. 453 and the southwesterly corner of the H. & T. C.C. R.R. Co. Survey, Abstract No. 450, being in the intersection of Katy-Hockley Cut-Off Road (called 60-feet wide at present) and Clay Road (called 60-feet wide at present) and marking the northwesterly corner of the called 315.63 acre tract of land;
- (1) **THENCE**, North 88°05'31" East, along the common line of the said H. & T.C.C. R.R. Co. Survey, Section 62 and the H. & T. C.C. R.R. Co. Survey, Abstract No. 450, same being the north line of the aforementioned M.L. Spencer Survey, Abstract No. 1455, for a distance of 2,628.13 feet to a point for corner, being the northerly common corner of the said M.L. Spencer Survey and the aforementioned Mrs. M.L. Jones Survey, Abstract No. 1339;
  - (2) **THENCE**, South 01°55'49" East, along the common line of the said M.L. Spencer Survey and the Mrs. M.L. Jones Survey for a distance of 1,373.78 feet to a point for corner;
  - (3) **THENCE**, North 88°04'27" East, a distance of 324.32 feet to a point for corner marking the southwesterly corner of the called 70.41 acre tract of land;
  - (4) **THENCE**, North 01°55'47" West, a distance of 1,343.75 feet to a point for corner in the southerly right-of-way line of the aforementioned Clay Road;
  - (5) **THENCE**, North 88°04'27" East, along the southerly right-of-way line of Clay Road, a distance of 2,282.44 feet to a point for corner at the intersection with the westerly right-of-way line of Porter Road (called 60-feet wide at present);
  - (6) **THENCE**, South 01°55'33" East, along the westerly right-of-way line of Porter Road, a distance of 1,343.75 feet to a point for corner;
  - (7) **THENCE**, South 01°56'43" East, continuing along westerly right-of-way line of Porter Road, a distance of 1,269.46 feet to a point for corner;
  - (8) **THENCE**, South 88°04'27" West, a distance of 2,607.00 feet to a point for corner in the common line of the said M.L. Spencer Survey and the Mrs. M.L. Jones Survey;
  - (9) **THENCE**, South 01°55'49" East, along the common line of the said M.L. Spencer Survey and the Mrs. M.L. Jones Survey for a distance of 1,321.82 feet to a point for corner;

- (10) **THENCE**, South 88°03'16" West, a distance of 2,636.56 feet to a point for corner being in the westerly line of the said M.L. Spencer Survey, same being the said H. & T.C.C. R.R. Co. Survey, Section 62, and the easterly line of the said H. & T.C.C. R.R. Co. Survey, Abstract No. 452;
- (11) **THENCE**, North 01°48'31" West, along the common line of the said M.L. Spencer Survey and the H. & T. C.C. R.R. Co. Survey, Abstract No. 452, a distance of 3,966.80 feet to the **POINT OF BEGINNING** and containing 386.04 acres of land.

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 AND ASSOCIATES, INC. dba EHRA, Inc.**

*Robert L. Boelsche*

Robert L. Boelsche, R.P.L.S.  
Texas Registration No. 4446  
10555 Westoffice Drive  
Houston, Texas 77042  
713-784-4500



Date: January 14, 2013  
Job No: 131-013-00  
File No: \\Client\1R\2013\131-013-00\documents\technical\13101300-MUD536-M&B.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.