

ORDINANCE NO. 17-87

AN ORDINANCE OF THE VILLAGE OF PLEAK, TEXAS CONSENTING TO THE
CREATION OF FORT BEND COUNTY MUD NO. 157.

* * * * *

WHEREAS, the Village of Pleak (the "Village") received a request for its consent to the creation of Fort Bend County Municipal Utility District No. 157 (the "District") containing a total of approximately 531.2 acres located within the extraterritorial jurisdiction ("ETJ") of the Village (the "Property") as more particularly described in the attached **Exhibit "A"**; and

WHEREAS, Section 54.016 of the Texas Water Code and Section 42.042 of the Local Government Code provide that land within a city's corporate limits or ETJ may not be included within a municipal utility district without the city's written consent; and

WHEREAS, the District and Petitioner desire that the Village consent to the annexation of the Land into the boundaries of the District; and

WHEREAS, requesting to include land in this municipal utility district, the landowner has agreed to be bound by certain covenants and conditions, as fully set forth in **Exhibit "B"** and incorporated herein by reference; and

WHEREAS, after due consideration, it is the opinion of the Village Council that consent to the creation of Fort Bend County Municipal Utility District No. 157, should be given, subject to the covenants and conditions set forth in **Exhibit "B"**;

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PLEAK, TEXAS:

Section 1. That facts set out in the preamble are true and correct and incorporated herein for all purposes.

Section 2. The Village of Pleak, Texas, hereby consents to the creation of the Fort Bend County Municipal Utility District No. 157, a political subdivision to be situated wholly within the extraterritorial jurisdiction of the Village of Pleak, Texas, containing an area of approximately 531.2 acres, more or less, and more particularly described by metes and bounds and a map attached hereto and made a part hereof as **Exhibit "A"**.

Section 3. The consent to the creation of Fort Bend County Municipal Utility District No. 157 is subject to the covenants and conditions set forth in **Exhibit "B"** and agreed to herein by landowner.

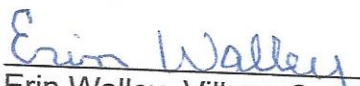
Section 4. In no way is this Ordinance considered an "allocation agreement" between the District and the Village, as provided under Texas Water Code Section 54.016.

PASSED, APPROVED, and ADOPTED on the 18 day of October, 2017.



Larry Bittner, Mayor

ATTEST:



Erin Walley, Village Secretary

PETITION FOR CONSENT TO THE CREATION
OF A MUNICIPAL UTILITY DISTRICT

TO THE HONORABLE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF
PLEAK, TEXAS:

The undersigned BGM LAND INVESTMENTS, LTD., a Texas limited partnership (herein the "Petitioner"), acting pursuant to the provisions of Chapters 49 and 54, Texas Water Code, respectfully petition the Village Council of the Village of Pleak, Texas (the "Village"), for its written consent to the creation of a municipal utility district and would show the following:

I.

The name of the proposed District shall be FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 157 (the "District").

II.

The District shall be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, together with all amendments and additions thereto.

III.

The District shall contain an area of 531.2 acres of land, more or less, situated in Fort Bend County, Texas. All of the land to be included in the District is within the extraterritorial jurisdiction of the Village. All of the land proposed to be included may properly be included in the District. The land proposed to be included within the District consists of one tract described by metes and bounds in **Exhibit A**, which is attached hereto and incorporated herein for all purposes (the "Land").

IV.

The Petitioner holds fee simple title to the Land, as indicated by the certificate of ownership provided by the Fort Bend Central Appraisal District.

V.

The Petitioner represents that there are no lienholders on the Land and that there are no residents on the Land.

VI.

The general nature of the work to be done by the District at the present time is the design, construction, acquisition, maintenance and operation of a waterworks and sanitary sewer system for domestic and commercial purposes, and the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, and such other construction, acquisition, improvement, maintenance and operation of such additional facilities, systems, plants and enterprises as shall be consonant with all of the purposes for which the District is created.

VII.

There is, for the following reasons, a necessity for the above-described work. The Land is urban in nature, is within the growing environs of the Village, and is in close proximity to populous and developed sections of Fort Bend County, Texas. There is not now available within the area, which will be developed for single family residential and commercial uses, an adequate waterworks system, sanitary sewer system, or drainage and storm sewer system. The health and welfare of the present and future inhabitants of the Land and of the territories adjacent thereto require the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of an adequate waterworks system, sanitary sewer system, and drainage and storm sewer system. A public necessity, therefore, exists for the creation of the District, to provide for the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of such waterworks system, sanitary sewer system, and drainage and storm sewer system, to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VIII.

The Petitioner hereby agrees and 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**, which is attached hereto and incorporated herein for all purposes.

IX.

A preliminary investigation has been made to determine the cost of the proposed District's projects, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$66,900,000.

WHEREFORE, the Petitioner prays that this petition be heard and that the Board of Aldermen duly pass and approve an ordinance or resolution granting the consent to the creation of the District and authorizing the inclusion of the Land within the District.

[Signature page follows this page.]

RESPECTFULLY SUBMITTED this 27th day of July, 2017.

BGM LAND INVESTMENTS, LTD., a Texas limited partnership

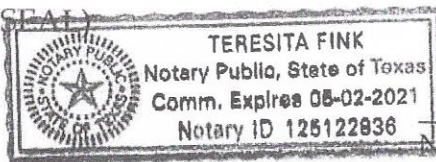
By: GP Landvest, L.L.C., a Texas limited liability company, General Partner

By: Roger B. Medors
Roger B. Medors
Manager

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this ____ day of _____, 2017, by Roger B. Medors, Manager of GP Landvest, L.L.C., a Texas limited liability company, as General Partner of BGM LAND INVESTMENTS, LTD., a Texas limited partnership, on behalf of said limited liability company and said limited partnership.

(NOTARY SEAL)



Teresita Fink
Notary Public, State of Texas

Attachments:

- Exhibit A:** Description of the Property
- Exhibit B:** Consent Conditions

County: Fort Bend
Project: Pleak ETJ
M.S.G. No.: 171153-R
Job Number: 1356-ALTA

FIELD NOTES FOR 531.2 ACRES

Being 531.2 acres of land located in the Charles B. Stewart Survey, Abstract-90, the Asa Wickson Survey, Abstract-94, the Buffalo Bayou, Brazos and Colorado Railroad Company Survey, Abstract-130, and the George H. Schley Survey, Abstract-391, Fort Bend County, Texas; said 531.2 acre tract being out of a called 548.9 acre tract recorded in the name of BGM Land Investments, Ltd., under Fort Bend County Clerk's File Number (F.B.C.C.F. No.) 2016124987; said 531.2 acre tract being more particularly described by metes and bounds as follows (bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone, per GPS observations):

BEGINNING at a set P-K nail in asphalt marking the northerly northeast corner of said 548.9 acre tract, being in the centerline of Hand Road, and being in the southwest line of a called 80.183 acre tract recorded in the name of Roger Dockal and wife, Laverne Dockal, in Volume 462, Page 102, D.R.F.B.C.T., for the easterly northeast corner of the herein described tract;

THENCE, with the northerly northeast line of said 548.9 acre tract, the centerline of said Hand Road, and the southwest line of said 80.183 acre tract, and a called 35 acre tract recorded in the name of Hand Family Partnership, Ltd., in F.B.C.C.F. No. 2003034513, South 47 degrees 59 minutes 06 seconds East, a distance of 3,320.72 feet, to a 1/2-inch iron pipe with plastic cap found for the easterly northeast corner of said 548.9 acre tract, and the south corner of said 35 acre tract, said point being in the northwest line of a called 44.93 acre tract recorded in the name of Doris Thielemann Andreasen, in Volume 619, Page 313, D.R.F.B.C.T., said point also being an angle point in the centerline of said Hand Road, for the easterly northeast corner of the herein described tract;

THENCE, with the easterly southeast line of said 548.9 acre tract, and the northwest line of said 44.93 acre tract, South 42 degrees 04 minutes 05 seconds West, a distance of 2,667.58 feet, to a 1/2-inch iron pipe with plastic cap found for an inner corner of said 548.9 acre tract, and the west corner of said 44.93 acre tract, for an inner corner of the herein described tract;

THENCE, with the southerly northeast line of said 548.9 acre tract, and the southwest line of said 44.93 acre tract, South 48 degrees 44 minutes 50 seconds East, a distance of 161.21 feet, to a 1-1/2-inch iron pipe found for an inner corner in the southwesterly line of said 44.93 acre tract, for an angle point of the herein described tract;

THENCE, with the southerly northeast lines of said 548.9 acre tract, being the southwest lines of said 44.93 acre tract, a called 108.878 acre tract recorded in the name of Clarence Thielemann, in Volume 619, Page 321, D.R.F.B.C.T.; a called 59.9783 acre tract recorded in the name of Barnhart-Small-Doggett, Partnership, in Volume 1956, Page 866, D.R.F.B.C.T., and a called 99.792 acre tract recorded in the name of Satnam Properties, LLC, under F.B.C.C.F. No. 2013009668, South 47 degrees 58 minutes 10 seconds East, a distance of 3,909.31 feet, to a 1/2-inch iron pipe with plastic cap found for the most easterly corner of said 548.9 acre tract, and the north corner of a called 104 acre tract, recorded in the name of Roy Hauger and wife, Adele W. Hauger, in Volume 249, Page 639, D.R.F.B.C.T., for the easterly corner of the herein described tract;

THENCE, with the southerly southeast line of said 548.9 acre tract, and the northwest line of said 104 acre tract, South 41 degrees 59 minutes 41 seconds West, a distance of 2,584.93 feet to a P-K nail in asphalt set for the south corner of said 548.9 acre tract, said point being in the northeast line of a called 92.6103 acre tract recorded in the name of Clarence A. Freudensprung and wife, Bernice M. Freudensprung, under F.B.C.C.F. No. 1999004824, said point also being within Pleak Road, for the south corner of the herein described tract;

THENCE, with the southerly southwest line of said 548.9 acre tract, and within said Pleak Road, being the northeast lines of said 92.6103 acre tract, a called 44.8436 acre tract recorded in Volume 965, Page 145, D.R.F.B.C.T., North 47 degrees 58 minutes 10 seconds West, a distance of 2,729.76 feet to a P-K nail set in asphalt marking an angle point in the southerly southwest line of said 548.9 acre tract, and the south corner of a called 2.50 acre tract recorded in the name of Rodney Wayne Janczak and wife, Sandra Kaye-Janczak, in Volume 2357, Page 2218, D.R.F.B.C.T., for an angle point of the herein described tract;

THENCE, with a northwest line of said 548.9 acre tract, and the southeast line of said 2.50 acre tract, North 42 degrees 01 minutes 50 seconds East, a distance of 363.45 feet, to a 3/4-inch iron pipe found for an inner corner of said 548.9 acre tract, and the east corner of said 2.50 acre tract, for an inner corner of the herein described tract;

THENCE, with a southwest line of said 548.9 acre tract, and the northeast line of said 2.50 acre tract, North 47 degrees 58 minutes 10 seconds West, a distance of 300.00 feet, to a 3/4-inch iron pipe found for an inner corner of said 548.9 acre tract, and the north corner of said 2.50 acre tract, for an inner corner of the herein described tract;

THENCE, with a southeast line of said 548.9 acre tract, and the northwest line of said 2.50 acre tract, South 42 degrees 01 minutes 50 seconds West, a distance of 363.45 feet, to a P-K nail set in asphalt set at the west corner of said 2.50 acre tract, said point being an angle point in the southerly southwest line of said 548.9 acre tract, said point also being in the northeast line of said 44.8436 acre tract, and within said Pleak Road, for an angle point of the herein described tract;

THENCE, with the southerly southwest line of said 548.9 acre tract, being the northeast line of said 44.8436 acre tract, and within said Pleak Road, North 47 degrees 58 minutes 10 seconds West, a distance of 879.41 feet, to a 1/2-inch iron pipe with plastic cap found for the southerly west corner of said 548.9 acre tract, said point being in the southeast line of a called southeast 1/2 of 94.59 acres recorded in the name of Dan McCrary and wife, Mary Kate McCrary, in Volume 383, Page 025, D.R.F.B.C.T., for the southerly west corner of the herein described tract;

THENCE, with a northwest line of said 548.9 acre tract, and the southeast line of said southeast 1/2 of 94.59 acres, North 41 degrees 56 minutes 51 seconds East, a distance of 1,788.93 feet, to a 1/2-inch iron pipe with plastic cap found for an interior corner of said 548.9 acre tract, and the east corner of said southeast 1/2 of 94.59 acres, for an inner corner of the herein described tract;

THENCE, with a southwest line of said 548.9 acre tract, and the northeast line of said southeast 1/2 of 94.59 acres, North 48 degrees 05 minutes 23 seconds West, a distance of 1,123.27 feet, to a 1/2-inch iron rod found for an angle point in the southwest line of said 548.9 acre tract, being the north corner of said southeast 1/2 of 94.59 acres, and the east corner of a called northwest 1/2 of 94.59 acres, recorded in the name of Joe Richard Hand, Donald Wayne Hand and Charles Erwin Hand, in Volume 1198, Page 286, D.R.F.B.C.T., for an angle point of the herein described tract;

THENCE, continuing with a southwest line of said 548.9 acre tract, and the northeast line of said northwest 1/2 of 94.59 acres, North 48 degrees 02 minutes 35 seconds West, a distance of 1,007.00 feet, to a 1-inch iron pipe found for a westerly corner of said 548.9 acre tract, and the south corner of a called 49.106 acre tract recorded in the name of Rodney Janczak and wife, Sandra Janczak in F.B.C.C.F. No. 2002059824, for a west corner of the herein described tract;

THENCE, with a northwest line of said 548.9 acre tract, and the southeast line of said 49.106 acre tract, North 41 degrees 57 minutes 19 seconds East, a distance of 540.59 feet, to a 1-inch iron rod found for an inner corner of said 548.9 acre tract, and the east corner of said 49.106 acre tract, for an inner corner of the herein described tract;

THENCE, with southwest lines of said 548.9 acre tract, being the northeast lines of said 49.106 acre tract, the following two (2) courses:

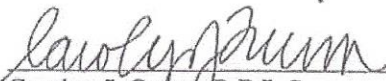
1. North 48 degrees 06 minutes 17 seconds West, a distance of 1,338.55 feet, to a 1/2-inch iron rod found for an angle point, said point being an inner corner in the northeasterly line of said 49.106 acre tract, for an angle point of the herein described tract;
2. North 48 degrees 01 minutes 30 seconds West, a distance of 1,543.28 feet, to a 5/8-inch iron rod set for the westerly corner of the herein described tract;

THENCE, through and across said 548.9 acre tract, North 41 degrees 55 minutes 50 seconds East, a distance of 1,461.51 feet to a 1/2-inch iron rod found on the easterly northeast line of said 548.9 acre tract, and the east corner of the residue of a called 8.27 acre tract (Tract I) recorded in the name of Daniel Plasencia, under F.B.C.C.F. No. 1999085012, said point being in the southwest line of a called 1.1892 acre tract (Tract 45, Section III, Huisache Acres, an un-platted subdivision) recorded in the name of Arture Perez and Adelita E. Perez, under F.B.C.C.F. No. 2003027902, for a north corner of the herein described tract;

THENCE, with a northeast line of said 548.9 acre tract, being the southwest lines of said Tract 45, a called 1.1892 acre tract (Tract 28, Section II, said Huisache Acres) recorded in the name of Lee R. Geiling and wife, Agatha M. Geiling, under F.B.C.C.F. No. 9554940, a called 1.1892 acre tract (Tract 27, Section II, said Huisache Acres) recorded in the name of Miguel Salazar, under F.B.C.C.F. No. 2001003688, a called 1.1892 acre tract (Tract 10, Section I, said Huisache Acres) recorded in the name of Kelly Filip and Cynthia Villarreal, under F.B.C.C.F. No. 2007073065, and a called 1.2026 acre tract (Tract 9, Section I, said Huisache Acres) recorded in the name of Nelson Franco and Santos Angela Carrillo, under F.B.C.C.F. No. 2011051556, South 48 degrees 01 minutes 48 seconds East, a distance of 1,540.93 feet, to a 1/2-inch iron pipe found for an inner corner of said 548.9 acre tract, and the south corner of said Tract 9, for an inner corner of the herein described tract;

THENCE, with a northwest line of said 548.9 acre tract, being the southeast lines of said Tract 9, a called 1.0815 acre tract (Tract 8, Section I, said Huisache Acres) recorded in the name of Milton R. Klepac and Ronald R. Klepac, under F.B.C.C.F. No. 2001036850, a called 1.0798 acre tract (Tract 7, Section I, said Huisache Acres) recorded in the name Geri Ann Gamino, under F.B.C.C.F. No. 2011073837, a called 1.0784 acre tract (Tract 6, Section I, said Huisache Acres) recorded in the name of Rosalima Juanita Navarro, under F.B.C.C.F. No. 2004037790, a called 1.0769 acre tract (Tract 5, Section I, said Huisache Acres) recorded in the name of San Juana Ramirez, in Volume 2198, Page 844, D.R.F.B.C.T., a called 1.0755 acre tract (Tract 4, Section I, said Huisache Acres) recorded in the name of Edna M. Segura, in Volume 2317, Page 1433, D.R.F.B.C.T., a called 1.0740 acre tract (Tract 3, Section I, said Huisache Acres) recorded in the name of Francisco Gonzalez and Mary Gonzalez, in Volume 825, Page 307, D.R.F.B.C.T., a called 1.0726 acre tract (Tract 2, Section I, said Huisache Acres) recorded in the name of Bertha Elizabeth Garza, in Volume 1044, Page 804, D.R.F.B.C.T., and Tract 1, Section I, said Huisache Acres recorded in the name of Lupe Ortiz, under F.B.C.C.F. No. 2004002943, North 41 degrees 50 minutes 19 seconds East, a distance of 1,465.08 feet, to the **POINT OF BEGINNING**, and containing 531.2 acres of land;

An ALTA/NSPS Land Title Survey of the subject tract has been prepared by Miller Survey Group and accompanies this description.



Carolyn J. Quinn, R.P.L.S.
Texas Registration No. 6033



MILLER SURVEY GROUP

Texas Firm Registration No. 10047100

www.millersurvey.com

PH: (713) 413-1900

JOB No. 1356-MUD

June 22, 2017

Revised: August 23, 2017

EXHIBIT B

CONSENT CONDITIONS

(a) Purposes for which bonds may be issued, absent prior approval by the Village of Pleak, shall be limited to the purchase, construction, acquisition, operation, repair, maintenance, 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 (except that the District will not issue bonds for the purpose of garbage collection and disposal);

(3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the District (including the payment of costs associated with any state or federal stormwater permit requirements);

(4) provide for parks and other recreational facilities as may be consistent with and authorized pursuant to Chapters 49 and 54 of the Texas Water Code;

(5) payment for organizational expenses, operation expenses, bond issuance costs, capitalized interest and interest on funds advanced to the District, or paid on behalf of the District all in accordance with the rules of the TCEQ.

(b) Bonds issued by the District will expressly provide that the District reserves the right to redeem said 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.

(c) The boundaries of the District cannot be expanded without prior written consent of the Village of Pleak.

(d) 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 Village of Pleak of a plat which will be duly recorded in the Real Property Records of Fort Bend County, Texas.

(e) In accordance with Local Government Code, Chapter 212, the Village will review and approve all plats.

The developer(s) of any land located in the Village's extraterritorial jurisdiction will enter into a development agreement with the Village.

If commercial property is created within any District territory located in the Village's extraterritorial jurisdiction, then such District shall enter into a Strategic Partnership Agreement between the Village of Pleak and the District.

ALLEN BOONE HUMPHRIES ROBINSON LLP

ATTORNEYS AT LAW

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FAX (713) 860-6401
abhr.com

Direct Line: (713) 860-6427

Direct Fax: (713) 860-6627

yonak@abhr.com

Yvonne Onak
Legal Assistant

September 18, 2017

BY FEDERAL EXPRESS

Ms. Nancy Walker
City Secretary
Village of Pleak
6621 FM 2281 South
Richmond, TX 77469

Re: Fort Bend County Municipal Utility District No. 157 (the "District") –
Proposed Creation

Dear Ms. Walker:

The District requests the consent of the Village of Pleak to the creation the District over 531.2 acres in the extraterritorial jurisdiction of the Village of Pleak. Enclosed for your review are the following documents:

- (1) Petition for Consent to the Creation of the District; and
- (2) Boundary map of the District.

Please present this petition to the Board of Aldermen for consideration and approval at the next Board meeting. If, in the meantime, you have any questions regarding the proposed annexation or if you need additional information, please call me at the number above. Thank you for your assistance in this matter.

Yours very truly,



Yvonne Onak
Legal Assistant

Enclosures

Mr. Greer Pagan (Firm)
Ms. Becky Hudman (Firm)

ALLEN BOONE HUMPHRIES ROBINSON LLP
ATTORNEYS AT LAW

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Yvonne Onak
Legal Assistant

September 18, 2017

BY FEDERAL EXPRESS

Ms. Nancy Walker
City Secretary
Village of Pleak
6621 FM 2281 South
Richmond, TX 77469

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